



## Disciplinary Procedure

A formal complaint against a Member alleging that they have contravened the Society's Rules or Code of Professional Conduct may be lodged by another Member, or by any other person, whether acting in a personal capacity or as representative of any organisation including the Society and the Society's Accreditation Committee.

## Definitions

<i>Society</i>	"BSE" the British Society of Echocardiography, a Company Limited by Guarantee and Registered Charity
<i>Member</i>	any member of the British Society of Echocardiography
<i>President</i>	the BSE President
<i>Trustee</i>	a director of the Society for the purpose of company law and a charity Trustee for the purposes of charity law
<i>Advisory Council</i>	appointed at the discretion of the Trustees to consider and report to the Trustees upon any matters submitted to them for consideration and to perform such other duties of a consultative or advisory nature
<i>the Disciplinary Committee</i>	the Disciplinary Committee as constituted by the Trustees and acting within its terms of reference and delegated powers
<i>the Register</i>	the Register of Members holding Accreditation in any of the specialty diagnostic fields covered by the Society
<i>Echocardiographer</i>	a person who employs ultrasound-based techniques to study the structure and function of the heart
<i>Accredited Member</i>	any Member of the BSE whose name appears on the Register
<i>Complainant</i>	any person, employing authority or professional body alleging professional misconduct by a Member
<i>Respondent</i>	the Member against whom a complaint has been made
<i>days</i>	including Saturdays, Sundays and Public Holidays



## 1. Complaints

The complaint must be in writing and the name and address of the Complainant appended.

It must set out details of the allegation upon which the complaint is based and, if practicable, be accompanied by documentary evidence that will assist a preliminary enquiry.

The complaint should be addressed to the Honorary Secretary of the Society via email to [secretary@bsecho.org](mailto:secretary@bsecho.org)

## 2. Preliminary Enquiry

### *a) All complaints*

Upon receipt of a complaint in the required form, it is the duty of the Honorary Secretary:

- to decide if this is a vexatious complaint and requires no action. In such cases the complaint will be filed in the general Honorary Secretary correspondence and no file opened. The Complainant will be informed that no action will be taken.
- in all other cases to send a written acknowledgement to the Complainant, indicating that a preliminary assessment will be conducted to establish whether there is a case to answer;
- to seek an assurance that the Complainant will co-operate fully and attend a meeting of the Disciplinary Committee if so requested;
- to advise the Complainant that they inform any other body which the Respondent may be a member of about the complaint;
- to advise the Respondent that the Society will investigate the complaint as a disciplinary matter, which may affect the accreditation status of the Respondent.

The Honorary Secretary will discuss with the Immediate Past President (who will supervise the disciplinary process) and may:

- decide there is no case to answer
- decide to refer the complaint, without prejudice, to a Disciplinary Committee for full investigation
- in conjunction with the Chair of the Accreditation Committee, decide that, pending completion of the full investigation, the Respondent's accreditation be suspended on the basis that the nature of the complaint is such that patients' care might be affected in the interim.

The preliminary assessment will be undertaken on the basis of the statement and documentary evidence submitted by the Complainant. The Honorary Secretary may seek to obtain further information from the Complainant in order to complete the preliminary assessment.

Where a complaint relates to a breach of accreditation standards (as outlined in the accreditation pack), this will be investigated separately by the Accreditation Committee.



If the Honorary Secretary and Immediate Past President decide that there is no case to answer, they shall notify the Trustees and the Complainant in writing of the decision within 21 days.

If the Honorary Secretary and Immediate Past President decide that a full investigation should be undertaken, or if a decision is taken that the Respondent's accreditation should be suspended, they shall immediately notify the Trustees in writing.

Where the Respondent is a member of a BSE Committee, the Honorary Secretary shall notify the Committee Chair, who may, at their discretion, suspend the Respondent from Societal duties pending the outcome of the investigation.

A record of the fact that a preliminary assessment was held and of the decisions taken shall be kept in every case by the Honorary Secretary for up to seven years.

If the complaint is such that it represents a conflict of interest for the Honorary Secretary or the Immediate Past President to conduct their duties in the Disciplinary process the President shall select another Trustee or member of the Advisory Council to fulfil the role.

*b) Complaints involving both a breach of the Code of Professional Conduct and a breach of the accreditation standards*

Where a complaint involves both a breach of the Code of Professional Conduct and a breach of the accreditation standards, the Disciplinary Procedure will be followed regarding the aspects of the complaint that relate to a breach of the Code, and the Accreditation Standards Review will be followed regarding the aspects that relate to accreditation.

In such cases, the Honorary Secretary and Immediate Past President may, at their discretion and based on the facts of the complaint, decide whether the Disciplinary Procedure or the Accreditation Standards Review should be completed first.

The Accreditation Standards Review process will be fully completed – including the hearing of any appeal – before a Disciplinary Procedure commences, and vice versa.

Where the Accreditation Standards Review process is completed first, the Disciplinary Committee will be notified of the result of the review as part of its investigation.

Where the Disciplinary Procedure is completed first, the Accreditation Committee will be notified of the result of the outcome as part of its review.

### **3. Full investigation**

The Immediate Past President shall appoint an ad hoc Disciplinary Committee comprising 3 Members of the Society, at least two of whom shall be Trustees (not the Honorary Secretary), with the Immediate Past President as Chair. The Honorary Secretary shall act as Committee Secretary. At least one member shall be of a similar discipline to the Respondent (Physiologist, Doctor, etc.). None of the members shall have conflicts of interest relating to the complaint or the Complainant.



If requested, the Disciplinary Committee may be assisted by a legally qualified person to ensure due and fair process, to advise the Chair on procedure and all aspects of the process, but not to adjudicate the hearing.

The Committee shall be empowered to:

- conduct a detailed investigation into the complaint, including seeking legal or other professional outside advice as required;
- determine that a hearing is appropriate although this is not a necessary requirement;
- invite any Member or other person to present written evidence or to attend any meeting or hearing as a witness or advisor;
- invite the Complainant and Respondent to attend any meeting or hearing;
- take any other action consistent with these regulations in order to assist it to arrive at a firm conclusion;
- resolve at the conclusion of the investigation either:
  - that the complaint shall be dismissed and no further action taken by the BSE.
  - that the Respondent has been guilty of breaching the rules and/or Code of Conduct,

In which case it may determine one or more of the following:

- that the Respondent be required to give a written undertaking as to their future conduct;
- that the Respondent be referred to the Accreditation Status Review, which may result in their Accreditation being removed;
- that the Respondent be dismissed from the Society, which will result in automatic removal of their Accreditation.
- to impose any other sanction within the powers of the Council that it considers appropriate.

A note recording the action taken shall be retained in the Society's records.

It should be noted that the benchmark sanction for cheating in the Accreditation process is suspension from membership for 5 years. The Committee and an Appeal Panel should take note of this but not be bound by this sanction.

If a hearing is arranged, the Complainant and Respondent shall have the same rights as determined by the Committee:

- to appear before the Committee on written request and to address the Committee;
- to submit documentary evidence to the Committee;
- to call witnesses on their behalf and to cross-examine witnesses called by the other side;
- to be accompanied by up to two persons to provide such advice and assistance as may be required;
- to conduct their own case, either in person or through a previously nominated representative.



As soon as possible after a full investigation is authorised, the Honorary Secretary (acting as Committee Secretary) shall:

- notify the Complainant and Respondent;
- if necessary, consult the Society's legal and other professional advisors;
- prepare relevant documents for the Committee including the original complaint and any written response from the Respondent. Copies shall be sent to the Complainant and Respondent, together with copies of these regulations;
- invite the Complainant and Respondent to send their comments on these documents, together with any further documentary evidence they wish to place before the Committee, to the Committee Secretary by a specified date;
- consult with the Committee Chairman and agree with them whether a hearing should take place and, if so, whether it should be preceded by a private meeting of the Committee;
- make necessary arrangements for the meeting and/or hearing.

The hearing shall be held in a mutually convenient location, including virtually, the default being the BSE's London offices.

The date, time and location (including whether to be online or in person) of the hearing shall be made by mutual agreement of all parties with the ultimate decision made by the Committee Chairman.

If a hearing is to take place, both parties shall be:

- reminded of the procedure and their rights in advance in writing;
- invited to appear and advised that if they do not appear without good reason, the hearing will proceed in their absence;
- informed that they must supply the name(s) and address(es) and status (professional advisor, witness, friend, etc.) of any persons, not exceeding two for each party, who will accompany them.
- reminded of the rule about costs as set out in section 5 and section 6 below.

A hearing shall be conducted with due regard to the principles of natural justice and as far as possible in accordance with the following outline:

- the Committee Chairman shall preside and shall be responsible for giving rulings on the admissibility of evidence and on any questions of principle or procedure that may arise.
- the Committee Chairman shall have the power to adjourn the hearing and, after consultation with those present, fix a time and venue for its resumption;
- the procedure for hearing evidence and for examination and cross-examination of witnesses shall as far as possible follow that for a case heard before the Civil Courts;
- at the conclusion of the hearing the Committee and its advisors shall consider their findings in private and reach a decision. The Committee Secretary shall immediately notify the Council in writing of the Committee's decision;
- the Committee Secretary shall immediately notify the Complainant and the Respondent in writing of the Committee's decision and the reasons for it and remind them of the rules



about appeals and costs. A record of the fact of the full investigation, the decision and the reasons for the decision, shall be kept in every case.

The appellant has the right to an appeal, heard by the Trustees under clause 3.

#### **4. Appeal**

The Complainant or the Respondent may appeal to the Trustees from a decision of the Disciplinary Committee by lodging with the Honorary Secretary and the other party within 4 weeks of receiving notice of the decision a notice of appeal, stating the grounds of appeal.

The only permissible grounds of appeal are as follows:

- The Committee was unable to take into account evidence which has come to light since the hearing;
- The Committee's decision was against the weight of the evidence;
- The penalty imposed by the Committee was disproportionate to the gravity of the facts as found by the Committee;
- The Committee's decision was affected by bias, breach of the rules of natural justice or breach of the Society's procedural rules;
- The Committee's decision was such that no reasonable Disciplinary Committee would have reached that decision.

The decisions available to the Trustees are:

- upholding the original decision;
- overturning the original decision;
- upholding the initial finding but substituting a lesser sanction;
- upholding the initial finding but substituting a greater sanction.

An appeal may be heard by the Trustees at their next planned meeting unless this is less than 21 days after the appeal is received in which case the subsequent meeting of the Trustees will hear the appeal.

- Each party shall be given at least 21 days' notice in writing of the date of the meeting of the Trustees at which the appeal will be considered and invited to put forward written representations to the Trustees not less than 7 days before the date of the meeting. Neither party shall be entitled to be present in person when the matter is considered. The Appellant should be reminded of the rule about costs.

The President shall, if possible, preside at the meeting at which the appeal is considered but no member of the Disciplinary Committee from whose decision the appeal is made may be present while the appeal is heard or vote taken.

The decision of the Trustees on an appeal is final, and the parties shall be notified in writing of the Trustees' decision on the appeal as soon as possible.



A record of the fact of the appeal, the decision and the reasons for the decision shall be kept in every case.

The Trustees may be assisted by a legally qualified person recommended by the Society's solicitors to ensure due and fair process, to advise the President on procedure and all aspects of the appeal, but not to adjudicate the appeal.

The Honorary Secretary shall as soon as practicable notify the Complainant and the Respondent in writing of the Trustees' decision and the reasons for it and inform them of costs payable under the rules about appeals and costs. A record of the fact of the full investigation, the decision and the reasons for the decision, shall be kept in every case.

No further appeals are allowed.

## **5. Imposing penalties**

Where a sanction has been imposed, the Respondent has a duty to notify their employer.

If no notice of appeal is lodged within the prescribed period, the Honorary Secretary shall notify the President who shall impose such penalty or take such other action as the Disciplinary Committee has recommended immediately.

Where there has been an appeal, the penalty (if any) shall be imposed immediately after a decision has been reached by the appeal panel.

## **6. Costs**

Unless the Trustees decide that for exceptional reasons another course should be adopted:

- any reasonable costs incurred by the Complainant in connection with a full investigation are to be met by the Society;
- the Respondent is personally responsible for meeting their own costs in connection with the full investigation;
- The Appellant is personally responsible for meeting their own costs in connection with an appeal.
- Subject thereto, it is a matter for the Trustees to decide who is to meet the costs of the parties.

## **6. Litigation**

In the unusual event of a Respondent taking unsuccessful legal action against the Society, the Society reserves the right to recover its costs from the Respondent.