



COMPLAINTS AND DISCIPLINARY PROCEDURE

Introduction

The Complaints and Disciplinary Procedures set out the procedures which the National Institute of Medical Herbalists (the Institute) follows when a concern is received.

The purpose of the Complaints and Disciplinary procedures is to ensure that concerns about Members of the Institute are examined and dealt with in a clear and impartial manner.

These procedures explain what happens once a concern has been initiated.

In creating these procedures the National Institute of Medical Herbalists has tried to ensure that the interests of both the public and the practitioner are properly and adequately represented and that its processes are balanced, straightforward and transparent.

The Institute encourages potential complainants and practitioner Members to first do whatever is possible through informal mediation to resolve differences and difficulties before recourse to formal procedures.

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1. Making a complaint

Before submitting a concern it is important to know what types of concern the Institute can and cannot deal with.

1.1 What concern is the Institute unable to investigate?

The Institute will not investigate complaints about matters which do not relate to a Member's fitness to practise.

We cannot consider:

- complaints about medical herbalists who are not registered with the Institute
- complaints about organisations or clinics (we regulate individual medical herbalists only)
- complaints solely about business disputes
- complaints solely about employment, contracts or business premises
- complaints solely about fees or costs of treatment
- vexatious complaints
- complaints which solely relate to a Member's personal life
- complaints which lie solely within the jurisdiction of another regulator and which should have been made to that regulator

1.2 Scope of these procedures?

We cannot:

- reverse decisions of other organisations or bodies
- get involved in matters which should be decided upon by a court
- arrange refunds or compensation
- give legal advice
- make a member apologise

1.3 Anonymous complaints

We do not normally consider anonymous complaints. This is because we operate a fair and clear process and we cannot ask for more information if we do not know who has contacted us.

1.4 What complaints can the Institute investigate?

We can only investigate complaints where a concern is raised that the Member's fitness to practise is, or has been, impaired.

These concerns may cover:

- Treatment, care or advice given by a medical herbalist
- Any aspect of the professional or personal behaviour of a medical herbalist within the consultation
- The physical or mental health of a medical herbalist

We do not expect patients or members of the public to assess a medical herbalist's fitness to practise. However, patients or members of the public may identify actions or behaviour of a medical herbalist that they believe places the safety of patients or the public at risk. It is the role of the Institute to investigate and decide whether or not a medical herbalist is fit to practise, and we have clear and transparent processes in place to do so.

1.5 How to make a complaint

If you decide you want to make a formal complaint against a medical herbalist, we will need as much information as possible about your allegations.

We can only examine complaints made to us in writing. You will need to fill in our complaints form which you can download from this website or which we can post or email to you. Please contact the Institute office if you require a form.

[Complaints form](#)

2. Our complaints process

When we receive a complaint it is considered carefully to see whether it is a complaint we can investigate. We will also consider whether it is appropriate for it to be resolved informally.

Although each case is unique, when we receive a complaint our procedures will typically involve:

- a preliminary screening of the complaint
- where necessary, an investigation of the complaint
- where necessary, a referral to the Ethics, Health and Conduct Panel to reach a decision and decide on actions.

A flowchart of our Complaints and Disciplinary Procedures can be found on page 10.

2.1 How long will the process take?

The length of time of an investigation takes can vary widely. It depends on a number of factors including the complexity and seriousness of the case. We will complete the investigation as quickly as possible but cannot give a definitive timescale for the completion of any individual case.

We will keep the complainant and the Member informed of progress at each stage of the case.

We will complete our preliminary screening of any complaint as quickly as possible. Then, if necessary, we will aim to;

- investigate the case within 2 months from receipt of the complaint
- reach a decision and decide on actions within 2 months from the end of the investigation.

2.2 Preliminary screening of complaints

When we receive a complaint the Investigating Committee will examine and screen the complaint to make sure it is something we can deal with (per sections 1.1-1.4). We will screen complaints as quickly as possible and will contact you if we need to check any details.

2.3 If we cannot deal with your complaint

If we find that we can't deal with your complaint, we will contact you and tell you why.

2.4 Informal resolution

If a complaint is suitable for informal resolution, the Investigating Committee will act to resolve or attempt to resolve the complaint through mediation.

3. The Investigation Process

If the Investigating Committee determine there is a matter to answer, an investigation will be instigated.

The investigation process is as follows:

- The Investigating Committee will gather information by writing to the medical herbalist to tell them about the complaint and invite them to make a response. We will send them a copy of the complaint (and any other relevant documents or supporting information) so that they know the details.
- We will then write to the complainant with a summary of the medical herbalist's response to the complaint. The complainant will then be given the opportunity to comment and we will send these further comments to the medical herbalist.

Once all this and any other material information has been gathered, the complaint is considered by the Investigating Committee.

3.1 Investigating Committee

The Investigating Committee comprises two Professional Conduct Officers who are both fully registered medical herbalists.

When the Investigating Committee has gathered together all the information that is available about the complaint, it will be discussed in private by the Investigating Committee.

The Investigating Committee will examine the evidence and decide whether the medical herbalist's fitness to practise may be in question. If they deem that it is, then the Investigating Committee will refer the complaint to be heard by the Ethics, Health and Conduct Panel (EHCP).

The Investigating Committee can:

- Conclude the case with no further action
- Attempt to resolve the matter through mediation
- Issue a Letter of Advice to the medical herbalist
- Refer the complaint to the Ethics, Health and Conduct Panel

We will write to all parties with the findings of the investigating committee, setting out the reasons for these findings. If the matter is referred to the EHCP we will set out the basis for the referral and the allegations to be heard. The Member will have the opportunity to respond to these allegations before any hearing.

There is no process to appeal against a decision at this stage.

3.2 The Ethics, Health and Conduct Panel

The Ethics, Health and Conduct Panel (EHCP) is made up of at least one medical herbalist and at least one lay panelist.

The EHCP considers complaints against medical herbalists referred to it by the Investigating Committee. The panel will determine a complaint by calling a hearing and examining evidence and any other relevant submissions.

The EHCP will examine four areas in turn to decide whether a medical herbalist's fitness to practise is impaired and, if so, to take appropriate action. Both the complainant and the medical herbalist will be offered the opportunity to make a submission in advance of the hearing against each of these areas.

Facts

The EHCP will hear evidence, written or verbal, and will go on to decide whether it accepts the truth of any disputed facts.

Misconduct

The EHCP will question whether, in the light of the facts proved, misconduct has occurred.

Impairment

The EHCP will then consider whether the medical herbalist's fitness to practise is impaired currently (as opposed to at the time of the complaint). The EHCP can hear further evidence and/or submissions to assist them if required.

Sanction

If the EHCP determines that the medical herbalist's fitness to practise is currently impaired, it will go on to consider what action, if any, should be taken.

The EHCP will review the information presented to them, and can call on expert advice, including legal advice, and can question any relevant party or their representative.

The EHCP has the power to adjourn should further information be required or if legal or medical advice is needed or being sought.

Sanctions open to the panel include:

- issuing a warning to the medical herbalist
- imposing sanctions or conditions of practice (for example, that the medical herbalist works under supervision or has further training)
- recommending that the Member be allowed to remain on the Institute register but only as a non-practising member until a specified future date and/or until agreed conditions have been fulfilled.
- recommending the Institute Council remove the Member's name from the Institute

register

The purpose of sanctions is not to punish the medical herbalist but to protect the public.

The EHCP reports to the National Institute of Medical Herbalists Council

3. Right of Appeal

We will write to the complainant and the medical herbalist concerned to advise them of the outcome of a case. Complainants and medical herbalists have the right to appeal.

The complainant and medical herbalist have 28 days from the date of the letter in which to appeal a decision of the EHCP. The EHCP's decision will not take effect until either the appeal period expires or the appeal is determined.

An appeal of a decision of the EHCP by giving notice of appeal in writing to the Institute Council within 28 days of receipt of the EHCP decision setting out the grounds for the appeal e.g. the findings, the penalty or both.

On receiving an appeal, the Institute Council will convene an Appeals Board and the Institute will then give notice in writing of a hearing to both parties.

4.1 Appeals Board

The Appeals Board will consist of one Institute member with at least 10 years standing (who may be the President or the Vice President) and one lay person.

Meetings of the Appeals Board will take place in private. The Appeals Board have the power to convene a hearing where they deem it necessary based on the appeal.

An appeal will be limited to a review of the original process / decision and consideration of any fresh evidence.

The Appeals Board can:

- take legal advice at any stage on any matter
- adjourn
- dismiss the appeal
- refer the complaint back to the EHCP for re-hearing
- confirm, vary or discharge any of the decisions of the EHCP

We will send written notice of the decision of the Appeals Board to all parties.

5. Jurisdiction

The Complaints and Disciplinary Procedures, together with the National Institute of Medical Herbalist's Code of Ethics and Conduct, apply to all Institute members. If a registered member resigns or ceases to be a member during the investigation of a complaint, the procedure will continue and any outcomes will be published in line with the Institute's policy on publication of disciplinary actions.

Acknowledgments

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Complaints Procedures Flow Chart

