CRANIOSACRAL THERAPY ASSOCIATION

Practice and disciplinary codes

INVESTIGATION OF COMPLAINTS: PROCEDURAL RULES

Issue 1.7 ` Date of issue: June 2015

1. INTRODUCTION

1.1 The Craniosacral Therapy Association of the United Kingdom (hereafter referred to as the CSTA) hereby make the following Rules:

2. COMMENCEMENT

2.1 This edition of the rules will take effect from December 2011.

3. INTERPRETATION

3.1. In these Rules and in the Complaints Investigation and Disciplinary Procedures document of the CSTA, unless the context otherwise requires:

"Case relating to conduct or incompetence" means a case where a question arises as to whether the craniosacral therapist may have been guilty of unacceptable professional conduct or professional incompetence;

"Case relating to conviction" means a case where it is alleged that a craniosacral therapist has been convicted in any country, whether while registered or not, of a criminal offence;

"Case relating to health" means a case where a question arises as to whether the ability to practise of the craniosacral therapist is seriously impaired because of his physical or mental condition;

"The Chair" means the Chair of the Investigating Committee in Part 1 and of the Professional Conduct Committee in Parts 2, , 4 and 5.

"The Committee" in Part 1 of this document means the Investigating Committee; and in Parts 2, 3, 4 and 5 it means the Professional Conduct Committee.

"A complaint" means any allegation of any kind mentioned in the Code

,

"Complainant" means a person by whom a complaint has been made to the Trustees;

"The Trustees" means the Trustees of the Craniosacral Therapy Association of the United Kingdom;

"The Health Committee" means the Committee established by the Trustees for these purposes

,

"Legal assessor" means an assessor appointed by the Trustees;

"Medical assessor" means an assessor appointed by the Trustees of the Craniosacral Therapy Association of the United Kingdom

"Party" means the respondent or the person presenting the case against the respondent, and references to "the parties" shall be construed accordingly;

"The respondent" means the craniosacral practitioner to whom an allegation under consideration by the Committee relates;

"The person presenting the case" means a solicitor or other person appointed by the trustees for the purposes of presenting the case for the allegation to a hearing held by the Professional Conduct Committee.

"The Clerk" means the person appointed by the trustees to act as clerk to the Investigating Committee in Part 1 and the Professional Conduct Committee in Parts 2, 3, 4 and 5.

"The Disciplinary Panel" is a group of Association members and lay people each of whom is approved by the Trustees to act as screener or member of the Investigating Committee, Professional Conduct Committee, Health Committee or Appeals Panel.

"The Complaints Officer" is a person appointed by the Trustees to make all arrangements for the carrying out the procedures under these codes.

In these Rules the masculine includes the feminine.

PART ONE

Note that in Part 1 references to "the Committee" are to be taken as references to the Investigating Committee.

4. INITIAL CONSIDERATION

4.1 APPOINTMENT AND ROLE OF SCREENERS

4.1.1 Before any case is considered by the Investigating Committee it shall have been considered by a member of the disciplinary panel ("the Screener") appointed for the purpose by the Complaints Officer and referred by that person to the Committee.

4.1.2 The member appointed under paragraph 4.1.1 shall be a registered craniosacral therapist, or a suitably qualified lay person.

4.1.3 The member appointed under paragraph 4.1.1 shall not:

a. be an officer of the Trustees;

b. shall not sit as a member of the Investigating Committee, Professional Conduct Committee or Health Committee on any case previously considered by him in his capacity as Screener.

4.2 CONSIDERATION OF EARLIER CASES

4.2.1 Subject to paragraph 4.2.2, where the Investigation Committee has decided on an earlier occasion that there is no power to deal with a complaint against a craniosacral therapist ("an earlier case"), that earlier case may nevertheless be taken into account by the Investigation Committee in connection with the consideration of a subsequent

complaint against the same craniosacral therapist with a view to determining whether together they may indicate a case relating to conduct or incompetence or a case relating to health.

4.2.2 An earlier case may only be taken into account in accordance with paragraph 4.2.1 if, when the craniosacral therapist is notified that no further action is to be taken in connection with the earlier case, the notification contains a statement that the case may be taken into account in the consideration of any subsequent complaint.

4.3 INVESTIGATION BY SCREENER

4.3.1 For the purposes of considering a case, the Screener may seek information about or observations on the case from any person who, in the opinion of the Screener, might assist him in his consideration.

4.3.2 In such circumstances neither the complainant, nor the respondent, shall have the right of access to any document relating to the case.

5. PROCEDURES OF THE INVESTIGATING COMMITTEE

5.1 GENERAL

5.1.1 The Committee shall meet in private to undertake the following:

a. Consider all new cases of complaint

b. Review all ongoing cases

c. Review the reports of Screeners

d. Take note of the outcome of cases referred to the Professional Conduct Committee or to the Health Committee.

5.1.2 The Committee shall meet when it has business to transact, and on such days as it shall determine, having regard to the need to avoid undue delay.

5.1.3 The Committee shall accept for consideration written statements made by the complainant, the craniosacral therapist, and by others submitting additional information and any other material collected by the Screener.

5.1.4 The committee may be assisted at its meetings by a legal assessor. It will be for the chair of the committee, in consultation with the members of the committee and with the Trustees, to decide whether the presence of a legal assessor is needed in any given case.

5.2 NEW CASES RELATING TO CONVICTIONS, CONDUCT OR INCOMPETENCE

5.2.1 Where the Committee is required to carry out an investigation of a complaint, it shall in the event that it concludes that there is no case to answer record its reasons for so concluding and supply those reasons in writing both to the craniosacral therapist and the complainant.

5.3 NEW CASES RELATING TO HEALTH

5.3.1 The Committee may request permission from the craniosacral therapist to obtain reports from his medical advisers. At any stage of its investigations the Committee

may cause such enquiries to be made in relation to the matter as it thinks fit and it may, if it considers it necessary to assist the Committee in arriving at a decision:

a. Obtain advice from a medical assessor specifically on the information and evidence which has been received;

b. Send a notice to the craniosacral therapist-

i. Inviting the craniosacral therapist to agree within a period of fourteen days of the date on which the notice is sent to him to submit to examination by a medical assessor appointed and to agree that such assessor shall furnish to the Committee reports on his fitness to practise;

ii. Informing the craniosacral therapist that it is also open to him to nominate other medical practitioners to examine him at his expense and report to the Committee on his fitness to practise; and;

iii. Inviting the craniosacral therapist to submit any further observations or other evidence, which he may wish to offer as to his fitness to practice.

5.4 MEDICAL EXAMINATION

5.4.1 If the craniosacral therapist agrees to submit to medical examination in response to an invitation, the Committee shall make arrangements for such examination by one or more medical assessors of the appropriate specialty.

5.5 ACTION FOLLOWING REPORTS OF MEDICAL EXAMINATION

5.5.1 The Committee shall send copies of any report received from the medical assessor to the craniosacral therapist and invite him to submit any observations that he has on the reports within the period of 28 days beginning with the day on which the reports are sent to him.

5.5.2 If in the opinion of the Committee a report contains any material which:

a. is not relevant to the present fitness to practise of the craniosacral therapist; and

b. it would not be in the best interests of the craniosacral therapist to see then the Committee shall direct the medical assessor to exclude such material from his report.

No material so excluded shall subsequently be presented to the Health Committee.

5.5.3 Following consideration of the information and reports it has been able to obtain, and any observations which have been supplied by the craniosacral therapist, the Committee shall determine whether there is a case to answer and inform the craniosacral therapist and the complainant in writing of its conclusion.

5.6 NOTIFICATION TO THE CRANIOSACRAL THERAPIST IN ALL NEW CASES

5.6.1 The Committee shall enclose with any notice a summary of information received in relation to a case.

5.6.2 Notices sent to the craniosacral therapist requesting further information which is necessary to the proper investigation of the complaint, or asking him to agree to submit to a medical examination, shall contain a statement to the effect that, if the craniosacral therapist fails, without good reason, to respond to the notice within twenty eight days of the date of it being sent to him, then the committee will conclude that there is a case to answer and refer it forthwith to the Professional Conduct Committee or the Health Committee as appropriate, or deal with the case by way of seeking assurances, giving a formal warning or issuing advice.

5.7 FURTHER INVESTIGATIONS

5.7.1 The Committee may in any case consider that it has insufficient evidence on which to reach a decision and may require further investigations to be carried out.

5.7.2 Such investigations may include seeking further information from the complainant or the craniosacral therapist or statements or reports from other craniosacral therapists, authorities or persons having knowledge of matters to do with the complaint and may also include a request to the craniosacral therapist for members of the Committee to visit the practice at a pre-arranged date and time.

5.8 LEGAL ADVICE

5.8.1 The Committee may in any case seek legal advice from a legal assessor on any question of law arising in connection with the case, on the collection of evidence, and on the formulation of the allegation or allegations in the event that they are to be referred to the Professional Conduct Committee or to the Health Committee.

5.9 POWER TO ADJOURN

5.9.1 Where the Committee wishes in any case to make further enquiries or further investigations, to obtain further evidence or to seek legal advice it may adjourn further consideration of the case until its next meeting.

5.10 INTERIM SUSPENSION

5.10.1 If the Committee considers that the nature of the complaint received is such that in order to protect members of the public it may be necessary to order the Registrar to suspend the craniosacral therapist's registration (an "Interim Suspension Order"), it shall:

a. notify the craniosacral therapist of his opportunity to appear before it at a hearing to argue why an Interim Suspension Order should not be made and of his right to be legally represented at any hearing;

b. proceed as provided in the following paragraphs of this rule.

5.10.2 Any hearing under this Rule shall not be fixed within a period of five days beginning with the day on which the notice under paragraph 5.10.1a is sent to the craniosacral therapist.

5.10.3 Where the craniosacral therapist is neither present nor represented at the hearing, the Committee may, nevertheless, proceed with the hearing if it is satisfied that all reasonable efforts have been made to serve notification of the hearing on the craniosacral therapist.

5.10.4 When considering whether to make an Order under this rule the Committee may invite the person presenting the case to address it as to the circumstances of the case.

5.10.5 The Committee shall:-

a. Ensure that its decision is recorded in writing; and

b. Direct the clerk as soon as practicable after the hearing to send a copy of the Order to the craniosacral therapist

5.10.7 Subject to the above, the Committee's procedure in dealing with Interim Suspension Orders shall be as it shall determine.

5.11 ONGOING CASES AND REVIEW OF THE DECISIONS OF SCREENERS

5.11.1 At each meeting the Committee shall review all cases not yet concluded or referred to the Professional Conduct Committee or to the Health Committee.

5.12 GENERAL

5.12.1 Where, in relation to any complaint which is the subject of a report made to it, the Committee dismisses that complaint (the "dismissed complaint") on the grounds that there is no case to answer, and the Screener then makes a further report to the Committee in connection with a subsequent complaint, that report may, if the Screener thinks fit, contain details of the dismissed complaint so that the Committee may determine whether together the complaints indicate a case to answer.

5.12.2 No member of the Committee who is a member of the Health Committee or the Professional Conduct Committee shall take part in dealing with the same allegation in his capacity as a member of those other Committees.

5.12.3 Where the Committee has concluded that there is no case to answer, neither the complainant nor the craniosacral therapist shall have any right of access to any documents relating to the case.

5.13 SERVICE OF NOTICES

5.13.1 Any notice or communication required by these rules to be served on an craniosacral therapist shall be served by recorded delivery to the craniosacral therapist at his address on the Register or to his last known or any other address if it appears to the Registrar that a notice so addressed is more likely to reach him.

5.14 PROVISION OF RULES TO THE CRANIOSACRAL THERAPIST

5.14.1 The Clerk shall provide a copy of these rules to the craniosacral therapist when any action is being taken under the provisions of this code.

PART TWO

Note: In Parts Two, Three, Four and Five references to "The Committee" are to be taken as references to the Professional Conduct Committee.

6. PROFESSIONAL CONDUCT COMMITTEE PROCEDURE

6.1 NOTICE AND DECISION AS TO MANNER OF PROCEEDING ON ALLEGATIONS

6.1.1 The committee may be assisted by a legal assessor. It will be for the chair of the committee, in consultation with the members of the committee and with officers of the Trustees, to decide whether the presence of a legal assessor is needed in any given case. The advice of a legal assessor may in any case be sought before or after any hearing. The Clerk shall secure that any such assessor is provided before any hearing with a copy of the allegation as formulated by the Investigating Committee.

6.1.2 The advice of the legal assessor to the Committee shall be delivered at any hearing in the presence of the respondent and/or his representative, or if delivered in private shall be faithfully and accurately relayed to the respondent and/or his representative. The respondent or his representative shall be entitled to comment on such advice.

6.1.3 Where an allegation has been referred to the Committee by the Investigating Committee or the Health Committee, the Committee shall meet as soon as practicable to consider whether in its view a hearing is desirable to deal with the allegation, for which purpose it shall consider the nature of the allegation and any observations (or admissions) given by the respondent to the Investigating Committee, and, in the case of a reference from the Health Committee, any evidence given or submissions made to that Committee.

6.1.4 As soon as practicable after that meeting, the clerk shall give notice to the respondent, specifying the allegation formulated by the Investigating Committee which has been referred to the Committee and-

a. if the Committee has determined to hold a hearing, notifying the date, time and place of the meeting of the Committee which will consider the allegation by way of a hearing; or

b. if the Committee has not so determined, requiring the respondent, if he wishes to have the allegation considered at a hearing, to notify the clerk in writing to that effect within 28 days of the date on which that notice was sent to him.

6.1.5 If the respondent notifies the Clerk under paragraph 6.1.4b within the period there mentioned of his wish to have the allegation considered at a hearing, the Clerk shall give a further notice to the respondent notifying him of the date, time and place of the meeting of the Committee which will consider the allegation by way of a hearing.

6.1.6 If the Committee has not determined under paragraph 6.1.3 that a hearing is desirable and the respondent has not requested a hearing pursuant to paragraph 6.1.4b, but the Committee reaches the view during its investigations and deliberations that the allegation should nonetheless be the subject of a hearing, it may then require one, and the Clerk shall in that event give notice to the respondent notifying him of the date,

time and place of the meeting of the Committee which will consider the allegation by way of a hearing.

6.1.7 A notice given pursuant to paragraphs 6.1.4a, 6.1.5 or 6.1.6 shall be served at least 21 days before the date of the meeting of the Committee which will consider the allegation by way of a hearing.

6.1.8 When the Clerk gives notice to the respondent pursuant to paragraphs 6.1.4a, 6.1.5 or 6.1.6 , he shall also notify the person making the allegation concerned of the date, time and place of the meeting of the Committee which will consider the allegation by way of a hearing.

6.2 POSTPONEMENT

6.2.1 The Chair of the Committee (or in the event of his being unavailable the Clerk after consulting such as other members of the committee as are available) may, of his own motion or on the application of a party to the proceedings, postpone a hearing of which notice has been given pursuant to the Rules in Section 6 before the hearing begins.

6.2.2 If the hearing is so postponed, the Clerk shall, as soon as practicable, give notice to the parties concerned of the postponement and of the further date, time and place of the meeting of the Committee at which the allegation will be considered by way of a hearing; and the Clerk shall also notify the person making the allegation of that date, time and place.

6.3 NOTIFICATION OF DECISIONS

6.3.1 As soon as practicable after the Committee has made its decision on whether an allegation is well founded and as to any steps to be taken, whether or not that decision was announced at the conclusion of a hearing the Committee shall, by notice given by the Clerk, notify-

a. the respondent of its decision and its reasons for reaching it, and (if the allegation is found to be well founded) of the respondent's right of appeal and

b. the person making the allegation of its decision and its reasons for reaching it.

6.4 VOTING

6.4.1 The Committee shall vote on any matter to be determined by the Committee in considering an allegation or in deciding the steps to be taken, by the Chair of the Committee calling upon members present to signify their votes by raising their hands, and by the Chairman then announcing his own vote followed by his casting vote if the ayes and the noes are equal in number, and declaring to the Committee how the matter has been decided.

6.4.2 Any member may challenge any decision so declared, in which event the Chairman shall again announce the motion, and call each member's name in turn, each member on being so called announcing his own vote, being either "yes" or "no" to the motion put, and the Chairman shall vote last, making first his ordinary vote and then (so far as relevant) his casting vote, and then declare the result.

6.4.3 No member present may abstain.

6.5 REFERRAL TO HEALTH COMMITTEE

6.5.1 If in the course of the investigation of and its deliberations on an allegation, the Committee is of the view that a substantial issue arises whether the ability of the respondent to practice as craniosacral practitioner is seriously impaired because of his physical or mental condition, it may refer the matter to the Health Committee, and the Health Committee shall deal with the matter as if the allegation were to that effect.

6.5.2 The power may be exercised, provided that the Committee has not voted on its decision whether the allegation is well founded.

6.5.3 The Committee shall take no further action on the allegation if, following a reference under this Rule, the Health Committee finds that the ability of the respondent to practice as a craniosacral therapist is seriously impaired because of his physical or mental condition (in which event the matter shall be finally disposed of by the Health Committee).

6.5.4 The Committee shall continue (as the case may be) with its consideration of the allegation and dispose of it accordingly if, following a reference under this Rule, the Health Committee certifies its opinion to the Committee that the ability of the respondent to practise as a craniosacral therapist is not seriously impaired because of his physical or mental condition.

6.6 SERVICE AND GIVING OF DOCUMENTS

6.6.1 Any notice, document or other matter to be given to or served on a craniosacral therapist by the Clerk under these Rules may be served by sending it by a postal service in which delivery or receipt is recorded to, or leaving it at the address of the craniosacral therapist as appearing in the register or the mailing address given by that craniosacral therapist to the CSTA if that is different, or if his last known place of residence differs from either of these addresses and it appears to the Clerk that, if the notice, document or other matter is sent to or left at that place of residence, it is more likely to reach him, it may be served by sending it by such a postal service to or leaving it at his last known place of residence.

6.6.2 Any reference in these rules to the day by which any notice must be given shall be construed as the day on which that notice was posted or left at a place of business or residence.

6.6.3 Any document sent to the Solicitor or legal assessor shall be sent to the addresses at which they normally practise or such other addresses as they shall specify.

6.6.4 Any notice, document or other matter to be given to or served on the committee, its chair or the CSTA registrar under these Rules shall be sent to the Clerk at the CSTA's principal address.

PART THREE

7. PROCEDURE AT HEARING ON ALLEGATION

7.1 APPLICATION OF PART THREE AND PRELIMINARY MATTERS

7.1.1 This part applies in any case where the respondent requires a hearing or the Committee determines that an allegation should be the subject of a hearing.

7.1.2 At any meeting of the committee, a person shall be present who will present the case against the respondent. It will be for the chair of the committee, in consultation with the members of the committee and with officers of the Trustees, to decide whether that person should be a solicitor, counsel instructed by the solicitor or layman appointed by the Trustees for the purpose.

7.2 PROCEDURE AT MEETING CONSIDERING THE ALLEGATION

7.2.1 If the respondent does not appear the Committee shall call upon the person presenting the case to produce evidence that notice has been given to the respondent ; and if the Committee is satisfied that it was so given, it may determine that proceedings on the allegation shall be heard and determined in the absence of the respondent.

7.2.2 At the opening of the hearing, the allegation shall be read out by the person presenting the case.

7.2.3 When the allegation has been so read out, the respondent may-

a. admit any of the facts alleged (in which case the facts admitted shall be taken as proved);

b. submit an objection on grounds of law to any allegation or part of an allegation.

7.2.4 If the respondent submits an objection on grounds of law, before determining the matter the Committee shall give the person presenting the case an opportunity to address the Committee and shall consider the advice of the legal assessor, if present.

7.2.5 If necessary the hearing shall be adjourned to enable the advice of the legal assessor to be sought.

7.2.6 If the Committee is satisfied after hearing the parties and consulting the legal assessor that an objection is substantiated, the allegation or part of the allegation in relation to which it is so satisfied shall not be proceeded with further.

7.2.7 The order of proceedings in relation to any allegation with respect to which any of the material facts are not admitted by the respondent shall, unless the Committee directs otherwise, be as follows~

a. The person presenting the case shall open the case for the allegation, and shall call evidence in support of it;

b. the respondent shall present his case, and may call evidence;

c. the person presenting the case shall have a right of reply by way of closing submissions, and with the leave of the Committee before making such submissions to call further evidence dealing only with the rebuttal of any matters raised by the respondent;

d. the respondent may make closing submissions to the Committee.

7.2.8 At the conclusion of the stage referred to in paragraph 7.2.7a, the Committee may determine (whether on submissions of the respondent or otherwise) insufficient

evidence has been adduced to satisfy it that the allegation was well founded and dismiss the allegation without hearing evidence for the respondent.

7.2.9 If, after the conclusion of proceedings under paragraph 7.2.7, the Committee determines that the allegation is well founded, it may if it thinks fit hear further evidence or submissions from the parties for the purpose of determining the steps to be taken.

7.2.10 Any witness called to give oral evidence may be cross-examined and re-examined, and may be questioned by the Committee and (with the leave of the Committee) by the legal assessor, if present.

7.2.11 Where all of the material facts of an allegation are admitted and the Committee is satisfied that the allegation is well founded, the Committee shall hear any explanation by the person presenting the case of the circumstances surrounding the allegation so far as relevant, and shall hear any submissions in mitigation which the respondent wishes to make; and the Committee may if it thinks fit hear submissions or evidence for the purpose of determining the steps to be taken and it shall in any event afford the respondent the opportunity required in respect of its exercise of its powers.

7.2.12 If it appears to the Committee that the particulars of an allegation as formulated by the Investigating Committee should be amended (whether in consequence of an objection under paragraph 7.2.3b or at any other time) and that the amendment can be made without injustice, it may, after hearing the parties and consulting the legal assessor, amend the particulars to such extent as appears to the Committee to be necessary or desirable.

7.3 EVIDENCE

7.3.1 Production of a certificate purporting to be under the hand of a competent officer of a court in the United Kingdom that a person has been convicted of a criminal offence, or an extract conviction of a court in Scotland, shall be conclusive evidence of the offence committed, and the only evidence which may be called by the respondent in connection with an allegation of a conviction so certified or extracted is evidence for the purpose of proving that he is not the person referred to in the certificate or extract. In the case of a criminal conviction alleged to have occurred outside the UK advice shall be sought from the legal assessor.

7.3.2 The Committee may receive oral, documentary or other evidence of any fact which appears to be relevant to the allegation before it, except that, where any matter tendered in evidence is such as would not be admissible in a court of criminal jurisdiction in the country in the United Kingdom in which the allegation is heard, it shall not be received unless the Committee is satisfied, after consulting the legal assessor, that it is desirable in the interests of making due inquiry that it should be so received, having regard to the justice of the case and the difficulty or expense of obtaining evidence which would be so admissible..

7.3.3 Without prejudice to the generality of paragraph 7.3.2, if satisfied that the interests of justice will not be prejudiced thereby, the Committee may admit in evidence without strict proof copies of documents and other material the originals of which would be admissible, and (without prejudice to the foregoing) maps, plans, photographs, certificates of conviction and sentence, certificates of registration of birth, marriage or

death, records (including registers) of the Trustees, notes of proceedings before the Committee, the Health Committee or the Investigating Committee and any other tribunals and the records of such tribunals; and the Committee may take note without strict proof of the professional qualifications, registration, address and identity of the respondent and of any other person.

7.3.4 The Committee may of its own motion or on the application of a party request a witness to appear before it and give evidence, and may request a person to attend to produce documents; and it shall call the person making the allegation to appear before it if that person is not called as a witness, unless in the view of the Committee there are special reasons why that person should not, or is not able, so to appear.

7.3.5 Without the leave of the Committee, a person who is not a party to the proceedings or the person making the allegation concerned may not give evidence on any matter (other than evidence as to the giving, service or receipt of notice or other documents, evidence to comprise only the production or verification of documents or evidence in rebuttal of evidence given by another person) unless he has been absent from the proceedings until called to give evidence.

7.3.6 The Committee at its discretion may administer oaths and affirmations.

7.3.7 The posting or leaving of a notice may be proved by a certificate in writing purporting to be signed by the person posting or leaving it, to which there shall be annexed (in the case of posting) any confirmation or the posting issued by or on behalf of the Post Office or other postal operator.

7.4 PRODUCTION OF DOCUMENTS ETC.

7.4.1 The person presenting the case shall at a reasonable time before the hearing send the respondent a list of the names of the persons he proposes to call to give evidence and of any documents he proposes to adduce in evidence; and he shall on the request of the respondent send him a copy of any statement of evidence made by such a person and of any such document, and of any other statutory declaration, affidavit, explanation or other statement sent to the Trustees, the Screener or the Investigating Committee by the person making the allegation or made by any person to be called by the person presenting the case to give evidence and of any communication between the person presenting the case and the person making the allegation or such a witness.

7.4.2 The respondent shall at a reasonable time before the hearing send the person presenting the case a list of the names of the persons he proposes to call to give evidence and of any documents he proposes to adduce in evidence; and he shall on the request of the person presenting the case send him a copy of any statement of evidence made by such a person and of any such document.

7.4.3 The respondent and the person presenting the case may at any time give the other notice to produce any document relevant to the allegation in question and which is alleged to be in the possession of that other; and on receipt of such a notice the respondent or person presenting the case shall use reasonable endeavours to produce the document.

7.4.4 If a party fails to produce any document in accordance with paragraph 7.4.3, the Committee may (notwithstanding that the hearing has not begun) require it to be

produced so that it may be made available to the party giving notice under that paragraph.

7.4.5 The person presenting the case and the respondent shall, as soon as practicable after supplying the other with the list referred to in the preceding paragraphs, send to the Clerk three copies of the list and of any statement of evidence made by any person listed in it and of any other documents referred to in it; and the Clerk shall secure that the legal assessor and members of the Committee are provided with a copy of the same.

7.4.6 Nothing in section 7.4 shall require the person presenting the case, whether or not he is a solicitor, to release a document or other material in the nature of advice between him and the Trustees or the committee or any of their members or officers, and no party shall be required to give any evidence or produce any document or other material under these Rules which he could not be compelled to give or produce in civil proceedings in any court in that part of the United Kingdom in which the hearing takes place.

7.5 HEARING TO BE IN PUBLIC UNLESS OTHERWISE DETERMINED BY THE COMMITTEE

7.5.1 Hearings shall take place in public unless otherwise determined by the committee. (See Investigation and Disciplinary Procedures section 3.5.)

7.5.2 The Committee may deliberate together in the absence of the parties and their representatives at any time, where they receive the advice of the legal assessor.

7.6 ADJOURNMENT OF HEARING

7.6.1 The Committee may adjourn the hearing from time to time as it thinks fit.

7.6.2 The Committee may in particular adjourn any hearing after it has determined that an allegation is well founded for the purposes of allowing time to deliberate on the terms of any Conditions of Practice Order that it is minded to make.

7.6.3 Unless adjourned proceedings are to resume (so far as they are to be in the presence of the parties) at a time, date or place not determined at the time of adjournment, upon adjourning the Committee shall announce the time, date and place of the resumption of proceedings which are to be in the presence of the parties.

7.6.4 If an adjournment of proceedings which are to be in the presence of the parties is to a time, date or place not determined at the time of adjournment, the Clerk shall secure that reasonable notice is given to the parties of the time, date and place of the resumption; and the Clerk shall also notify the person making the allegation of that time, date and place.

7.6.5 If, on a hearing resuming after adjournment, a party who was present in the earlier proceedings is absent, the Committee may proceed in that party's absence if it is satisfied that the time, date and place of the resumption were announced under paragraph 7.6.3 or notice under paragraph 7.6.4 was duly given to the party.

7.7 REPRESENTATION

7.7.1 At any hearing, the respondent shall be entitled to be legally represented.

7.7.2 If the case is being presented by a solicitor, he may, with the approval of the Trustees instruct Counsel to present the case for the allegation.

7.8 SCOPE OF THE PROCEEDINGS

7.8.1 The Committee may consider and determine at the same hearing more than one allegation against the respondent.

7.8.2 Unless the Committee is of the view that there is a risk of conflict of interest between respondents. the Committee may consider and determine at the same hearing allegations against different respondents where the subject matter of each of the allegations is the same or substantially related one to another.

7.9 NOTIFICATION OF PERSON MAKING ALLEGATION

7.9.1 Any notification of the person making the allegation may be sent to such address of that person as the Clerk considers appropriate; but any failure or delay in the delivery of a notification so posted shall not invalidate, or in any way prejudice the standing of, any proceedings under this Part.

7.10 STANDARD OF PROOF

7.10.1 The Committee must be satisfied that any alleged facts which constitute a breach are more likely than not to be true.

7.10.2 In assessing the probabilities the Committee shall bear in mind that the more serious the allegation the more cogent is the evidence required to prove it.

PART FOUR

8. PROCEDURE ON ALLEGATIONS WHERE THERE IS NO HEARING

8.1 GENERAL

8.1.1 This Rule applies where the respondent to an allegation does not require a hearing and the Committee does not determine that the allegation should be the subject of a hearing.

8.1.2 The Committee shall not, in considering the allegation and determining the steps to be taken take into account any evidence or other matters relating to issues of fact unless the respondent and the person making the allegation have been given an opportunity to consider and comment on the evidence or other matter.

8.1.3 Subject to paragraph 8.1.2, in considering the allegation and determining any steps to be taken the Committee may make such inquiry in such manner as it thinks fair and proper; but it shall afford the respondent the opportunity required in respect of its exercise of its powers

PART FIVE

9. PRELIMINARY HEARINGS AND THE GIVING OF DIRECTIONS BY THE PROFESSIONAL CONDUCT COMMITTEE

9.1 PRELIMINARY HEARINGS

9.1.1. The Committee may direct that any question of fact or law which appears to be in issue in relation to the reference be determined at a preliminary hearing.

9.1.2 If, in the opinion of the Committee, the determination of that question substantially disposes of the complaint, the Committee may treat the preliminary hearing as the hearing of the complaint and may make such order by way of disposing of the complaint as it thinks fit.

9.1.3 If the parties so agree in writing, the Committee may determine the question without an oral hearing, but, in any such case, the Committee may not at the same time dispose of the reference unless the parties have agreed in writing that it may do so.

9.2 GIVING OF DIRECTIONS BY THE COMMITTEE

9.2.1 The Committee may at any time give directions to enable the parties to prepare for the hearing of the complaint, to assist the Committee to determine the issues and generally to ensure the just, expeditious and economical determination of the complaint.

9.2.2 The Committee may give directions on the application of any party or of all the parties or of its own initiative and, where it gives a direction of its own initiative, it may (but need not) give prior notice to the parties of its intention to do so

9.2.3 Any application for directions shall include the reasons for making that application.

9.2.4 Except where it is made during the pre-hearing review or during the hearing of the reference, an application for directions shall be filed and, unless the application is accompanied by the written consent of all the parties or an application without notice is permitted by these Rules, the party making the application shall at the same time send a copy to the other party.

9.2.5 If any party objects to the directions applied for, the Committee shall consider the objection and, if it considers it necessary for the determination of the application, shall give the parties an opportunity to make representations.

9.2.6 Directions may be given orally or in writing and, unless the Committee decides otherwise in any particular case, notice of any written direction (or refusal to give a direction) shall be given to the parties.

9.2.7 Directions containing a requirement may specify a time limit for complying with the requirement and shall include a statement of the possible consequences of a party's failure to comply with the requirement.

9.2.8 A person to whom a direction is given under these Rules may apply to the Committee showing good cause why it should be varied or set aside, but the Committee shall not grant such an application without first notifying any person who applied for the direction and giving that party an opportunity to make representations.

9.3 PRE-HEARING REVIEW

9.3.1 The following paragraphs of this rule shall apply if the Chairman directs that it is appropriate to hold a pre-hearing review.

9.3.2 The Chairman shall give the parties not less than 14 days' notice of the time and place of the pre-hearing review.

9.3.3 At the pre-hearing review, which shall be held before the Chairman of the Committee –

(a) the Chairman shall give all directions appearing necessary or desirable for securing the just, expeditious and economical conduct of the reference; and

(b) the Chairman shall endeavour to secure that the parties make all admissions and agreements as they ought reasonably to have made in relation to the proceedings.

9.3.4 In this rule, "pre-hearing review" means a review of the reference that may be held at any time before the hearing of the reference.

9.4 PARTICULAR TYPES OF DIRECTION

9.4.1 Directions given by the Committee or Chairman may –

(a) fix the time and place of the hearing of the reference and alter any time and place so fixed;

(b) provide for an oral hearing, upon such notice as the Committee or Chairman may determine, in connection with any matter arising under the reference;

(c) adjourn any oral hearing;

(d) extend any time limit for making a reference under the these Rules, or vary (whether by extending or shortening) any other time limit for anything to be done under these Rules;

(e) permit or require any party to provide further information or supplementary statements or to amend a response document or a supplementary statement;

(f) require any party to file any document -

(i) that is in the custody or under the control of that party;

(ii) that the Committee considers is or may be relevant to the determination of the complaint.

and may also require that any such document directed for filing as above shall be copied to the other party or else be made available to that other party for inspection and copying;

(g) require any party to provide a statement of relevant issues and facts, identifying those which are, and are not, agreed by the other party;

(h) require any party to file documents for any hearing under these Rules or to agree with the other party the documents to be filed;

(i) require any party to file -

(i) a list of the witnesses whom the party wishes to call to give evidence at the hearing of the reference; and

(ii) statements of the evidence which those witnesses intend to give, if called;

(j) make provision as to any expert witnesses to be called including the number of such witnesses and the evidence to be given by them;

(k) provide for the appointment of any expert and for that expert to send the parties copies of any report that he produces;

(l) provide for the manner in which any evidence may be given;

(m) provide for the use of languages in addition to English, including provision -

(i) as to the venue of any hearing under these Rules so as to ensure the availability of simultaneous translation facilities; and

(ii) for the translation of any document;

9.4.2 In the case of an application for a direction under paragraph 9.4.1(d) extending any time limit, the Committee may direct that the time limit be extended (whether or not it has already expired) if it is satisfied that to do so would be in the interests of justice.

9.4.3 A time limit extended under paragraph 9.4.2 may from time to time be further extended by directions of the Committee (whether or not that or any subsequent such time limit has already expired) made upon an application under paragraph 9.4.1(d), but no such direction shall be given unless the Committee is satisfied that the further extension would be in the interests of justice.

9.4.4 Where a party files a response document or list later than any time limit imposed by or extended under these Rules but without applying for a direction under paragraph 9.4.1(d) extending the time limit, that party shall be treated as applying for such a direction but no such direction shall be given unless the Committee is satisfied that such an extension would be in the interests of justice.

9.4.5 If a response document or list is not filed in accordance with the time limit imposed by (or extended under) these Rules, the Committee may of its own initiative direct that the document or list be filed by a specified date.

9.4.6 Where an application for a direction is made under paragraph 9.4.1(e), the Committee may give such a direction only if it is satisfied that to do so would not prejudice the interests of any persons.

9.4.7 If the Committee gives a direction under paragraph 9.4.1(e) to permit or require a party to provide a supplementary statement or to amend a response document or supplementary statement, the direction may require that party to file any such statement or amendment and send a copy to the other party.