

Guidelines – Disciplinary Matters

All references to “the Act” are to the *Psychological Practitioners Act 1998*

All references to “the Council” are to the Bermuda Psychologists Registration Council

I Informal Resolution and the Code

1.1 As provided in the Code the party bringing a complaint against a registered psychologist (the “complainant”) will be encouraged to resolve their complaint through the mediation process where informal resolution appears to be appropriate.

1.2 The Code refers to the Code of Conduct (established under Section 15 of the Act) that was gazetted in the Bermuda Sun on June 4, 2004.

1.3 The Code alludes to a document entitled: Ethical Principles of Psychologists and Standards of Conduct (the “Ethical Principles”) and provides that registered psychologists shall at all times conform to the standards of conduct enshrined in the Ethical Principles. A copy of the Ethical Principles has been adopted by both the Bermuda Psychologists Association (the “BPA”) and the Council; and is available to be collected from the BPA’s offices.

1.4 For the avoidance of any doubt a reference to the term “the Code”, for the purposes of this document, shall include a reference to the Ethical Principles.

1.5 The Ethical Principles provides that if it establishes a higher standard of conduct than is required by law, psychologists must meet the higher ethical standard.

1.6 Where the complaint cannot or should not be resolved informally it may be necessary for the complainant to refer the matter to the Council, to enable the Council to enquire into the allegation and take whatever steps it may determine to be appropriate.

II Basis of Complaints

2.1 A complaint brought against a registered psychologist (the “respondent”) which is actionable by the Council, under the Act, may be based upon an allegation or allegations that:

- (i) the name of such registered psychologist has been struck off a register kept outside Bermuda by a recognized professional body of psychologists having disciplinary powers over psychologists in

- that country and recognized by the Council as such; or
- (ii) such registered psychologist has become incapable of properly carrying out his or her professional functions by reason of old age;
or
 - (iii) such registered psychologist is addicted to alcohol or drugs to an extent which makes him or her unfit to carry out his or her professional functions; or
 - (iv) such registered psychologist is inefficient or negligent in carrying out his or her professional functions; or
 - (v) such registered psychologist is guilty of professional misconduct;
or
 - (vi) such registered psychologist has been convicted, in Bermuda or elsewhere, of an offence for which he or she has been sentenced to imprisonment without the option of a fine.

2.2 It is the statutory duty of every registered psychologist who is convicted as mentioned in 2.1(vi) or struck off a register as mentioned in 2.1(i) to forthwith inform the Council of that fact and of the attendant circumstances.

III Additional Scope of the Council's Jurisdiction

3.1 In addition to the matters mentioned above the Council is empowered to investigate any allegation or evidence appearing to show that a registered psychologist has failed to comply with any provision of the Act, the Code or any other professional or ethical standards adopted by the Council.

3.2 In discharging its disciplinary role the Council is mindful of its statutory mandate to (a) safeguard the welfare of the public in relation to the services of psychologists and to (b) promote and maintain high standards of practice and to monitor adherence to ethical guidelines.

IV Disciplinary Measures

4.1 The Council may take one or more of the following actions:

- (a) Dismiss the complaint;
- (b) Suspend or restrict the respondent's certificate of registration, (including specification of when re-application for restoral or removal of restriction will be considered);
- (c) Strike off the complainant's name from the register, (including specification of when re-application for restoral will be considered);
- (d) Issue a reprimand;

- (e) Provide specific directives and recommend remedial or rehabilitation action including but not limited to:
- Documented supervision
 - Documented supervision with a registered psychologist
 - Specific education or training
 - Personal counselling for a specified period of time

V Filing a Complaint

5.1 The Council may consider complaints only if the complaint is received less than six years after the date that the alleged conduct has either occurred, or the date that the alleged conduct was discovered by the complainant, whichever is the latest.

5.2 The individual complainant shall file a complaint in writing, addressed to: The Chairman of the Bermuda Psychologists Registration Council, P.O. Box 56, Paget PG BX, Bermuda.

5.3 The complainant may elect to use the Ethical Complaints Form that the Council shall make available upon request.

5.4 Verbal complaints unaccompanied by the appropriate written information will not be accepted unless in the form of an audiotape or videotape accompanied with a written transcript of same.

5.5 Complaints must be signed by the complainant and include his or her name, address and telephone number.

5.6 Complaints may not be made anonymously.

5.7 Each written complaint should outline the efforts undertaken, if any, by the complainant to resolve the subject of the complaint prior to filing the complaint.

5.8 The complainant must specify the exact nature of the complaint.

5.9 The written statement must include information and facts to substantiate the complaint.

5.10 To the fullest extent possible, the complaint must be verifiable by the best evidence available, ie. the name, addresses and telephone number of witnesses should be included. Third party statements of individuals who have not witnessed a particular incident shall not normally be accepted. Supporting information or supporting documents should be attached whenever available.

5.11 Complainants should understand that the respondent will be provided with a copy of the complaint.

5.12 All information concerning complaints shall be confidential except as may be required in the course of a legal or governmental proceeding.

VI The Procedure – Before the Hearing

6.1 The Council shall acknowledge to the complainant receipt of the complaint as soon as practically possible.

6.2 If the Chairman concludes that a complaint has been incompletely or otherwise unsatisfactorily filed, it shall be returned to the complainant with an explicit request for further and better particulars. Completion of these requested items will enable the complaint to be satisfactorily filed.

6.3 Delays may be avoided by consulting with the Council before submitting a complaint.

6.4 Where the complaint has been satisfactorily filed, the Chairman of the Council shall, as soon as practicably possible, forward the complaint to the respondent and to all members of the Council.

6.5 Notice to the respondent shall inform the respondent that:

- (a) the complaint was received;
- (b) the complaint is being investigated by the Council;
- (c) no action shall be taken against the respondent without the respondent having the right to respond in writing, as well as to appear before the Council in person at the hearing; and
- (d) the respondent has the right to seek legal advice.

6.6 The respondent shall be asked to provide a written statement to the Council in response to the complaint. This response will be due within twenty one (21) days from the date of the letter making such request.

6.7 Where the respondent has chosen not to contest the complaint in his or her written response, the respondent may not waive the right to appear before the Council at the hearing.

6.8 In the event that the complaint is found to have no merit, the Council shall determine that a hearing is not necessary, and in such case the complaint shall be dismissed by the Council; and the complainant and the respondent shall be so notified.

6.9 In the event that a member of the Council is conflicted in the matter by virtue of being (a) a respondent or (b) having a close business or other relationship to the complainant or the respondent such that their objectivity might be deemed to be materially compromised, such Council member shall recuse themselves from any hearings pertaining to the matter.

VII The Procedure – At the Hearing

7.1 The hearing shall be convened at a time and place convenient to the respondent, complainant and the Council. The complainant and the respondent shall be notified in writing of the date, time and location of the hearing.

7.2 The complainant and the respondent shall also be notified of their rights in relationship to the hearing.

7.3 These rights of the complainant and the respondent include:

- (i) the right to be present before the Council and to present evidence;
- (ii) the right to have witnesses present;
- (iii) the right to cross-examine witnesses;
- (iv) the right to be represented by counsel (at the respondent or complainant's respective expense) and generally to make a full defense or explanation in the matter; and
- (v) the right to be notified of the outcome of the hearing process in writing by way of registered mail.

7.4 The Chairman may take evidence on oath and for that purpose the Chairman may administer an oath.

7.5 If the complainant fails, without good cause, to appear or to participate in the hearing, the complaint may be dismissed.

7.6 The Council reserves the right to interview other persons in relation to the complaint. The Council shall inform the complainant and the respondent at the hearing of any such persons who have been contacted and consulted in connection with the investigation of the complaint.

VIII Decisions

8.1 The Council shall within fourteen (14) days of the date of the hearing use its best efforts to indicate its findings to both the complainant and the respondent; and where relevant to so notify the Registrar General.

8.2 The complainant and the respondent shall be notified, by registered mail, of the Council's decisions, which shall occur, in any event, as soon as practicable after the decision is made.

IX Appeals

9.1 A registered psychologist may appeal against a decision of the Council to the Cabinet (of the government of Bermuda) provided that such appeal is made within fourteen (14) days after the "relevant date" as this term is variously defined in the Act.

9.2 Notice in writing must be furnished to the Secretary of the Cabinet setting out the grounds of the appeal.

X General Comments

10.1 This document is for guidance purposes only and is not intended to be exhaustive as to its subject matter. This document is however believed to outline the most basic concerns of both complainants and respondents likely to arise in the above circumstances.

Last reviewed on March 9th, 2010