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COSCA APPEALS PROCEDURE

1 Introduction

- 1.1 This Appeals Procedure provides a means of appealing against decisions of COSCA (Counselling and Psychotherapy in Scotland), the professional body for counselling and psychotherapy in Scotland.
- 1.2 If the appellant is an organisation, the organisation is required to formally nominate a sole representative on behalf of the organisation throughout the processing of an appeal.
- 1.3 An appeal will not be heard if there is any on-going legal or impending action on the matter of the appeal.
- 1.4 It is a duty on the appellant involved in the appeal to make known to COSCA any on-going or impending legal action.

2 Grounds for Appeal

- 2.1 An appeal can be made on any of the following grounds:
 - 2.1.1 that the decision may have been affected by a failure to follow the relevant procedures and/or guidelines
 - 2.1.2 that there is new evidence and/or information that was not known to COSCA and the appellant that might have influenced the decision had it been available when the decision was made
 - 2.1.3 that the evidence did not warrant the decision made
 - 2.1.4 that the sanction is disproportionate to the evidence provided and that it is unjust in the circumstances.

3 Appeals Procedure

- 3.1 The appellant must make the appeal in writing within the time limit specified in the relevant procedure and/or guidelines that resulted in the decision. In exceptional circumstances this deadline may be extended.
- 3.2 Where written communication by and with the appellant is impractical, the Chief Executive will, at his/her discretion, authorise the use of appropriate alternative means of communication at any stage(s) of the appeals procedure.
- 3.3 The time limits stated in this Appeals Procedure may be modified by mutual agreement of COSCA and the appellant.
- 3.4 Appeals must take the form outlined in the section 'Notes to appellants on submitting an appeal' and be addressed to the Chief Executive of COSCA at the current address of the COSCA Office.
- 3.5 On receipt of an appeal, COSCA will send a written acknowledgement to the appellant and the relevant body/individual that made the decision under appeal advising that the appeal has been received.
- 3.6 In the event of the absence, unavailability, conflict of interest or involvement in the prior decision of the Chief Executive and/or Chair of the Ethics Committee, her/his nominated deputy will be substituted at this and/or subsequent stages. The subsequent points are ruled by this paragraph.
- 3.7 The Chief Executive and the Chair of the Ethics Committee will consider whether there are grounds to hold an appeal. If it is decided that there are grounds the Chief Executive will invite the Chair of the Ethics Committee to appoint an Appeals Panel. The Chair of the Ethics Committee will normally be the Chair of the Appeals Panel.
- 3.8 The appellant and the relevant body/individual that made the decision under appeal will be notified in writing normally within 6 weeks of the receipt of the appeal of the decision of the Chief Executive and the Chair of the Ethics Committee on whether or not the appeal will be heard. If the Chief Executive and the Chair of the Ethics Committee, or other parties appointed for this purpose, decide that there are no grounds of appeal, this decision is final.
- 3.9 If the appeal is to be heard, the Chief Executive will organise an Appeals Panel. The Appeals Panel must meet within 6 weeks of the date when the appellant was notified that an Appeals Hearing would be held.

- 3.10 The Appeals Hearing will consist of:
- 3.10.1 three Panel members, including normally the Chair of the Ethics Committee, who have not previously been involved in the disputed decision. This Panel will normally be drawn from the COSCA membership. The Chair of the Appeals Panel will have the casting vote regarding decisions made by the Appeals Panel.
 - 3.10.2 the Chief Executive, who will service the procedure, subject to paragraph 3.6, but take no part in the decision-making of the Panel.
- 3.11 The Chief Executive will advise the appellant to the appeal and the relevant body/individual that made the decision under appeal of the composition of the Panel. Any conflict of interest or other matter that may cast doubt on the impartiality of the Panel must be declared immediately to the Chief Executive who will decide whether any Panel members should be replaced.
- 3.12 The Chair of the Appeals Panel may appoint a clerk to the Panel.
- 3.13 The Chair of the Appeals Panel will set the date of the Appeals Hearing and notify the appellant and the relevant body/individual that made the decision under appeal.
- 3.14 Neither the appellant nor those involved in the decision under appeal will be expected to attend the Appeals Hearing. However, the Panel has the right to invite witnesses and any other parties it considers to be helpful to the hearing of the appeal.
- 3.15 The Appeals Hearing will consider all evidence pertaining to the appeal, which COSCA must receive at least 10 working days prior to the date of the Appeals Hearing.
- 3.16 The conduct of the Appeals Hearing will be at the discretion of the Chair, guided by the requirements of these procedures and/or guidelines. The Appeals Panel will conduct its business with strict regard to the confidentiality of any information disclosed. The appeal will be considered solely on the merit of the circumstances evidenced as the grounds for the appeal.
- 3.17 Any parties invited to attend the Appeals Panel Hearing will withdraw at the Chair's request.
- 3.18 The Chair of the Appeals Panel has the power to adjourn the Appeals Hearing in order for further information or evidence to be gathered.

3.19 The Appeals Panel can decide to:

- assess that the ground(s) outlined above for the appeal are sufficient for the appeal to be considered
- review the previous decision(s) of COSCA (Counselling & Psychotherapy in Scotland) that are being appealed
- confirm or overturn the previous decision(s) made.

The decision made by the Appeals Panel will be communicated in writing to the appellant and the relevant body/individual that made the decision under appeal by the Chief Executive within normally 7 working days of the completion of the Appeals Hearing. The Panel can decide to: up-hold the previous decision; amend the previous decision; over-turn the previous decision; and alter the sanctions previously meted out.

3.20 Following notification of the Appeals Panel's decision, the relevant body/individual that made the decision under appeal will be required to take appropriate action.

3.21 The appellant has no further right of appeal to COSCA.

4. Notes to appellants on submitting an appeal

4.1 In first preparing an appeal, the appellant must be explicit in providing clear substantive evidence of the grounds for appeal, and this should be in writing except when this impractical. In this case the Chief Executive will, at his/her discretion, authorise the use of appropriate alternative means of communication at any stage(s) of the appeals process. Unless such evidence is cited, the Chief Executive of COSCA and the Chair of the Ethics Committee, or others appointed if these parties were involved in the disputed decision, will not permit an Appeals Hearing.

At this first stage, the appellant should realise that the Chief Executive and the Chair of the Ethics Committee are not ruling on the content of the appeal, but that the appellant has made a case for an Appeals Hearing.

4.2 In preparing an appeal, an appellant must therefore include the following in writing:

- 4.2.1 a statement of the grounds under which the appeal is being made;
- 4.2.2 the reasons why the appellant feels there are grounds for appeal;
- 4.2.3 any supporting submissions/evidence and/or information that in the appellant's view support the appeal.

- 4.3 If the appeal is on the first ground (see paragraph 2.1.1 above), the appellant must detail those parts of the relevant procedures and/or guidelines which it is claimed were not properly followed and provide evidence that this failure affected the decision made.

- 4.4 If the appeal is on the second ground (see paragraph 2.1.2 above), the appellant must be able to demonstrate that there is further relevant evidence and/or information that was not available to COSCA and the appellant when the decision was carried out.

- 4.5 If the appeal is on the third ground, the appellant must be able to demonstrate how or why the evidence did not warrant the decision made.

- 4.6 If the appeal is on the fourth ground, the appellant must be able to demonstrate how or why the sanction was disproportionate to the evidence provided and that it was unjust in the circumstance.

- 4.7 Only if one or more of the above grounds are established will an Appeals Hearing be considered.