

CASPARI FOUNDATION COMPLAINTS PROCEDURE

INTRODUCTION

- (a) In all cases of complaint, an attempt should be made to resolve the issue informally by discussion with, and/or mediation between, the complainant and the person against whom the complaint is made, before initiating any procedure.
- (b) Where a complaint is made against a member of UKCP, it is recommended that the above informal mediation/reconciliation process is followed first.
- (c) Where the complainant is a member of UKCP they are informed that, should the process of mediation prove unsatisfactory, they can at any stage in the process proceed with the complaint to the UKCP.
- (d) This document also sets out the procedure to be followed where complaints are received against members or employees who are not UKCP members, e.g. trainees and professional members registered with other organizations such as BACP and BCP.
- (e) Where the Caspari member or employee against whom such a complaint is made is subject to a procedure comparable to the CCP, of another professional organization (such as BACP), the complaint will not normally be handled by the Caspari Foundation but will be forwarded to that organization for consideration.
- (f) Complaints which do not imply behaviour in contravention of the Caspari Foundation's Code of professional Conduct and/or imply unfitness to practice, should be considered under the Foundation's Disciplinary Policy or Grievance Procedure, or otherwise within the normal practice of the Foundation.

1. INITIATING A COMPLAINT AND PRELIMINARY CONSIDERATION

- 1.1 The Caspari Foundation recognises that complaints may be made by colleagues, clients, families, employers or outside agencies, and that complaints are expressed in the first instance either orally or in writing, or in terms which do not state expressly that they amount to a complaint. It is for that reason that this part of the procedure makes provision for clarification of the intentions of the complainant.
- 1.2 Any member of the Caspari Foundation Board of Trustees or Ethics & Professional Affairs Committee who receives from any other person by any means whatsoever information which indicates that a member or employee may have committed a breach of the Caspari Foundation's Code of Professional Conduct and Ethics shall report the matter to the

Chair of the Board of Trustees. Where the complaint is made against an employee, the Chair of the Board of Trustees shall decide whether it should be more appropriately dealt with under the Disciplinary or Grievance Procedures of the Foundation. If it is not, s/he shall refer the matter to the Ethics & Professional Affairs Committee. If the Complainant has expressed the complaint in writing, the letter or other document shall be passed to the Chair of the Ethics & Professional Affairs Committee.

- 1.3 If the complaint is unclear from the face of the document, or if the complaint is oral, the Chair of the Ethics & Professional Affairs Committee shall:
 - a) write to the Complainant asking him/her to confirm in writing that s/he wishes to make a formal complaint, or (if necessary) to confirm or clarify the grounds of the complaint;
 - b) send the Complainant a copy of the Code of Professional Conduct and Ethics, a copy of this procedure, and a pro forma authorisation for disclosure of the complaint to the member complained against, which the Complainant will be asked to sign and return to the Chair. If the Complainant fails to do this, the matter will be taken no further;
 - c) on receipt of the documents as requested in (a) and (b) above, the Chair shall convene an extraordinary meeting of the Ethics & Professional Affairs Committee to consider the complaint. No member of the Ethics & Professional Affairs Committee shall deal with any complaint where there is likely to be a conflict of interest.
 - d) However, in the case of a complaint that concerns a UKCP registrant, this would then be forwarded to the UKCP for process BEFORE any meeting of the Ethics & Professional Affairs Committee is convened.
- 1.4 If the Committee considers that the complaint does not raise a prima facie case, they may decide that no further action will be taken and the Complainant shall be informed within 1 month of receiving the complaint. The Complainant shall have the right to appeal against this decision to the Chair of the Board of Trustees. If the Chair of Board of Trustees upholds the appeal, the Ethics & Professional Affairs Committee shall be required to follow the procedures set out in paragraph 1.5 below.
- 1.5 If the Ethics & Professional Affairs Committee considers that there is a prima facie case, or where an appeal has been accepted as under paragraph 1.4 above, it shall establish a Complaints Panel to hold a hearing to formally consider the complaint.
- 1.6 The Panel shall comprise three people, one of whom shall be a lay person independent of the Caspari Foundation. The Ethics & Professional Affairs Committee shall nominate one of the three to chair the proceedings. The Chair of the Ethics & Professional Affairs Committee shall brief the Panel Chair with regard to the procedures to be followed.

- 1.7 No-one may serve on the Panel who is a Caspari Foundation employee, member of the Ethics & Professional Affairs Committee, or member of the Board of Trustees, or who has in any way been involved in the subject of the complaint or in the proceedings to this point. Those serving on the Panel may include current or former members of the Caspari Foundation who do not know the complainant, or such other persons as are deemed to have the judgement and expertise necessary to hear the complaint.
- 1.8 When the Ethics & Professional Affairs Committee decides or directs that any complaint shall proceed to a formal hearing, it shall, within 10 working days, send written particulars to the Complainant and Respondent of the date, time and place proposed for the hearing. This date should be within 42 days of the date on which the written particulars are sent.

2. PROCEDURE BEFORE HEARING

- 2.1 Not less than 21 days before the start of the hearing, the Complainant and Respondent shall make available to the Complaints Panel, copies of any documents which they wish to place before it and give details of any witnesses or representatives they wish to call to the hearing.
- 2.2 The Ethics & Professional Affairs Committee shall submit to the Complaints Panel the documents and any other information received under 1.3 which are relevant to the hearing and/or are requested by the Panel.
- 2.3 Copies of the documents shall be sent to the Complainant, the Respondent and all members of the Panel at least five days in advance of the hearing.
- 2.4 The Complainant and the Respondent shall, at his/her own expense, have the right to be represented by any person of his/her choice, including a union representative or a practising solicitor or barrister.
- 2.5 Hearings shall be held in private. The Complainant, the Respondent and their representatives shall be entitled to be present throughout the hearing but witnesses, shall be entitled to be present only while giving evidence. Unless called as a witness, the Chair of the Ethics & Professional Affairs Committee or his/her representative may be present to advise the Chair on questions of procedure.

3. PROCEDURE AT THE HEARING

- 3.1 All present will identify themselves and confirm that they all have the same set of papers.
- 3.2 The Complainant and the Respondent or their representatives may make an initial address to the members of the Panel before calling evidence.

- 3.3 The Complainant and the Respondent, or their representatives, may question each other with regard to their initial addresses.
- 3.4 The Complainant or his/her representative shall present the case against the respondent.
- 3.5 The Respondent may question the complainant on the case presented under 3.4.
- 3.6 The Complainant or his/her representative may then call witnesses. Each witness will be questioned by the Complainant or his/her representative, then by members of the Panel, then by the Respondent or his/her representative, after which the Complainant or his/her representative shall have the right to further questions. This procedure will be followed in turn in relation to each of the witnesses called by the complainant.
- 3.7 The Respondent or his/her representative may then call witnesses. The procedure set out in 3.6 will be followed mutatis mutandis in relation to each of the witnesses called on behalf of the respondent.
- 3.8 Members of the Panel shall have the right to question everyone who addresses it.
- 3.9 Either side may, instead of, or in addition to calling witnesses, present a written document or Affidavit by, or on behalf of, a witness who is unable to attend the hearing. Any such document must clearly identify the name and address of the person making the document and must be signed and dated. The members of the Panel may at their discretion agree to receive or reject such written evidence, having regard among other things to the reasons for the absence of the person giving evidence, and the unavailability for questioning of the witness.
- 3.10 The strict rules of evidence do not apply at the hearing. Accordingly, the Panel may, at its discretion, accept an adult third party's account of the evidence of a child, or a child's written account, whether or not signed and sworn, or a video or tape recording of a child giving evidence.
- 3.11 After completion of the evidence, the Complainant and the Respondent or their representatives will be invited to make a closing submission. At the conclusion of the closing submissions the Chair of the Panel will declare the proceedings concluded and the Panel will withdraw to consider its decision.

4. THE DECISION

- 4.1 The members of the Panel shall not give their decision orally or immediately. Their decision may be by a majority, and in that case the written decision will state that it is a majority decision, but the decision shall not include a statement of the dissenting minority view.

- 4.2 The members of the Panel will prepare a written decision, setting out their findings of fact, with reasons, and this shall be sent to the Complainant and the Respondent within 14 days of the conclusion of the hearing.
- 4.3 If no appeal has been lodged within the time permitted in paragraph 6.2, or has been lodged and dismissed, the Panel shall, within 7 days, present to the Chair of the Board of Trustees, any decision that a member has committed a breach of the Caspari Foundation Code of Professional Conduct and Ethics.

5. SANCTIONS

- 5.1 If the Panel is satisfied that the complaint has been proved and that a breach of the code has been committed by the Respondent, the Ethics & Professional Affairs Committee have the power to propose to the Board of Trustees the following sanctions.
- a) To expel the member from the Caspari Foundation and require that their name be deleted from the UKCP Register.
 - b) To suspend the member from membership of the Caspari Foundation and the UKCP Register for a specified period of up to three years during which time they shall be required to undertake such personal and professional development tasks as are determined by the Board of Trustees on the advice of the Ethics & Professional Affairs Committee. The satisfactory completion of those tasks shall be monitored by the Ethics & Professional Affairs Committee who will inform the Board of Trustees when the required tasks have been satisfactorily completed.
 - c) To require that the member continue in membership or continue in practice subject to conditions to be specified for a period to be specified. The Ethics & Professional Affairs Committee shall be responsible for determining that the conditions are met for the period specified.
 - d) The member shall be formally warned in writing as to matters specified.
 - e) The member be formally advised and/or counselled as to matters specified.
- 5.2 A member who is suspended under (b) or subject to conditions under (c), shall resume their prior status with the Foundation when the period of suspension has expired, provided that the Ethics & Professional Affairs Committee are satisfied that the conditions have been met within the specified period.
- 5.3 Where the Panel finds that the member has committed a breach of the Caspari Foundation Code of Professional Conduct and Ethics, the Ethics & Professional Affairs Committee shall, before deciding what sanction to propose, invite the member to make representations to it within a period

of 14 days and it shall not propose such a sanction until that period has expired. Such representations shall normally be in writing, but the Committee may allow the member to present in person if it considers it appropriate.

6. APPEAL

- 6.1 Subject to the following provisions, both the Complainant and the Respondent have the right to appeal against a decision of the Panel on the grounds that:

The conduct of the matter by the Ethics & Professional Affairs Committee and/or the Panel was procedurally incorrect; or there is new evidence which could not otherwise have been made available to the Panel on the day of the hearing.

- 6.2 The Appellant shall institute any such appeal within 21 days of the date of the written decision of the Panel by writing to the Chair of the Board of Trustees, setting out whether s/he wishes to appeal against the decision, or the sanction or both.
- 6.3 On receipt of the Appeal the Chair of the Board of Trustees shall appoint an Appeal Panel of one lay member and two members of the Caspari Foundation (and its predecessor FAETT) who have been members for not less than 6 years and who have had no previous involvement in the matter.
- 6.4 An appeal hearing shall normally take place within six weeks of receipt of the Respondent's letter of appeal.
- 6.5 Appeals will be heard in private. The parties to the complaint or their representatives may attend, and the same rules of representation will apply as for the original hearing. Members of the Complaints Panel and the Chair of the Ethics & Professional Affairs Committee may also attend, but may speak only at the invitation of the Chair (as under paragraph 6.7 below). The members of the Appeal Panel and the parties or their representatives shall have available to them the set of papers used at the Complaints Panel hearing, any written statements in evidence available to the Complaints Panel, copies of notes of proceedings of the hearing, the decision of the Complaints Panel and the Appellant's letter of Appeal.
- 6.6 The Appellant or his/her representative may make representations in support of his/her appeal.
- 6.7 If the basis of the appeal is that there is new evidence to be considered, the other party to the complaint or his/her representative may reply. If the basis of the appeal is unfair procedure by the Ethics & Professional Affairs Committee or the Complaints Panel, the Chair of the Ethics & Professional Affairs Committee may reply.

- 6.8 The members of the Appeal Panel may ask the parties or their representatives questions. After questions, the Appeal Committee will declare the appeal hearing closed.
- 6.9 The Appeal Panel may reach its decision by a majority. It will normally give its decision with reasons in writing within 5 working days of the Appeal hearing, and the decision will be sent to the Appellant, to the Chair of the Board of Trustees, to members of the Ethics & Professional Affairs Committee and to the other party involved in the complaint.
- 6.10 The Appeal Panel may reject or uphold the decision of the Complaints Panel in whole or part. The Appeal Panel has power to vary the sanction proposed by the Ethics & Professional Affairs Committee by substituting either a greater or lesser sanction. If there has been a procedural error, then the complaint should be heard again. If additional information is made available (which should be the exception) then there should be exceptional reasons why the sanctions should be varied.
- 6.11 A decision of the Appeal Panel shall be final, save that either party may make a complaint to the relevant UKCP College, to the effect that they are not satisfied with the handling of the complaint by the Caspari Foundation. In this event, the Ethics Committee of the College concerned would be required to consider the complaint against the Foundation as an Organizational Member (OM).