



British
Acupuncture
Council

Code of Health Committee Procedures 2019

Updated March 2019

About this code

This Code of Health Committee Procedures is published by the British Acupuncture Council in order to set out the procedures by which the British Acupuncture Council can address concerns about the health and ability to practise safely of any of its Members. Its purpose is to ensure that reports about Members of the British Acupuncture Council are examined and dealt with in a clear and impartial manner, and that concerns raised about a practitioner's health and ability to practise safely are assessed both sensitively and thoroughly.

These procedures are intended to clarify what happens once the formal process of concern or complaint has been initiated. The British Acupuncture Council also requires practitioner Members to take personal responsibility for their own health and ability to practise safely, and has set in place a variety of practitioner support mechanisms and welfare initiatives to assist practitioners experiencing difficulties. Ultimately, however, the British Acupuncture Council recognises that it needs to have procedures such as these in place to deal with practitioners who do not or cannot meet the standards which it requires of its Members.

The British Acupuncture Council has, therefore, tried to ensure that the interests of both the practitioner and the public are properly and adequately represented, and that its processes are straightforward and transparent.

© 2012 The British Acupuncture Council
63 Jeddo Road, London W12 9HQ
Tel: 020 8735 0400 Fax: 020 8735 0404
www.acupuncture.org.uk
email: info@acupuncture.org.uk

No part of this Code may be reproduced without permission from the British Acupuncture Council

All rights reserved

IMPORTANT NOTICE

This Code has been written and published in the English language. The British Acupuncture Council is aware that some of its Members use English as a second language, as will some patients. In order to ensure that the provisions of this Code are understood and complied with by all of its Members and that its requirements can be understood by all members of the general public, the British Acupuncture Council has adopted the following two principles:

- 1 It is the responsibility of every Member of the British Acupuncture Council to read and familiarise themselves with the English language version of this Code, employing at their own expense translation services where necessary, and to be able to explain satisfactorily to their patients, if asked, the main requirements of the Code.
- 2 The British Acupuncture Council undertakes to identify a pool of practitioner Members or independent translators, where necessary, as a resource to enable members of the public for whom English is not a first language to be given explanations of the main requirements of the Code in their native tongue.

Throughout this document the masculine will include the feminine.

Contents

References to Code of Health Committee Procedures sections

- 1 Preliminary screening
- 2 Action taken prior to a formal hearing
- 3 Formal hearings of the Health Committee
- 4 Appeals against decisions of the Health Committee
- 5 Suspension powers of the Health Committee
- 6 The Appeals Committee
- 7 Legal Assessors
- 8 Medical Assessors
- 9 Technical Assessors
- 10 The Health Committee

Appendices

- A Rules of procedure for meetings of the Health Committee
- B Rules of procedure for appeals against Suspension Orders
- C Rules of procedure for appeals against decisions of the Health Committee

1 Preliminary screening

1.1 If the Governing Board of the British Acupuncture Council or any of its subcommittees, or the Professional Conduct Officer or Ethics Secretary is made aware through:

- a a report or allegation made by a member of the general public, professional regulator, patient, fellow practitioner or a member of any committee or employee of the British Acupuncture Council to whom any information may have been provided by any of the classes of person above within this subsection; or
- b a statement made, whether intentionally or otherwise, by the Member concerned; or
- c a report made by a Technical, Medical or Legal Assessor in the course of undertaking their duties as described in the British Acupuncture Council's Code;

that a Member's health may be seriously affecting his ability to practise safely as an acupuncturist, the Committee or Professional Conduct Officer or the Ethics Secretary has a duty to refer the matter to the Health Committee.

1.2 The Health Committee shall:

- a request permission from the Member to obtain medical reports from his medical advisors.
- b cause such further enquiries to be made in relation to the matter as are considered appropriate.
- c contact the Member concerned and arrange for a Medical Assessor to make a preliminary screening assessment which may include an examination by the Medical Assessor in order to:
 - i ensure that the report or allegation made to the Committee is not the result of misunderstanding or being made with malicious intent;
 - ii establish whether the reported impairment is of such a nature that it warrants further investigation under these procedures.

1.3 After conducting the preliminary screening assessment, the Medical Assessor may decide that:

- a **there is no evidence of the alleged impairment;**
the Medical Assessor shall report this finding to the Health Committee and the matter shall be closed.
- b **the reported impairment does not in his judgement interfere with the Member's ability to practise safely;**
the Medical Assessor shall inform the Health Committee of his judgement and the matter shall be closed. The Committee shall inform any person making the report of the Medical Assessor's finding.
- c **there is evidence of the alleged impairment and the matter may be resolved with an action plan;**
the Medical Assessor shall draw up an action plan with the Member, and make a report in writing, containing a copy of the agreed action plan, to the Health Committee for consideration.

Once the Health Committee has given its approval, on satisfactory completion of any tasks, tests or amendments to working practices specified in the action plan

within the time agreed for their completion, the Medical Assessor shall make a final report to the Health Committee and the matter shall be closed.

- 1.4 If the Medical Assessor is unable to resolve the problem with an action plan, or if the Member refuses to co-operate with the Medical Assessor, or the seriousness of the reported problem warrants immediate action, the Health Committee may initiate the procedures in Sections 2 and 3 leading to a formal hearing to consider the case.
- 1.5 In the event of a Member's refusal to co-operate by act or omission with the Medical Assessor in subsection 1.4, the Health Committee shall also report this fact to the Professional Conduct Committee.
- 1.6 The Health Committee may, if it is satisfied that it is in the interests of the protection of members of the public, suspend a Member under the provisions of subsection 5.2 of this Code.
- 1.7 In the case of an Overseas Member the Health Committee shall investigate a case, so far as is, in its opinion practicable.
- 1.8 If during the course of an investigation the Member decides to resign or cease membership, the Health Committee may, at its discretion continue the investigation and take such steps as it deems appropriate as if the former member remained in membership.
- 1.9 The Health Committee shall at every stage, either directly or through the Medical Assessor, make the Member aware of the Practitioner Support Services available within the British Acupuncture Council, and provide the Member with contact details for these services.
- 1.10 The Professional Conduct Officer or Professional Conduct Assistant shall notify the Registrant Member, the Complainant and any other interested parties of the names of the members of the Health Committee 14 days before any matter is referred to the Health Committee to allow any objections to a member of the Committee on the grounds of a potential or actual conflict of interest.

2 Action taken prior to a formal hearing

- 2.1 Prior to a formal hearing being convened, the Health Committee shall ask any person reporting concerns about a Member's health and ability to practise safely to provide a full written statement and to sign and return a form which includes full contact details.
- 2.2 When any allegation has been formally received, a copy of the full statement shall be sent to the Member about whom the report has been made. If an action plan for remedial measures drawn up in conjunction with the Medical Assessor has either not been satisfactorily completed or cannot be satisfactorily agreed, a copy of the Medical Assessor's report shall also be sent to the Member.
- 2.3 The Member shall be required to provide a written response to the allegation or report within 21 days. If the Member does not respond, a formal hearing shall be called without his response and without any additional delay.
- 2.4 Prior to the hearing being arranged the Health Committee shall write to ask the Member to provide a medical report giving evidence of his health and ability to practise safely. The Member shall then be allowed 28 days in which to provide the medical report and documentary evidence of his health and ability to practise safely.
- 2.5 In the event that the Health Committee does not receive a response from the Member within the prescribed time it shall have the power to determine that the Member attends a medical examination arranged by the Committee with a Medical Practitioner of its own choice. The cost of this examination shall be shared by the Council and the Member. A copy of the report from the Medical Practitioner shall be sent to the Member as soon as is practicable.
- 2.6 If, within 14 days of the date of sending the report mentioned in subsection 2.5, agreement cannot be reached between the Health Committee and the Member on his health and ability to practise safely, or if the Member fails to attend the medical examination arranged for him, a formal hearing of the Health Committee shall be convened to hear the case.
- 2.7 The Professional Conduct Officer or Professional Conduct Assistant shall notify the Registrant Member, the Complainant and any other interested parties of the names of the members of the Health Committee 14 days before any hearing in front of the Health Committee to allow any objections to a member of the Committee on the grounds of a potential or actual conflict of interest.

3 Formal hearings of the Health Committee

- 3.1 Where the Health Committee has been unable to resolve a practitioner health problem under the procedures outlined in Sections 1 and 2, it may convene a formal hearing to consider the case.
- 3.2 Formal hearings before the Health Committee are without prejudice to the Committee's administrative functions and the Committee shall meet at such times as it shall see fit.
- 3.3 The Committee shall first consider, having regard to the nature of the allegation and any observations or admissions given by the Member to the Investigating Committee, whether it is desirable to hold a formal hearing to deal with the allegation.
- 3.4 If the Committee considers that a formal hearing may be unnecessary, it shall offer the Member the opportunity to accept that the allegation be taken as proven without a hearing, to enter any plea of mitigation or further relevant evidence, and to accept the decision of the Committee without making a formal appearance before it.
- 3.5 If the Member is offered and refuses the offer in subsection 3.4, or if the Committee considers that a formal hearing is desirable, it shall give the Member concerned an opportunity to appear before it and to argue his case, for which he shall be entitled to be legally represented. The rules of procedure for such meetings are laid out in Appendix A.
- 3.6 If, having considered it, the Committee is satisfied that the allegation is well founded, it may:
- a make an Order imposing conditions with which the Member concerned must comply while practising as an acupuncture practitioner (a Conditions of Practice Order); or
 - b order the Registrar to suspend the Member's registration for the period specified in the Order (a Suspension Order).

The Conditions of Practice Order

- 3.7 At any time while a Conditions of Practice Order is in force the Committee may:
- a extend, or further extend, the period for which the Order has effect;
 - b revoke or vary any of its conditions;
 - c require the Member concerned to pass a test of competence specified by the Committee;
 - d reduce the period for which the Order has effect; or
 - e revoke the Order.
- 3.8 A Conditions of Practice Order shall cease to have effect:
- a if a period is specified in the Order, when that period ends;
 - b if a test of competence is specified, when the Member concerned passes the test; or
 - c if both a period and a test are specified, when the period ends or when the Member concerned passes the test, whichever is the later to occur.

3.9 The Committee shall ensure that the conditions imposed on the Member concerned are the minimum which it considers necessary for the protection of the public. The period specified in a Conditions of Practice Order, including any extension, shall not in each case exceed three years.

3.10 Failure to comply with a Conditions of Practice Order imposed under this section will be automatically referred back to the Health Committee for further action.

The Suspension Order

3.11 A Member against whom a Suspension Order has been made shall, for the duration of the Order, forego all rights and privileges of membership, shall not be liable to pay membership fees and shall receive a refund of any fees paid for the period to which the Suspension Order applies.

3.12 At any time while a Suspension Order is in force the Committee may:

- a extend, or further extend, the period of suspension; and
- b make a Conditions of Practice Order with which the Member must comply if he resumes practice after the end of the period of suspension.

3.13 The Committee shall ensure that the suspension imposed on the Member concerned is the minimum which it considers necessary for the protection of the public. The period specified in a Suspension Order, including any extension, shall not exceed three years.

3.14 The Committee shall review every Suspension Order no less than once every three months in order to satisfy itself that the continued suspension of the Member remains in the public interest.

3.15 In the case of a Suspension Order, the Committee shall publish the details in professional journals and shall notify the registrars of other regulatory bodies, where appropriate.

4 Appeals against decisions of the Health Committee

- 4.1 Any Member with respect to whom a decision of the Health Committee is made under section 3 may, subject to that set out below, within 28 days of the date on which notification of the decision is sent, appeal in writing against the decision setting out the grounds of the appeal in accordance with the provisions of this section.
- 4.2 Save for a Suspension Order no decision shall take effect before:
- a the time limit for appealing against the decision has expired; or
 - d if an appeal is made, the appeal is withdrawn or otherwise disposed of.
- 4.3 An appeal under subsection 4.1 shall first be considered by the Appeals Committee. If in the Appeals Committee's view there are reasonable and legitimate grounds for an appeal against the decision, the appeal shall be heard by the Appeals Committee, consisting of a chair and two other Members, established for the purposes of the appeal in accordance with rules made by the Governing Board of the British Acupuncture Council for the purposes of this section (see Appendix C).
- 4.4 The Chair of an Appeals Committee:
- a shall be selected in accordance with rules made by the Governing Board of the British Acupuncture Council; and
 - b shall be qualified as mentioned in subsection 7.4.
- 4.5 Each of the other two Members of an Appeals Committee shall be selected in accordance with rules made by the Governing Board of the British Acupuncture Council with:
- a one being a lay person; and
 - b one being a registered medical practitioner.
- 4.6 The Governing Board of the British Acupuncture Council, may, at its discretion from time to time, make rules as to the procedure to be followed by an Appeals Committee hearing an appeal under this section (see Appendix C).
- 4.7 The Appeals Committee shall sit in private.
- 4.8 On any appeal under this section:
- a where the appeal relates to the findings of the Health Committee on the allegations, the appeal shall be by way of a rehearing of the case or, at the discretion of the Appeals Committee, by consideration of written or oral submissions and the transcript of the Health Committee's hearing; and
 - b where the appeal relates solely to the Orders imposed, the appeal shall be by way of written submission, and oral submissions will only be allowed at the discretion of the Appeals Committee;
 - c the Committee hearing the appeal shall have power to make any decision which the Health Committee had power to make under section 3.
- 4.9 No person shall be required by any rules made under this section to give any evidence or produce any document or other material at a hearing held by an Appeals Committee 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.

- 4.10 Any expenses reasonably incurred by the members of a Committee, including any incurred in connection with the appointment of a Clerk, shall be met by the Governing Board of the British Acupuncture Council.
- 4.11 The Professional Conduct Officer or Professional Conduct Assistant shall notify the Registrant Member, the Complainant and any other interested parties of the names of the members of the Appeals Committee 14 days before any matter is referred to the Appeals Committee to allow any objections to a member of the Committee on the grounds of a potential or actual conflict of interest.

5 Suspension powers of the Health Committee

5.1 This section applies where:

- a a report about a registered Member has been referred to the Health Committee and the Committee has not yet reached a decision on the matter; or
- b the Health Committee has reached a decision which has not taken effect because the time limit within which an appeal may be made has not yet expired.

5.2 The Committee concerned may at any time order the Registrar to suspend the registration of the Member concerned with immediate effect (a Suspension Order) if it is satisfied that it must do so in order to protect members of the public.

5.3 An Order under subsection 5.2 shall remain in force until:

- a in a case falling within subsection 5.1a when the Committee reaches a decision in respect of the allegation in question and the decision does not include a Suspension Order; and
- b in a case falling within subsection 5.1b:
 - a if there is no appeal against the decision, when the period for appealing expires; or any specific time ordered by the Health Committee expires; or
 - b if there is an unsuccessful appeal when the time limit ordered by the Health Committee expires.

5.4 Where a Suspension Order has been made, the Member concerned may appeal against it in writing setting out the grounds of the appeal within 28 days to the Governing Board of the British Acupuncture Council. Where a Suspension Order has been made under Section 5.1 the Health Committee must in any event expedite a hearing of the allegation which gave rise to the Suspension Order. For the avoidance of doubt such a hearing should take place if possible within 14 days of the Suspension Order.

5.5 On such an appeal the decision of the Governing Board of the British Acupuncture Council shall be final.

5.6 The rules governing appeals under subsection 5.4 are attached to this Code as Appendix B.

6 The Appeals Committee

- 6.1 The Governing Board of the British Acupuncture Council shall appoint an Appeals Committee in order to deal with appeals lodged under section 4 of this Code.
- 6.2 The Committee shall consist of three Members, of whom:
- a one shall be qualified as mentioned in subsection 7.4 who shall act as the Chair of the Committee;
 - b one shall be a fully registered Member;
 - c one shall be a lay person.
- 6.3 In the event of an appeal being lodged against a decision of the Health Committee, the Appeals Committee has a duty to meet within 28 days of their appointment in order to assess the validity of the appeal by:
- a examining all the procedures, written records and stages of the investigation;
 - b interviewing, if necessary, the Chair of the Committee against the decision of which the appeal is being made and also the Appellant;
 - c seeking expert advice, if appropriate, on points of laws raised by the Appellant in making the appeal.
- 6.4 Having considered the request for an appeal under the terms of subsection 6.3 the Committee may decide that:
- a the grounds for the appeal are reasonable and legitimate and that the appeal should be allowed to proceed in accordance with above; or
 - b the grounds for the appeal are not reasonable or not legitimate, and the appeal should not be allowed to proceed.
- 6.5 In the event of the request for an appeal being approved under subsection 6.4a the Chair of the Appeals Committee shall inform both the Governing Board of the British Acupuncture Council and the Appellant within seven working days of the Appeals Committee's decision and request that action be taken to expedite the appeal.
- 6.6 In the event of the request for an appeal being rejected under subsection 6.4b the Chair of the Committee shall inform both the Governing Board of the British Acupuncture Council and the Appellant within seven working days of the Committee's decision, giving detailed reasons for the decision not to proceed.
- 6.7 The decision of the Appeals Committee shall be final.

7 Legal Assessors

- 7.1 The Governing Board of the British Acupuncture Council may appoint a person to be the Legal Assessor who shall not be a member of the Governing Board.
- 7.2 He shall have the general function of giving advice to the Health Committee and Appeals Committee on questions of law arising in connection with any matter the Health Committee or Appeals Committee is considering.
- 7.3 He shall also have such other functions as may be conferred on him by rules made by the Governing Board of the British Acupuncture Council.
- 7.4 To be qualified for appointment as the Legal Assessor under this Section, a person must:
- a have a ten-year general qualification (within the meaning of section 7.1 of the Courts and Legal Services Act 1990); or
 - b be an advocate or solicitor in Scotland of at least ten years' standing; or
 - c be a Member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least ten years' standing.
- 7.5 The Governing Board of the British Acupuncture Council may pay whatever fees, allowances and expenses it considers appropriate to a person appointed as the Legal Assessor.
- 7.6 In the case of the Legal Assessor who is also a member of any of the British Acupuncture Council committees, any such payment shall be made to him in his capacity as the Legal Assessor, and not as a member of a committee.
- 7.7 The Professional Conduct Officer or Professional Conduct Assistant shall notify the Registrant Member, the Complainant and any other interested parties of the name of the Legal Assessor 14 days before any meeting or hearing attended by the Legal Assessor to allow any objections to a member of the Committee on the grounds of a potential or actual conflict of interest.

8 Medical Assessors

- 8.1 The Governing Board of the British Acupuncture Council may appoint a registered medical practitioner to be the Medical Assessor who shall not be a member of the Governing Board.
- 8.2 He shall have the general function of giving advice to the Investigating Committee, Professional Conduct Committee or Health Committee on matters within his professional competence arising in connection with any matter which the Committee is considering.
- 8.3 He shall also have such other functions as may be conferred on him by rules made by the Governing Board of the British Acupuncture Council.
- 8.4 To be qualified for appointment as the Medical Assessor under this section a person must:
 - a have been registered with the General Medical Council for at least ten years:
or
 - b have held a recognised qualification in psychiatry or psychiatric medicine or clinical psychology for at least ten years.
- 8.5 The Governing Board of the British Acupuncture Council may pay whatever fees, allowances and expenses it considers appropriate to a person appointed as the Medical Assessor.
- 8.6 In the case of the Medical Assessor who is also a member of any of the British Acupuncture Council committees, any such payment shall be made to him in this capacity as the Medical Assessor and not as a member of a committee.
- 8.7 The Professional Conduct Officer or Professional Conduct Assistant shall notify the Registrant Member, the Complainant and any other interested parties of the name of the Medical Assessor 14 days before any meeting or hearing attended by the Medical Assessor to allow any objections to a member of the Committee on the grounds of a potential or actual conflict of interest.

9 Technical Assessors

- 9.1 The Governing Board of the British Acupuncture Council may appoint a registered acupuncture practitioner or specialist consultant of at least ten years professional standing to be a Technical Assessor who shall not be a member of the Governing Board.
- 9.2 He shall have the general function of giving advice to the Health Committee on matters within his professional competence arising in connection with any matter which he or the Committee is considering.
- 9.3 He shall also have such other functions as may be conferred on him by rules made by the Governing Board of the British Acupuncture Council.
- 9.4 The Governing Board of the British Acupuncture Council may pay whatever fees, allowances and expenses it considers appropriate to a person appointed as a Technical Assessor.
- 9.5 In the case of a Technical Assessor who is also a member of any of the British Acupuncture Council committees, any such payment shall be made to him in this capacity as the Technical Assessor and not as a member of a committee.
- 9.6 The Professional Conduct Officer or Professional Conduct Assistant shall notify the Registrant Member, the Complainant and any other interested parties of the name of the Technical Assessor 14 days before any meeting or hearing attended by the Technical Assessor to allow any objections to a member of the Committee on the grounds of a potential or actual conflict of interest.

10 The Health Committee

- 10.1 The Health Committee shall consist of at least three members, one of whom shall be a fully registered Member of the British Acupuncture Council, one of whom shall be a registered medical practitioner and one of whom shall be a lay person. No member of the Governing Board shall be a member of the Health Committee.
- 10.2 The Committee may co-opt up to two further members.
- 10.3 Members shall elect a chair from among themselves.
- 10.4 In the event of a tie in any voting, the Chair of the Committee shall have an additional casting vote.
- 10.5 The quorum of the Committee shall be three, one of whom shall be a registered medical practitioner.

Appendix A: Rules of procedure for hearings of the Health Committee

A.1 Consideration of appropriateness of Committee

- A.1.1 After an initial summary examination of the case the Health Committee may refer the case to the Professional Conduct Committee if it considers that this would be a more appropriate committee to hear the case.
- A.1.2 If the case is referred to the Professional Conduct Committee, the Member against whom the allegation has been made shall be notified of this in writing within seven days of the meeting of the Health Committee.

A.2 Notice of hearing

- A.2.1 The British Acupuncture Council Ethics Secretary shall give written notice to the Member whose health and ability to practise safely has been questioned of the date, time and place of the hearing of the Committee to consider the case.
- A.2.2 Subject to the need of an expedited hearing, the notice of the meeting shall be not less than four weeks from the date set for the hearing. In the case of an expedited hearing as a result of a Suspension Order being made with immediate effect, the notice period will be curtailed and the hearing will be arranged as soon as is practicable subject to the availability of the necessary parties.
- A.2.3 The notice to the Complainant will confirm that the Complainant is a witness for the hearing, but is not a party to the Hearing and does not have a right to be present at the Hearing save to give evidence, and that the Hearing is held in private.
- A.2.4 The Committee recognises that the British Acupuncture Council may for the purposes of the hearing instruct a solicitor or barrister to present the case against the Member, or to carry out such other functions as it deems necessary.

A.3 Postponement of hearing

- A.3.1 The Chair of the Committee may, of his own motion or on the application of a party to the proceedings, postpone a hearing of which notice has been given under rule A.2 before the hearing begins.
- A.3.2 If a hearing has been postponed the Ethics Secretary shall as soon as practicable inform the parties concerned of the postponement and give written notice of the date, time and place of the next hearing in accordance with the conditions in rule A.2.

A.4 Order of procedure

- A.4.1 If the Member does not appear and the Committee is satisfied that notice had been properly given under rule A.2 or A.3, it may dismiss the case, or adjourn to give the Member a further opportunity to appear, or determine that the proceedings shall continue and be determined in the Member's absence.
- A.4.2 The Ethics Secretary shall read out the allegation and briefly state the steps taken by the Medical Assessor and the Health Committee, as well as reading out summaries of the medical reports either provided by the Member or commissioned by the Health Committee.
- A.4.3 The order of proceedings is that:

- a the Chair shall ask the Member whether he admits any or all of the allegations and, in respect of any such allegations so admitted, the Committee shall record a finding that those allegations have been proved;
- b where all the allegations are admitted the Member or his Representative may submit that, in respect of any allegation so proved, the Committee should not make an Order against the Member;
- c if none or some only of the allegations are admitted the Committee shall proceed as follows:
 - i the Committee shall take evidence, either written or oral, on the allegations made or questions raised about the Member's ability to practise safely;
 - ii the Member or his Legal Representative will present his case and can call or produce evidence;
 - iii the Committee will hear such submissions and admit such evidence as it may consider relevant;
 - iv any witness called to give oral evidence can be cross-examined and re-examined, and can be questioned by the Committee;
 - v the Committee may reasonably take into account any previous history of allegations, hearings or findings against the Member in considering the current allegation.

A.4.4 Any witness called to give oral evidence can be cross-examined and re-examined, and can be questioned by the Committee.

A.4.5 A witness may not be compelled to attend to give evidence, nor compelled to be cross-examined or re-examined. The Committee is entitled to accept documentary evidence, by way of statement, letter or other document, whether or not the maker of that letter, statement or other document is called to give evidence and whether or not the maker of that letter, statement or other document is cross-examined. The Committee may attach such weight to such documentary evidence as it sees fit.

A.4.6 The Committee regulates its own procedure and nothing in the procedure herein restricts the Committee's discretion to vary the procedure in such manner as it may in its discretion determine from time to time.

A.4.7 The Committee shall decide a case on the balance of probabilities.

A.5 Documentation

A.5.1 The Committee may consider the case on the basis of any or all reports, written statements and documents prepared during the procedures outlined in the Code of Health Procedures, and any other reports, written statements and documents which the Member may choose to submit.

A.5.2 Both the Committee and the Member shall provide the Ethics Secretary, for circulation to each other, with both lists of all documents to be produced at the hearing and copies of all documents therein listed at least 14 days before the date of the hearing.

A.5.3 Both the Committee and the Member shall provide the Ethics Secretary with a list, for circulation to each other, of any authors of documents supplied by each to the

other under rule A.5.2 above whom they require to be in attendance at the hearing.

A.5.4 Where an author of a report is required to attend, his documentary evidence shall not be admissible without the author's presence to give oral evidence save where the content of the report is agreed or otherwise at the discretion of the Committee.

A.5.5 The Committee has the power to require further witnesses to attend the hearing and may also require a person to attend before it to produce documents.

A.6 Attendance at hearings

A.6.1 The hearing shall take place in private.

A.6.2 The Committee may deliberate together in the absence of the parties, their representatives and the public at any time.

A.6.3 Nothing in this procedure shall restrict the Committee's freedom to meet to carry out a preliminary assessment of cases referred to it from time to time, whether or not such meetings shall include Members of the Committee who may sit as Members of the Committee at any formal hearing.

A.6.4 Save for formal hearings, meetings may be in person, by video or telephone conference, and by any other electronic means, provided that all of the members must have access to all of the case papers and the Codes, and provided that all are privy to all that takes place within the meeting howsoever held.

A.7 Adjournment

A.7.1 The Committee may adjourn the hearing or any meeting from time to time as it thinks fit.

A.7.2 The Committee may in particular adjourn any hearing where it considers that an allegation is well founded in order to deliberate on the terms of any Conditions of Practice Order or Suspension Order that it is minded to make.

A.7.3 If the hearing or meeting is adjourned, the Committee shall announce the date, time and place to which the proceedings are adjourned or instruct the Ethics Secretary to give adequate written notice within these rules of any reconvened hearing.

A.7.4 The Committee may proceed with a hearing or meeting resumed after an adjournment in the absence of parties present at the first meeting or hearing, if it is satisfied that adequate notice was given of the reconvened hearing or meeting.

A.8 Notification of decisions

A.8.1 The Committee shall close the hearing to consider its decision, and as soon as practicable after that the Ethics Secretary shall notify in writing:

- a the Member of the Committee's decision and its reasons for reaching it and of the Member's right of appeal under section 4 of the Code of Health Committee Procedures;
- b the British Acupuncture Council and, in the case of a decision of the Health Committee which has resulted from a specific allegation, the person making the allegation of the Committee's decision.

A.8.2 If the Committee dismisses a case under rule A.4.1 above, as soon as practicable after the hearing the Ethics Secretary shall notify the Member, the British

Acupuncture Council and, if appropriate, any person making the allegation of that fact.

Appendix B: Rules of procedure for appeals against Suspension Orders

- B.1 An appeal under this section may be made where:
- a the Member against whom the Suspension Order has been made asserts that the Suspension under the terms of subsection 5.2 of the Code of Health Committee Procedures is not warranted by the severity of, or incapacity caused by, the alleged condition under consideration by the Health Committee;
 - b there have been procedural errors in the making of the Suspension Order.
- B.2 The Governing Board shall convene a subcommittee within 14 days of receipt of the appeal for the express purpose of hearing the appeal.
- B.3 The subcommittee shall consist of three members of whom one shall be qualified as mentioned in subsection 7.4 who will act as the Chair of the Committee; one shall be a registered acupuncturist member and one shall be a lay person. None may also belong to the Investigating Committee or the Professional Conduct Committee or the Governing Board.
- B.4 In order to make its judgement the subcommittee may:
- a require the attendance of the Member against whom the Suspension Order has been made;
 - b require the attendance of the Medical Assessor who made the preliminary assessment;
 - c require all documentation received by the relevant Committee relating to the circumstances of the Suspension.
- B.5 In the event that the Member against whom the Suspension Order has been made is required to attend under rule B.4a above, he shall be entitled to be legally represented.
- B.6 After consideration of the case the subcommittee may:
- a confirm the Suspension Order for the reasons specified;
 - b in the case of procedural error under Rule B.1b reinstate the Member, give instruction to the Committee making the Suspension Order on correct procedure and refer the matter back to the Committee for further consideration;
 - c terminate the Suspension Order.
- B.7 In the event of a Member being reinstated under Rule B.6b above, nothing in these Rules shall prevent the Health Committee from re-imposing the Suspension by following correct procedure.
- B.8 The subcommittee shall notify the Member concerned and the Health Committee of its decision within seven days of the meeting at which the appeal is heard.
- B.9 There is no further provision within the Code of Health Committee Procedures or these rules for further appeal against a Suspension Order.
- B.10 The hearing shall take place in private. All hearings are confidential and privileged and nothing discussed, disclosed, exchanged, etc can be used in subsequent civil

or criminal proceedings and the Committee Members, Assessors etc cannot be called to give evidence about that which has occurred at the hearing.

Appendix C: Rules of procedure for appeals against decisions of the Health Committee

C.1 Establishment of the Appeals Committee

- C.1.1 The Governing Board of the British Acupuncture Council shall appoint an Appeals Committee in order to deal with appeals lodged under section 5 of this Code.
- C.1.2 The Appeals Committee shall consist of three members, of whom one shall be qualified as mentioned in subsection 7.4 and who will act as the Chair of the Committee; one shall be a registered acupuncturist member and one shall be a lay person.
- C.1.3 The member of the Committee referred to in subsection 4.5a of the Code shall be a lay person willing and able to act in the appeal who is selected by the Chair of the Committee appointed under rule C.1.1 above from a list maintained by the Ethics Secretary of lay persons who have agreed to sit on Appeals Committee established under section 4 of the Code.
- C.1.4 The member of the Committee referred to in subsection 4.5b of the Code shall be a registered medical practitioner willing and able to act in the appeal who is selected at the request of the Chair of the Committee by the President of the General Medical Council (or a person authorised by him).

C.2 Notice of hearing

- C.2.1 As soon as is practicable after the Committee has been established and the Committee has decided that there is to be a hearing rather than consideration of written submissions, the Ethics Secretary shall give written notice to the Appellant of the date, time and place of the hearing of the Appeals Committee to consider the appeal.
- C.2.2 The notice of the meeting shall be not less than four weeks from the date set for the appeal hearing.

C.3 Postponement of hearing

- C.3.1 The Chair of the Committee may, of his own motion or on the application of a party to the proceedings, postpone a hearing of which notice has been given under rule C.2 before the hearing begins.
- C.3.2 If a hearing has been postponed the Ethics Secretary shall as soon as practicable inform the parties concerned in writing of the postponement and give notice of the date, time and place of the next hearing in accordance with the conditions in rule C.2.

C.4 Order of procedure

- C.4.1 If the Appellant does not appear and the Committee is satisfied that notice had been properly given under Rule C.2 or C.3, it may dismiss the appeal, or adjourn to give the Appellant a further opportunity to appear, or determine that the proceedings should continue and be determined in the Appellant's absence.
- C.4.2 The Ethics Secretary shall read out the allegation and briefly state the nature of the Order made by the Health Committee and shall indicate whether the appeal relates only to the Order made, or is against the finding that the allegation is well founded.

C.4.3 The order of proceedings is that:

- i the Solicitor or person acting for the British Acupuncture Council shall open the case for the British Acupuncture Council, and shall call or produce evidence in support of the British Acupuncture Council's case;
- ii the Appellant or his Legal Representative shall present his case and may call or produce evidence;
- iii the Committee shall hear further submissions and evidence which it considers relevant.

Save that nothing in this section shall prevent the Committee from regulating its own proceedings as it shall see fit including the order of proceedings referred to above.

C.4.4 Any witness called to give oral evidence may be cross-examined and re-examined and may be questioned by the Committee.

C.5 Documentation

C.5.1 The Committee may consider the appeal on the basis of any or all reports, written statements and documents prepared during the procedures outlined in the Code of Health Committee Procedures, and any other reports, written statements and documents which the Appellant may choose to submit.

C.5.2 Both the Solicitor and the Appellant shall provide the Ethics Secretary, for circulation to each other, with both lists of all documents to be produced at the hearing and copies of all documents therein listed at least 14 days before the date of the hearing.

C.5.3 Both the Solicitor and the Appellant shall provide the Ethics Secretary with a list, for circulation to each other, of any authors of documents supplied by each to the other in rule C.5.2 above whom they require to be in attendance at the hearing.

C.5.4 Where an author of a report is required to attend the documentary evidence shall not be admissible without the author's presence to give oral evidence, save where the content of the report is agreed or otherwise, at the discretion of the Committee.

C.5.5 The Committee has the power to require further witnesses both of its own motion and of that of either party without due notice to the other as in the rules above, and may also require a person to attend before it to produce documents.

C.6 Attendance at hearings

C.6.1 The hearing shall take place in private. All hearings are confidential and privileged and nothing that is disclosed, exchanged etc can be used in any subsequent civil or criminal proceedings and the Committee members, Assessors etc. cannot be called upon to give evidence about that which has occurred at the hearing.

C.6.2 The Committee may deliberate together in the absence of the parties, their representatives and the public at any time.

C.7 Adjournment

C.7.1 The Committee may adjourn the hearing from time to time as it thinks fit.

- C.7.2 The Committee may in particular adjourn any hearing where it considers that an allegation is well founded in order to deliberate on the terms of any Conditions of Practice Order or Suspension Order that it is minded to make.
- C.7.3 If the hearing is adjourned, the Committee shall announce the date, time and place to which the proceedings are adjourned or instruct the Ethics Secretary to give adequate notice within these rules of any reconvened hearing.
- C.7.4 The Committee may proceed with a hearing resumed after an adjournment in the absence of parties present at the first meeting if it is satisfied that adequate notice was given of the reconvened hearing.

C.8 Notification of decisions

- C.8.1 The Committee shall close the hearing to consider its judgement, and as soon as practicable after that the Ethics Secretary shall notify in writing:
- a the Appellant of the Committee's decision and its reasons for reaching it;
 - b the British Acupuncture Council and, in the case of a decision of the Health Committee which has resulted from a specific allegation, the person making the allegation of the Committee's decision and the reasons for making it.
- C.8.2 If the Committee dismisses an appeal under rule C.4.1 above, as soon as practicable after the hearing the Ethics Secretary shall notify the Appellant, the British Acupuncture Council and the person making the allegation of that fact.

