

PACFA Register of Psychotherapists and Counselors Complaints Procedure, August 2008

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1. Introduction:

PACFA has established a register of counseling and psychotherapy practitioners called The PACFA Register of Psychotherapists and Counselors all of whom have fulfilled the requirements to practice independently. As the PACFA Register develops, it is anticipated that this current document will be altered to reflect those changes; hence it is to be regarded as a transitional document.

In the interim, the PACFA Board through the Register Committee will oversee the complaints process.

The PACFA Register Committee will:

- Appoint the Case Officer
- Communicate with the Member Association of the respondent.
- Appoint the Complaints Committee including the Chair,
- Appoint the Appeals Committee
- Receive the outcome of deliberations of the Complaints Committee
- Apply and monitor sanctions
- Report to the PACFA Board
- Take directions from the PACFA Board
- Communicate with State Health Complaint commissioners

The PACFA Complaints Committee which is appointed by the PACFA Register Committee which is accountable to the PACFA Board.

The PACFA Complaints Committee will:

- receive and review the recommendations of the case officer
- determine whether there is cause for complaint and a case to be answered
- determine a process most appropriate to address the complaint
- give preference to conciliation and mediation as a process of first resort
- when appropriate investigate and hear complaints made against practitioners on the PACFA Register of psychotherapists and Counselors

2. Who can make a complaint?

A complaint may be made by:

- 2.1** A person who is a client or former client of a counselor or psychotherapist;
- 2.2** A formally appointed guardian of a person who is deemed to be unable to make reasoned judgments in their best interest;
- 2.3** A health professional on the basis of direct information received from a client or other reliable source;
- 2.4** A Member of the public concerned about the actions of a counselor or psychotherapist.

3. Statute of limitations for hearing of a complaint.

- Complaints should be lodged as soon as possible and close to the events involving the complaint, however it is acknowledged that as the length of time taken to lodge a complaints may be due to a number of legitimate reasons the complaints committee will take such reasons into account.
- A substantial delay between the conduct complained of and the lodgment of the complaint may prejudice the outcome for a number of reasons. The longer the time between conduct complained of and the lodgment of the complaint makes it more difficult to gather reliable information on which a complaints committee may use to determine a finding.
- There is no statutory limit on the time within which a complaint must be lodged or determination made, and it is left to the complaints committee to determine whether there is enough reliable information on which to base a determination.

- A complaint against an individual may be made and heard as long as that individual was on the PACFA register at the time the events or conduct in question took place.

4. The process of making a complaint.

4.1 The complainant should contact the PACFA office and request a copy of the Complaint Form;

4.2 The complainant will receive a copy of the PACFA Register Complaints procedure;

4.3 The complaint should be submitted in writing on the form provided;

4.1.1 If the complainant or the respondents need assistance to complete the complaint submission or the response to the complaint, an appropriate support person, other than the Case Officer, may be appointed upon request, by the PACFA Register Committee.

4.4 PACFA Register Committee will inform the relevant Member Association (MA) of the fact that a member of their Association who is also on the PACFA Register has had a complaint lodged against him/her.

4.5 The Register Committee will keep the MA informed at all stages of the complaint process and the eventual conclusion of the complaint, including all sanctions imposed.

4.6 Within two weeks of receiving the written complaint an impartial and appropriately qualified Case Officer and Complaints Committee will be appointed by the PACFA Register Committee.

4.6.1. The Register Committee, in appointing the Case Officer will have established that the candidate for the role is impartial, has appropriate qualifications and experience on matters of ethics and addressing complaints.

4.6.2 The Register Committee in appointing the Complaints Committee will have established that all the candidates for the role are impartial, have appropriate qualifications and experience on matters of ethics and addressing complaints. At least one member of the Complaints Committee is a member of the respondent's MA and nominated to act in that capacity by the MA's Ethics Committee. This gives direct representation and involvement of the respondent's MA Ethics Committee on the Complaints Committee.

4.6.3 As an initial step in the process of appointing the Complaints committee, the Register Committee will consult with the Ethics Committee of the respondent's MA in

order to inform the MA of the complaint and determine if this complaint has been previously lodged and addressed and the outcome of that process.

4.6.3.1 If the matter has been previously dealt with by the Ethics Committee of the MA and the outcome determined, the MA Ethics Committee will meet with the Case Officer or other representative of the Register Committee and fully inform and discuss the basis of the determination.

4.6.3.2 Jointly the MA Ethics Committee and PACFA Register Committee will recommend to the PACFA board whether there are grounds for rehearing the complaint or endorsing the determinations made by the MA Ethics Committee.

4.6.3.3 The PACFA Board will deliberate on the matter and either decides that the matter should go to the Complaints Committee or that the previous determination be endorsed. The decision of the PACFA Board is final.

4.6.4 The Register committee in appointing the Complaints Committee will appoint a Chair and at least two other persons. The Register Committee will decide the number and persons on the Complaints Committee on the basis of maintaining fairness and impartiality whilst delivering an efficient and effective complaints process.

4.7 In a timely manner, the respondent will:

4.7.1 be informed of the substance of the complaint,

4.7.2 receive a copy of the complaint procedure

4.7.3 be referred to the Code of Ethics of their MA and

4.7.4 at the discretions of the Complaints Committee, be requested to write a response to the complaint.

5. The role of the Case Officer

5.1 In a timely fashion the respondent and complainant will be informed of the name of the Case Officer.

5.2 The Case Officer will meet with the respondent and complainant separately, collecting additional information and or requesting submissions from whomever he/she deems appropriate.

5.3 The Case Officer will gather information and documentation regarding the complaint including the background of the complaint.

5.4 The Case Officer will submit to the complaints Committee, all the material including a summary and a recommendation as to whether there is:

- 1) cause for a complaint,
- 2) a case for the respondent to answer.

5.5 The Case Officer will make a recommendation as to the most appropriate process for the resolution of the complaint.

5.6 The Case Officer will have four weeks after the collection of relevant information and documentation to prepare the summary and recommendations to the Complaints Committee.

5.6.1 The Case Officer may request an extension of time from the Register Committee, on the basis that such extension of time will allow for fairer and diligent conduct of his/her task.

6. If there is not a case to be answered.

If the decision of the Complaints Committee is that there is not a case to be answered, the complainant and respondent are informed by the chair of the Complaints Committee and this decision is final.

7. If there is cause for complaint.

7.1 If the decision of the Complaints Committee is that there is a cause for complaint and a case for the respondent to answer, the Complaints Committee, in a timely manner will:

7.1.1 map out a course of action appropriate to the nature of the complaint,

7.1.2 set dates for the appropriate meetings,

7.1.3 gather any additional submissions or conduct further investigations,

7.1.4 inform the complainant and the respondent of all relevant decisions and procedural details.

7.2 The course of action may include:

7.2.1 Mediation and conciliation

7.2.2 Adjudication on the matter by the Complaints Committee.

7.2.3 Informal hearing – follow the standard procedures of the Victorian Health Complaints Commission and the matter may be referred to the State Health Complaints Commission.

7.2.4 Formal hearing - follow the standard procedures of the Victorian Health Complaints Commission and the matter may be referred to the State Health Complaints Commission.

7.3 Where appropriate the Complaints Committee facilitates a mediation process to resolve the complaint.

7.3.1 If mediation is chosen as a course of action, then:

7.3.1.1 a clear description of the process will be developed including the name, role, impartiality and independence of the mediator;

7.3.1.2 A contingency plan will be developed in the event that mediation does not produce a mutually agreed outcome.

7.3.1.3 Both the complainant and respondent must be fully informed of the benefits and limitations of the process, and agree to the process in writing.

7.3.1.4 This process must be kept separate and distinct from all other present and future processes used to address the complaint;

7.3.1.5 This process is not to be conducted concurrently with any other complaints process or legal process related to that complaint.

7.3.1.6 The outcome of the mediation is a private matter and the fact of the outcome will be reported to the Complaints Committee.

8. Reporting and recording the process of complaint

8.1 The Complaints Committee will inform in writing the complainant, respondent and Register Committee of what is to occur, the specific dates for meetings and approximate dates for the final findings and determinations.

8.2 After the meetings and investigations have been conducted to the satisfaction of the Complaints Committee, a finding and determination will be made by the Complaints Committee. The findings and determinations will be conveyed in writing to the complainant, respondent, PACFA Register Committee and MA Ethics Committee.

8.2.1 The findings are the outcome and assessment made by the Complaints Committee, of the information collected, the submissions made to the committee and the investigations of the committee.

8.2.2 The determinations are the consequent application of sanctions, recommendation for future changes and courses of action required to be taken by parties involved in the complaint.

8.2.3 The findings and determinations are very important to both the complainant and the respondent. Hence verbal and written delivery of the outcomes of the complaint process are intended as an opportunity for the complainant and the respondent, to separately use the time to ask questions and to hear the finding within the context of a discussion with the Complaints Committee.

9. If the finding(s) is that the complaint(s) is upheld:

9.1 Sanctions will be applied to the respondent:

9.1.1 This may involve a number of measures depending on the severity of the complaint and context of the case, including removal from the PACFA Register and expulsion from his/her MA.

9.2 The sanctions can range in severity and in detail of application. The sanctions will be directly related to the specifics of the complaint and the context of the complaint but focused on;

9.2.1 Ensuring the safety and wellbeing of complainant and other members of the community

9.2.2 Ensuring the safety, well being and future credibility of the practitioner, where the severity of the complaint is not severe making this an appropriate consideration.

9.2.3 Ensuring that standards, quality and credibility of the professional practice of counseling and psychotherapy are maintained.

9.3 The findings and determinations will be communicated in writing to the respondent's professional association, and if the practitioner seeks membership of another counseling or psychotherapy association or registrations with another board or section within the mental health profession, the determination are deemed to apply and the practitioner remains accountable.

10. Appeal Procedure.

10.1 If the complainant or respondent does not accept the findings or the determinations and has reasonable grounds for appeal, the respondent or complainant may take the matter to appeal.

10.2 All appeals need to be made in writing on the Appeal Form if possible. The grounds for appeal include;

10.2.1 Key material was overlooked or not included in the report on the basis of the findings and determination that were made by the Complaints Committee.

10.2.2 The Complaints Committee did not follow either the detail or the principles of the complaints procedure.

10.3 A clear statement of the grounds for appeal against a decision needs to be made including supporting information, submissions or other evidence and submitted to the PACFA Register Committee within 28 days of the findings and determinations being handed down.

10.4 If the PACFA Register Committee decides on rejection or acceptance of an appeal it must give reasons and the decision is final

10.5 If PACFA Register Committee finds that there are grounds for appeal, PACFA Register Committee will;

10.5.1 Appoint an Appeals Committee, consisting of three people. Two of whom are appropriately qualified senior members of the counseling profession and one person who is appropriately qualified but not a counselor. None of the members of the Appeals Committee will have a conflict of interest, nor a direct personal or professional relationship with either party involved in the appeal.

10.5.2 Inform in writing the parties to the findings and determinations of the impending appeal.

10.6 The procedure for the conduct of the appeal may be the same as that of the complaint but with the addition of new and impartial committee members and include all new material relevant to the complaint.

10.7 The procedure of handing down and informing of the findings and determinations of the Appeals Committee will be the same as the procedure for handing down the findings and deliberations of the Complaints Committee.

10.8 The finding and the determination of the Appeals Committee are final.

11. Recording the outcome of the complaints procedure

11.1 Recording the outcome of the complaints against a practitioner will be recorded by the Registrar with the PACFA Register and the MA Ethics Committee.

11.2 The outcome of the complaints process against a member of a MA will be recorded in such a way as to protect the privacy of the respondent and complainant.

11.3 The outcome of the complaints process against a member of a MA will be recorded in such a way as to allow for monitoring of the application of sanctions – if any, to the respondent counselor.