

## CONDUCT SCHEME FOR MEMBERS OF GOVERNANCE BODIES

### 1 Overview

When a complaint is made against a member of a governance body, or a person elected or appointed to be a member of a governance body but who has not yet taken up office as such, the Society will act promptly and fairly to safeguard the rights of all parties, the reputation of the Society or governance body as may be appropriate in the circumstances, and any individuals that may be at risk.

Where possible and appropriate, the Society will attempt to resolve the matter by conciliation or mediation if all of the parties to the dispute are willing to participate, however it may be necessary to refer the complaint to a Conduct Hearing Panel, or in circumstances involving an employee of the Society, to the Human Resources and Legal departments.

Should a complaint be upheld by a Conduct Hearing Panel, it may result in suspension/expulsion of the member from the relevant governance body/bodies as appropriate and, ultimately, from membership. Should an investigation by Human Resources uphold a complaint and gross misconduct is determined, formal steps may be taken to remove the member in circumstances of breach of contract and/or policy.

In extreme circumstances involving serious gross misconduct including serious breaches of Society policies, the Chief Executive Officer and the President have the authority to remove a member from office for breach of contract or membership terms and conditions.

Where a member has been convicted of an offence other than a minor offense under the Road Traffic Act or similar circumstance, the matter will be referred to the Assembly who will deal with the matter in accordance with the relevant procedures.

### 2 Receipt of complaint and initial action

A complaint may be brought by a member of the Society, a member of staff or by a member of the public by notifying the Chief Executive of the Society in writing of the full nature of the complaint. If the complaint is by an employee or worker of the Society, the complaint may be brought to Human Resources and/or the Legal team, who will notify the Chief Executive Officer and provide the other aforementioned team of the details surrounding the complaint.

Complainants are encouraged to bring their complaints within three months of the event giving rise to the complaint, or within three months of the complainant becoming aware of the circumstances giving rise to the event.

If, at any stage during the consideration of a complaint which is regarding fitness to practice as a pharmacist, it becomes known that the complaint has already been referred to the GPhC, the complaint may be put to one side pending the outcome of those proceedings and reviewed in the light of the outcome, or a decision to suspend a member from their post may be taken

If any member of the Assembly, National Board or other governance body is the subject of a complaint, they are disqualified from participating in the particular governance body/bodies

proceedings in connection with anything related to or arising from the complaint.

The duty of confidentiality is paramount during a complaint and investigation and disciplinary procedure. Members are to respect confidentiality during these times and not discuss matters with anyone else unless specifically authorised to do so by the President and Chief Executive Officer. Failure to comply with this requirement could result in formal action for all involved, for breach of contract and/or policy.

If, in the view of either the President or Chief Executive (or Human Resources and Legal for matters involving employees/workers of the Society), there is a risk of harm to the wellbeing of any individual, including the complainant or the respondent, or the Society (including reputational risk), or there needs to be an investigation into the complaint made, the respondent may be suspended immediately from any governance body of which he/she is a member. Suspension is not a disciplinary sanction and does not give rise to any finding of guilt on the part of the respondent; accordingly suspension will not prejudice full and proper consideration of the complaint, or its outcome.

### **3 Investigation**

Where a complaint is brought as above, the Chief Executive Officer shall work as appropriately with the President, the Company Secretary and the Governance Manager and a National Board chair who is not the Chair of the National Board of which either the complainant or the respondent is a member of. The President also has an option to exercise a right to appoint a surrogate member to take the President's place, who is reasonably considered to be non-biased or conflicted on the matter to work in this group if the matter is determined early on to be serious. The investigation should be started within 10 days of receipt of the complaint.

For complaints involving Society employees/workers, the Chief Executive Officer shall engage Human Resources and Legal to advise on the legal employment matters arising from the complaint.

The Chief Executive and the President shall then review the conclusions of the investigation and reach a joint conclusion to decide the following possible outcomes. If the President and the Chief Executive Officer cannot agree a conclusion, the appointed National Board Chair will be asked to break the deadlock by offering their position:

- the complaint is not upheld, is trivial, or is vexatious, and should be dismissed; or
- the complaint is upheld, but that no further action is appropriate; or
- the complaint should be referred to the GPhC if the matter is determined serious enough to call into question the fitness to practice of the respondent; or
- the complaint should be referred to the police or other appropriate regulatory body if the matter is determined to be a breach of law; or
- the complaint is upheld and should be dealt by either:
  - the respondent being required to provide an undertaking and/or undertake a

specified course of action or some form of redress such as mediation; or

- the respondent being censured; or
- the respondent being censured and required to provide an undertaking and/or undertake a specified course of action; or
- the seriousness of the matter is such that suspension or expulsion from governance is the necessary course of action. If this conclusion is reached, the President and the Chief Executive Officer should call to order a Conduct Panel Hearing in accordance with the procedures set out below.

#### **4 Conduct Panel Hearing**

The President, in discussion with the Chief Executive, shall appoint a Conduct Panel of three members drawn from the from Assembly, National Boards or other Governance Body to investigate, hear or determine the complaint against a member in his/her capacity as a member of a governance body or as a person elected or appointed to be a member but who has not yet taken up office as such.

#### **5 Procedure of the Conduct Panel Hearing**

Members of the Conduct Hearing Panel set up to hear a complaint referred to it must be selected from different Boards to that of the respondent, and must confirm they will operate in an unbiased manner, and declare any conflicts of interest before accepting the position.

The Conduct Hearing Panel shall endeavour to deal with the complaint within two weeks of the referral date. This timetable may be extended where the President, in discussion with the Chief Executive, is of the reasonable opinion that due to extenuating circumstances or further investigations that may be necessary this timetable is impracticable. The complainant and the respondent will be notified in writing of the proposed timetable and any extension or subsequent extension to the time table.

The respondent will be given at least ten days written notice of any hearing and shall be notified of their right to make written representations about any of the charges. The respondent may, depending upon the nature of the complaint, be invited to attend in person the Conduct Panel hearing.

#### **6 Findings and sanctions**

The Panel shall consider the complaint made against the respondent and make such further enquiries as it sees fit and, having reviewed all the evidence and written submissions presented shall:

- (a) dismiss the complaint; or
- (b) uphold whole or part of the complaint

If a complaint is upheld or upheld in part, the Panel shall decide on which of the following is

appropriate having regard to the nature and seriousness of the complaint or any action of the respondent taken to mitigate the effect of their behaviour or conduct;

- (a) take no further action;
- (b) censure the respondent with or without requiring the respondent to provide an undertaking and/or undertake a specified course of action; or
- (c) suspend or remove the respondent from office (including from any other appointment held by virtue of his office); or
- (d) call for, and accept, the respondent's resignation from office and/or membership of the Society; or
- (e) suspend or remove the respondent from membership of the Society for a specified period of time.

The Panel shall set out its decision(s) in a full written report and shall inform the President and Chief Executive of the findings and sanctions handed down by the Panel at least three days prior to informing the respondent and the complainant.

## **7 Appeals**

A respondent has the right to appeal the whole or part of the decision of the Conduct Panel in writing within 14 days of receipt of written notification of the findings and decision. Any such appeal should be addressed to the President and must provide new supporting evidence upon which the respondent is appealing the Board's decision.

Upon receipt of a written notice of appeal the President, in discussion with the Chief Executive, shall appoint an Appeals Board of at least three members to hear the appeal. The designated Appeals Board members shall be, in order, the Treasurer, the Chair of the Welsh Pharmacy Board, the Chair of the Scottish Pharmacy Board, the Chair of the English Pharmacy Board, Chair of the Audit Committee.

An individual who has acted as a member of the Conduct Hearing Panel, shall not be eligible to be a member of the Appeals Board for that particular case.

The Appeals Board shall hear the new evidence that has come to light since the decision of the Conduct Panel, and decide whether the Conduct Hearing Panel has reached a reasonable decision having regard to the evidence before them and the circumstances giving rise to the complaint.

If the Appeals Board concludes that the handling of the complaint has been unsatisfactory, they may refer the matter back to the President and Chief Executive Officer, and a new Conduct Hearing Panel should be invested to hear the matter afresh.

All Appeals Board hearings shall be held in private and the decisions of the Board shall be final.

## **8 Reporting and Publication**

Records of all stages of the proceedings shall be kept but, subject to any statutory or regulatory requirements or obligations, or any court order, these records shall not be made available to the public.

Records of all stages of the proceedings may, should the President, in discussion with the Chief Executive, decide so be reported to the Assembly in confidence and under restricted business and only if appropriate to do so once the statutory and regulatory obligations are fully considered.

Any sanction of censure or expulsion from governance may at their discretion be communicated by the President and Chief Executive to any governance body of which the respondent is a member. The President and Chief Executive may also direct that the outcome of the conduct procedures be reported to any regulatory or governing authority in the public interest and that a record be kept for any purpose related to the affairs of the Society.

## **9 Costs**

In any proceedings under this Scheme, the parties shall normally bear their own costs.