



AUSTRALIAN
PHYSIOTHERAPY
ASSOCIATION

National Professional Standards Panel

Complaints management and disciplinary hearing procedures

Approved by
the APA Board of Directors
November 2014

Background, purpose and context

Clause 42 of the Association's constitution requires the Association's Board of Directors (the Board) to establish the National Professional Standards Panel (NPSP) and the NPSP Regulations.

The NPSP Regulations determined by the Board:

- describe the role, responsibilities, composition, appointment, voting and conduct of meetings of the NPSP
- establish the framework for management of complaints and conduct of disciplinary proceedings by the NPSP, and
- set out the actions that the NPSP may recommend to the Board in relation to the possible outcomes of the NPSP's consideration of any complaints.

The purpose of this document is to set out the procedures referred to by NPSP Regulations 11.1 and 12.1. The NPSP must:

- manage any complaint received by the Association about a Member's conduct, and
- conduct any disciplinary proceedings about a Member's conduct in accordance with the procedures set out in this document.

The procedures in this document should be read in conjunction with Part C and Part D of the NPSP Regulations and applied within the framework established by the NPSP Regulations.

The NPSP must apply the principles of natural justice

The NPSP must apply the principles of natural justice, including but not limited to procedural fairness, to management of any complaint and to any disciplinary proceedings conducted by the NPSP.

The principles of natural justice that must be applied include the right of the member who is the subject of the complaint to:

- receive early notice of the complaint
- attend and be heard in answer to the complaint
- receive a copy of the NPSP Regulations and these NPSP Procedures,

and an obligation on the NPSP to act fairly, consistently and without bias in the management of any complaint and to comply with these NPSP Procedures.

The NPSP has limited rights and powers

In managing any complaint, the NPSP has no rights or powers:

- to enter or search premises
- to compel production of, or to seize, documents
- to compel cooperation with its investigation, or
- to compel attendance at a disciplinary hearing.

Management of conflict of interest

All members of the NPSP and APA staff involved in complaints management must declare any personal or professional interest or duty relevant to a complaint.

A perceived or apparent conflict of interest or duty exists when a person's interests may, or may be perceived to, interfere, conflict with or improperly influence the individual's ability to fulfil their responsibilities for management of a complaint in a fair and objective manner, even though in reality this may not be the case.

The existence of a perceived or apparent conflict of interest or duty does not reflect negatively on the person who has the conflict but the NPSP must manage any conflicts of interest or duty.

The NPSP can only manage conflicts of interest effectively if individuals declare all such interests and duties.

Role of NPSP Manager

The APA Chief Executive Officer must nominate a member of APA staff to provide secretariat and management support to the NPSP. In these procedures, that member of APA staff is referred to as the NPSP Manager.

The NPSP Manager is responsible for overseeing the management of a complaint in accordance with these procedures.

Management of records related to complaints

The NPSP Manager must maintain legible and accurate file notes of any discussions about a complaint.

All written communication between the Association, complainants and APA members who are the subject of a complaint must be sent by email or registered post.

All discussions and documentation, including file notes and the minutes of NPSP meetings, are confidential information. The Association must retain these records, in an accessible format, for a minimum period of 7 years.

Managing enquiries about conduct prior to lodgement of complaint

Any APA staff member who receives an enquiry regarding either the conduct of a physiotherapist or the lodgement of a complaint about a physiotherapist must refer the enquiry to the NPSP Manager.

The NPSP Manager:

- must manage the enquiry with the level of formality appropriate to the nature of the enquiry, and
- may seek guidance from the NPSP Chair about management of the enquiry

The NPSP Manager must manage the enquiry in a manner considered most appropriate to the nature of the enquiry, including by:

- discussing the matter with the person who made the enquiry to identify if that person wants to lodge a written complaint or to resolve the matter less formally

- providing information about how to lodge a written complaint to the Association, if requested
- providing contact details for the Physiotherapy Board of Australia and/or the relevant state or territory Health Complaints Commissioner (or equivalent), where relevant
- providing other information or links to information relevant to the enquiry
- providing contact details for other organisations that may be able to assist with the enquiry, or
- contacting the person who is the subject of the enquiry to seek further information or to request some action is taken in relation to the enquiry.

The NPSP Manager must provide a record of the enquiry, including a summary of the management or outcome of the enquiry, to the APA Chief Executive Officer and the NPSP.

What constitutes a complaint about an APA member

Any expression of dissatisfaction made by a member of the public, an APA member or the APA Chief Executive Officer (on behalf of the Association) about the conduct of any APA member constitutes a complaint if the person expressing the dissatisfaction confirms it is a complaint.

A complaint generally includes:

- a clear statement by the person of the reason for their dissatisfaction including a description of the relevant conduct of the APA member, and
- the name and contact details of the person expressing the dissatisfaction.
- whenever possible, a complaint should be made in writing and signed by the person expressing the dissatisfaction.

Receipt and referral of complaint (Indicative Completion time: within 7 days of receipt of complaint)

Any complaint received by the Association must be referred to the NPSP Manager for initial consideration.

The NPSP Manager must write to the complainant to acknowledge receipt of the complaint for initial consideration and advising that the NPSP Manager will write to when the outcome of the initial consideration is decided.

Initial consideration of a complaint (Indicative Completion time: within 60 days of receipt of complaint)

The NPSP Manager is responsible for the initial consideration of the complaint.

The aim of the initial consideration is to identify whether or not the complaint is of a type that the NPSP may consider in accordance with the NPSP Regulations.

The NPSP Manager must conduct the initial consideration of a complaint with a level of formality and technicality proportional to the nature of the complaint.

Contact with the complainant, the member or others during initial consideration

During the initial consideration of a complaint, the NPSP Manager may, when appropriate, call or email:

- the complainant
- the APA member who is the subject of the complaint, and
- any other person identified as being involved in the complaint,

- to request information to clarify the nature of the complaint, any accompanying evidence and that person's expectations of the complaint management process.

The NPSP Manager will provide the NPSP with a brief report setting out details of the complaint, the findings of the initial consideration and identify whether or not the complaint is of a type that the NPSP may consider in accordance with the NPSP Regulations, as set out below.

Complaints the NPSP may consider

The NPSP may consider the complaint if it is related to the categories of conduct listed in NPSP Regulation 11.3 being:

- conduct determined by the Physiotherapy Board of Australia, or other panel, commission, tribunal or court of competent jurisdiction to constitute unprofessional conduct or
- unsatisfactory professional performance (or similar) conduct that has led to disciplinary action (or similar) by the Physiotherapy Board of Australia, or other panel, commission, tribunal or court of competent jurisdiction
- alleged conduct or action prejudicial to the interests of the Association, its Members or the physiotherapy profession generally
- alleged conduct or action bringing the Association, its Members or the physiotherapy profession into disrepute
- alleged conduct or action that fails to comply with the Constitution and APA Code of Conduct,
- and other conduct referred to the NPSP by the Board from time to time such as at the request of a Health Complaints/Services Commissioner.

Decision by the NPSP following initial consideration of a complaint

The NPSP must decide whether, on the basis of the findings of the initial consideration:

- the complaint is not of a type that it must not consider
- it will conduct a preliminary investigation, or
- it will progress to a disciplinary hearing.

The NPSP Manager may be present during any discussion by the NPSP of the findings of the initial consideration of the complaint, and may provide clarification of aspects of the report as required.

The NPSP Manager must record the NPSP decision and the reasons for that decision.

The NPSP may ask the NPSP Manager to request that the complainant provides written clarification of the complaint or any substantiating evidence.

Complaints the NPSP must not consider

The NPSP must not consider a complaint if the findings of the initial consideration indicate:

- the physiotherapist who is the subject of the complaint is not an APA member
- the NPSP reasonably believes the complaint is frivolous, vexatious, misconceived or lacking in substance
- the NPSP reasonably believes the complaint relates to an independent dispute between APA members including (but not limited to) business contractual issues such as terms and conditions of employment, the sale or purchase of a practice or the location of a practice, or
- the complaint does not fall within the categories specified in NPSP Regulation 11.3 as listed above.

Complaints the NPSP may investigate or progress to a disciplinary hearing

The NPSP may decide to conduct an investigation or progress to a disciplinary hearing if the findings of the initial consideration indicate:

- the complaint falls within the categories specified in NPSP Regulation 11.3 as listed above, and
- the NPSP reasonably believes the complaint is not frivolous, vexatious, misconceived or lacking in substance.

Advice to complainant about outcome of initial consideration

The NPSP Manager must write to the complainant and the APA member who is the subject of the complaint advising them of the outcome of the initial consideration.

Request to complainant prior to investigation or hearing

If the NPSP decide to conduct an investigation or progress to a disciplinary hearing, the correspondence from the NPSP Manager must advise the complainant that the investigation or hearing can only be conducted if, within 14 days of receipt of the correspondence, the complainant:

- gives written permission to the NPSP Manager to send a copy of the complaint to the APA member who is the subject of the complaint, and
- when applicable, provides written clarification of the complaint or any substantiating evidence requested by the NPSP.

If the NPSP Manager does not receive from the complainant within 14 days, the written permission or, when applicable, written clarification of the complaint or any substantiating evidence, the NPSP Manager must write to the complainant advising that an investigation or hearing cannot proceed.

Advice to APA member prior to investigation or hearing

Subject to the complainant providing the necessary written permission, the NPSP Manager must write to the APA member:

- advising that a complaint has been received about their conduct
- attaching a copy of the complaint and a copy of the flow chart summarising these complaints management procedures
- asking the member to indicate if they would like the opportunity of a telephone (or, where practicable face to face) discussion with the NPSP Manager, and
- requesting the APA member to send a written response to NPSP Manager addressing the issues raised in the complaint, within 14 days of receipt of the correspondence.

Report on the investigation

The NPSP manager must, in consultation with the NPSP Chair, prepare a report on the investigation including:

- a brief objective summary of the complaint
- a brief objective summary of the member's response (if any)
- a brief objective summary of any substantiating evidence
- the finding of the investigation as determined by the NPSP Manager and NPSP Chair, and
- if the finding of the investigation is that the APA member has a case to answer, a recommendation that the complaint be further investigated via a hearing conducted by the NPSP (NPSP hearing).

Finding of the investigation

At the conclusion of the investigation, the NPSP Manager, in consultation with the NPSP Chair, must consider a draft report on the investigation (without sections (d) and (e)), the complaint, the response(s) (if any) from the APA member, and any substantiating evidence in relation to the complaint and determine whether or not the finding of the investigation is that the APA member has a case to answer.

After the NPSP Manager and the NPSP Chair determine the finding of the investigation, they must refer a report on the investigation to the NPSP for ratification, together with the complaint, the response(s) (if any) from the APA member, and any substantiating evidence in relation to the complaint.

If the NPSP Manager and the NPSP Chair determine the finding of the investigation is that the APA member does not have a case to answer, they will recommend that the complaint shall be considered closed.

If the NPSP Manager and the NPSP Chair determine the finding of the investigation is that the APA member has a case to answer, they will recommend that the NPSP agree to proceed to a hearing.

Hearing by NPSP

The NPSP Manager and the NPSP Chair will generally recommend that the NPSP agree to proceed to a hearing where the finding of the investigation is that there is evidence that an APA member may have engaged in:

- conduct determined by the Physiotherapy Board of Australia, or other panel, commission, tribunal or court of competent jurisdiction to constitute unprofessional conduct or unsatisfactory professional performance (or similar)
- conduct that has led to disciplinary action (or similar) by the Physiotherapy Board of Australia, or other panel, commission, tribunal or court of competent jurisdiction
- conduct or action prejudicial to the interests of the Association, its Members or the physiotherapy profession generally
- conduct or action bringing the Association, its Members or the physiotherapy profession into disrepute
- conduct or action that fails to comply with the Constitution and APA Code of Conduct, and
- other conduct referred to the NPSP by the Board from time to time such as at the request of a Health Complaints/Services Commissioner.

Outcome of report on the investigation

When the NPSP receives a report on the investigation that contains a recommendation that the NPSP agree to proceed to a hearing, the NPSP Manager must convene a meeting to enable the NPSP to consider the report with a view to achieving one or more of the following outcomes:

- request that the NPSP Manager seek points of clarification and agree to reconvene once such clarification is provided to the NPSP
- ratify the finding of the investigation determined by the NPSP Manager and NPSP Chair
- reject the finding of the investigation determined by the NPSP Manager and NPSP Chair and make another finding
- agree to close the complaint, and
- agree to proceed to a hearing by the NPSP and specify potential dates for suitable arrangements to be made by the NPSP Manager

When the NPSP has considered the report and agreed the outcome(s), the NPSP Manager must write to the complainant and the APA member advising them of the outcome(s) and, where applicable, notifying them of the hearing by the NPSP.

Notice of NPSP hearing

The NPSP Manager must write to the APA member to advise that the NPSP will conduct a hearing into their professional conduct at a specified time and place or, if by teleconference the connection details, and to request the member's attendance at the hearing. The correspondence must detail the reasons for conducting the hearing and, where applicable, specify which section(s) of the APA Constitution or Code of Conduct the member has allegedly breached.

The NPSP Manager must write to the complainant to advise that the National Professional Standards Panel will conduct a hearing into the professional conduct of the APA member about whom they have made a complaint and request the complainant's attendance at the hearing.

Conduct of NPSP hearing

The NPSP Chair shall conduct the hearing with as little formality and technicality as the proper consideration of the matter permits. Where possible, the hearing will be conducted using technology such as teleconference rather than face to face.

The NPSP must apply the principles of natural justice but are not bound by the rules of evidence in conducting the hearing and may take into account any matter the NPSP considers relevant, in the form or the manner the NPSP considers appropriate.

The proceedings of any hearing must be recorded in such manner as the NPSP Chairperson decides in their sole discretion.

The APA member whose conduct is the subject of the hearing may, within 30 days of the date of the hearing, submit a written request to the NPSP Manager to receive a copy of the recording. The NPSP Manager must provide the recording to the APA member within 30 days of the date of receipt of any request.

Attendance and representation at the hearing

The APA member is entitled to be present at the hearing, to make submissions and to be accompanied by another person.

If the member elects not to be present at the hearing or, if having elected to attend the hearing fails to attend without good cause, the hearing shall proceed in their absence at the specified time and place.

The APA member is not entitled to be represented at the hearing by another person (including by a legal representative) without the prior approval of the NPSP.

The complainant is entitled to be present at the hearing, to make submissions and to be accompanied by another person.

If the complainant elects not to be present at the hearing or, if having elected to attend the hearing fails to attend without good cause, the hearing shall proceed in their absence at the specified time and place.

The complainant is not entitled to be represented at the hearing by another person (including by a legal representative) without the prior approval of the NPSP.

If the NPSP gives prior approval for the APA member and complainant being represented, the NPSP has the right to engage a legal representative to assist the NPSP at the hearing.

If the NPSP engages a legal representative to assist the NPSP at the hearing, then in the interests of natural justice the NPSP Manager must give the APA member and the complainant at least 14 days notice that the NPSP has engaged legal representation and reminded that they also have the right to be represented.

Outcome of the hearing and recommendation to the Board

At the conclusion of a hearing, the NPSP must decide on the outcome of the matter and the recommendation that the NPSP will make to the Board. The outcome and recommendation must be made in accordance with Part E of the NPSP Regulations.

Outcome of Board decision

The NPSP Manager must write to the APA member and the complainant to advise them of the Board's decision within 30 days of the Board's decision.

Appeals

An APA member against whom a complaint has been made, investigated and upheld, has the right to appeal in accordance with the NPSP Regulations.

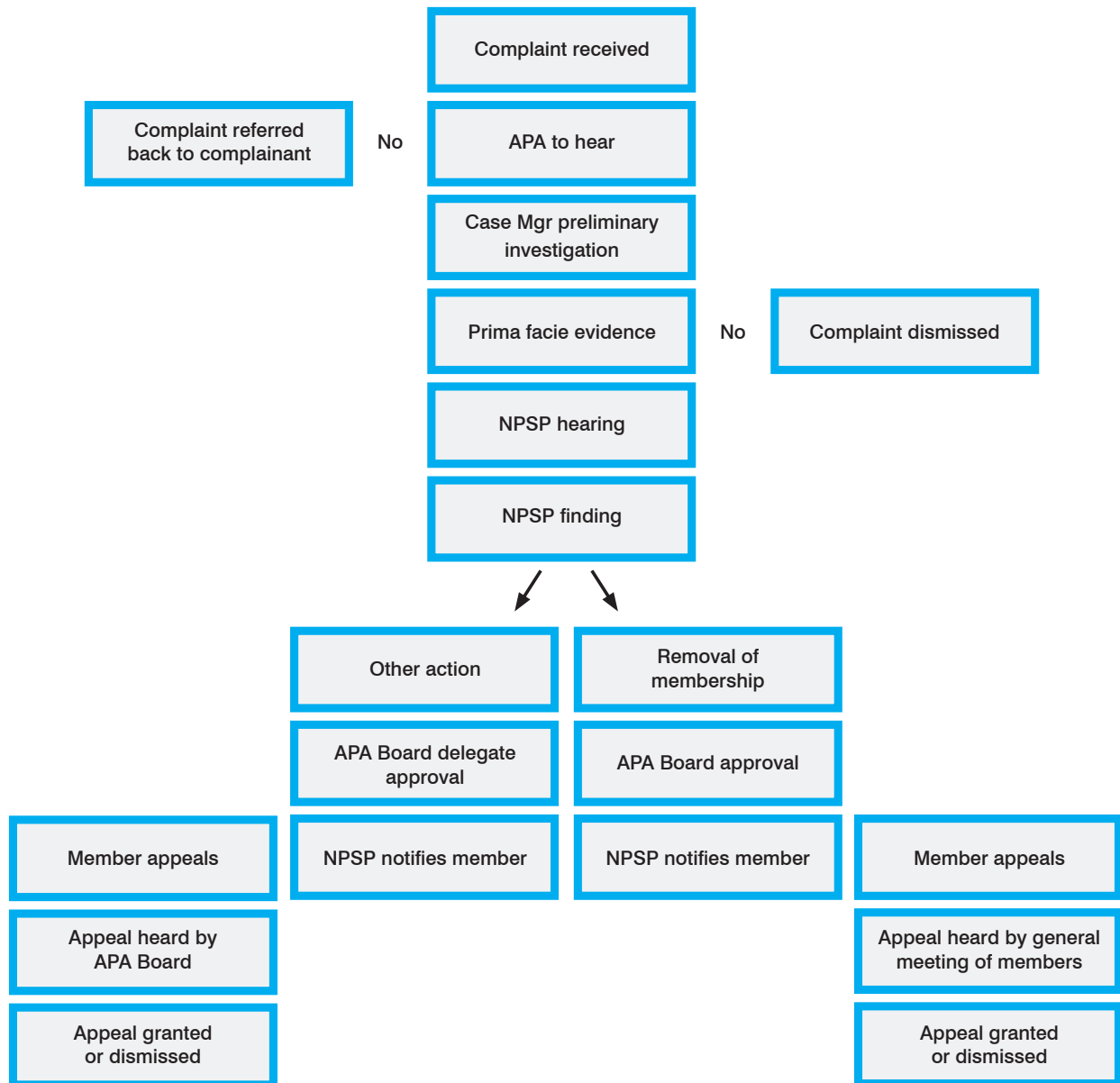
Recovery of Costs

The Board may determine that an APA member who is the subject of a hearing is liable to pay an amount of not more than \$2000 towards the costs of that hearing.

LIST OF APPENDICES

1. Flow chart of complaint management procedures
2. Sample Letter referring complaint about non APA member back to complainant
3. Sample Letter referring complaint about an APA member back to complainant
4. Sample letter to complainant advising that preliminary investigation will proceed
5. Sample letter to complainant advising investigation cannot proceed because requisite permission/information not provided within 14 days
6. Sample letter to member seeking comment on complaint; procedural flow chart to be included.
7. Sample letter to member advising no prima facie case to support complaint
8. Sample email/letter to complainant advising outcome of investigation – hearing/no hearing
9. Sample email/letter to complainant advising outcome of investigation – hearing/no hearing
10. Sample letter to complainant advising outcome of preliminary investigation
11. Sample notification of hearing to member
12. Sample notification of hearing to complainant
13. Sample letter to member advising outcome of hearing – no case to answer
14. Sample letter to member advising outcome of hearing – case to answer
15. Sample letter to complainant advising outcome of hearing – no case to answer
16. Sample letter to complainant advising outcome of hearing – case to answer
17. Sample letter to member confirming full compliance with Panel conditions
18. Notice of Appeal
19. Sample letter advising hearing of appeal by Board of Directors
20. Sample letter advising hearing of appeal by general meeting of members

1. Flow chart of complaint management procedures



2. Sample Letter referring complaint about non APA member back to complainant

Thank you for your letter of [date] in which you make a complaint about [name], a registered physiotherapist. [Name] is not a member of the Australian Physiotherapy Association.

I am writing to let you know that the APA is not able to investigate any complaint involving a physiotherapist who is not a member of the Association.

Often, discussing the problem with the healthcare provider concerned can help. However, if this isn't possible or you feel uncomfortable doing that, or you're not satisfied with the response you have received, you may also consider speaking to the Australian Health Practitioner Regulation Agency (AHPRA), or the Health Care Complaints Commission (HCCC) if you are in NSW, or the Office of the Health Ombudsman (OHO) if you are in Queensland to discuss whether it is a matter they should investigate. You can also speak to the health complaints entity in your state or territory.

The Australian Physiotherapy Association has a strong commitment to ethical and professional conduct and hopes you are able to resolve this matter satisfactorily.

If you need physiotherapy from a member of the APA, you can go to the Find-a-Physio section on the APA website (www.physiotherapy.asn.au).

Yours sincerely

name
title
on behalf of APA Professional Standards Panel

3. Sample Letter referring complaint about an APA member back to complainant

Thank you for your letter of _____ in which you make a complaint about _____, a member of the Australian Physiotherapy Association (APA).

I am writing to let you know that the APA is not able to investigate your complaint because the nature of your complaint falls within the jurisdiction of Australian Health Practitioner Regulation Agency (AHPRA), or the Health Care Complaints Commission (HCCC) if you are in NSW, or the Office of the Health Ombudsman (OHO) if you are in Queensland. You can also speak to the health complaints entity in your state or territory.

Your letter is therefore being returned so that you may submit your complaint to either of these statutory bodies.

The Australian Physiotherapy Association has a strong commitment to ethical and professional conduct and hopes you are able to resolve this matter satisfactorily.

Yours sincerely

Name
Title
on behalf of APA Professional Standards Panel

4. Sample letter to complainant advising that preliminary investigation will proceed

Thank you for your letter of [date] in which you make a complaint about [name] a member of the Australian Physiotherapy Association (APA).

In accordance with the Association's approved procedures for managing complaints, it is my understanding that [name], a member of the Association's Professional Standards Panel, contacted you on [date] to clarify your complaint and your expectations of the investigation process, and to request that you provide written permission for a copy of your complaint to be forwarded to [name of member] for comment.

The Professional Standards Panel will commence a preliminary investigation into your complaint when you have given the Association permission for a copy of your complaint to be forwarded to [name of member] [and provided you also forward the additional information/points of clarification requested by [name of Panel member] during your recent telephone conversation]. Your written permission [and additional documentation] needs to be provided to the APA within 14 days from the date of this letter.

I would like to assure you that the Australian Physiotherapy Association has a strong commitment to ethical and professional conduct and will give full and careful consideration to your complaint.

If you have any queries about the documentation that you are being asked to provide before a preliminary investigation of your complaint can proceed, you may like to contact me by telephone () or email ().

Yours sincerely

name

title

on behalf of APA Professional Standards Panel

5. Sample letter to complainant advising investigation cannot proceed because requisite permission/information not provided within 14 days

Further to my letter of [date], I am writing to advise you that the Australian Physiotherapy Association is not able to investigate your complaint against [name], a member of the Association.

As outlined in my previous letter, in order for the APA Professional Standards Panel to commence a preliminary investigation into your complaint, the Association required written permission from you for a copy of your complaint to be forwarded to [name of member] for comment [and also asked you to provide additional documentation as requested by [name of Panel member], a member of the Panel, during your telephone conversation on [date].

Since this material has not been provided within the 14 day timeframe specified in my previous letter, the Association is unfortunately unable to investigate your complaint.

I would again like to assure you that the Australian Physiotherapy Association has a strong commitment to ethical and professional conduct and hopes that you are somehow able to resolve the matters outlined in your letter.

Yours sincerely

name
title
on behalf of APA Professional Standards Panel

6. Sample letter to member seeking comment on complaint; procedural flow chart to be included.

I am writing on behalf of the APA Professional Standards Panel, to let you know the Association has received a complaint about your professional conduct. In accordance with approved procedures, the Panel has commenced a preliminary investigation into the complaint.

A copy of the letter of complaint by [name of complainant] is enclosed for your comment.

Would you please forward your written comments on the complaint together with any related documentary evidence, within 14 days of the date of this letter.

If you would like the opportunity to speak to or meet [name of PSP Case Manager], a member of the Professional Standards Panel, to ensure the Panel fully understands your point of view, would you kindly contact me directly so I can make suitable arrangements (telephone or email).

The Panel appreciates that it is not easy for any physiotherapist to have a complaint made about their professional conduct. However, the Panel is committed to a fair investigation of any complaint made against one of its members.

Enclosed for your information is a flow chart which summarises the Association's complaints management procedures.

I would like to assure you that the Professional Standards Panel will give this matter full and careful consideration.

Yours sincerely

name
title
on behalf of APA Professional Standards Panel

7. Sample letter to member advising no prima facie case to support complaint

I am writing on behalf of the APA Professional Standards Panel to advise you of the outcome of the Panel's preliminary investigation into the complaint made against you by [name of complainant].

As indicated in my previous letter, the complaint has been investigated according to the Association's approved complaints management procedures.

After careful consideration of the complaint and your response, the Panel has found there is no prima facie case to support the complaint and the complaint is therefore dismissed.

[Name of complainant] has been advised of the Panel's decision.

The Professional Standards Panel thanks you for the very professional way you have responded to this matter.

Yours sincerely

Name
title
on behalf of APA Professional Standards Panel

8. Sample email/letter to complainant advising outcome of investigation – hearing/no hearing

I am writing on behalf of the APA Professional Standards Panel to advise you of the outcome of the Panel's preliminary investigation into the complaint which you made against APA member [name].

As indicated in my previous letter, the complaint has been investigated according to the Association's approved complaints management procedures.

After careful consideration of the complaint and the response by [name of member], the Panel has found there is no prima facie case to support the complaint and the complaint is therefore dismissed.

[Name of member] has been advised of the Panel's decision.

The Professional Standards Panel would like to assure you that the Australian Physiotherapy Association has a strong commitment to ethical and professional conduct and the Panel has investigated your complaint with diligence and respect.

Yours sincerely

Name
title
on behalf of APA Professional Standards Panel

9. Sample email/letter to complainant advising outcome of investigation – hearing/no hearing

I am writing on behalf of the APA Professional Standards Panel to advise you of the outcome of the Panel's preliminary investigation into the complaint made against you by [name of complainant].

As indicated in my previous letter, the complaint has been investigated according to the Association's approved complaints management procedures.

After careful consideration of the complaint and your response, the Panel has found that you may have engaged in conduct which breaches the APA Constitution and/or the APA Code of Conduct. On this basis, the Panel has determined that the complaint be further investigated via a hearing to be conducted by the National Professional Standards Panel.

I will contact you in due course to establish a suitable date and time for the hearing to take place. At that time, you will be given further information about the protocols for the hearing.

[Name of complainant] has been advised of the Panel's decision.

The Professional Standards Panel appreciates that it is not easy for any physiotherapist to have a complaint made about their professional conduct but assures you this matter will be given full and careful consideration.

Yours sincerely

Name
title
on behalf of APA Professional Standards Panel

10. Sample letter to complainant advising outcome of preliminary investigation

I am writing on behalf of the APA Professional Standards Panel to advise you of the outcome of the Panel's preliminary investigation into your complaint against [name], a member of the Association.

As indicated in my previous letter, the complaint has been investigated according to the Association's approved complaints management procedures.

After careful consideration of your complaint and the response by [name of member], the Panel has found that [name of member] may have engaged in conduct which breaches the APA Constitution and/or the APA Code of Conduct. On this basis, the Panel has determined that your complaint be further investigated via a hearing to be conducted by the National Professional Standards Panel.

I will contact you in due course to establish a suitable date and time for the hearing to take place. At that time, you will be given further information about the protocols for the hearing.

The Professional Standards Panel appreciates that it is not easy for any party to a complaint but assures you this matter will be given full and careful consideration.

Yours sincerely

Name
title
on behalf of APA Professional Standards Panel

11. Sample notification of hearing to member

I am writing on behalf of the APA Professional Standards Panel in relation to the complaint made against you by [name of complainant]. As indicated in previous correspondence, the complaint is being investigated according to the Association's approved complaints management procedures.

After careful consideration of the complaint and your response to it via a preliminary investigation, the Panel has found that you may have engaged in conduct which breaches the APA Constitution and/or the APA Code of Conduct. On this basis, the Panel has determined that the complaint be further investigated via a hearing to be conducted by the Professional Standards Panel.

The particular aspects of your professional conduct which appear to be in breach of specified sections of the APA Constitution/Code of Conduct are:

You are advised that the Professional Standards Panel will conduct a hearing into this matter on [date], [time], [venue]. The purpose of the hearing is to consider evidence previously submitted by you and [name of complainant] to determine whether or not you have a case to answer in relation to the alleged breach[es] of the APA Constitution/Code of Conduct.

You are entitled to be present at the hearing, to make submissions on your own behalf and to be accompanied by another person. You are not entitled to be represented at the hearing without the prior approval of the National Professional Standards Panel, where representation is taken to mean legal representation or other such representation as you may choose. These provisions apply equally to the complainant.

The proceedings will be recorded and a copy of this record can be made available to you on written request.

If you elect not to be present at the hearing or elect to be present but then fail to attend the hearing without good cause, the hearing will proceed in your absence at the specified time and place.

I should also advise you in advance that if the complaint against you is upheld, the Association will require you to pay a fixed sum of \$2000 towards the costs and expenses of the Panel.

If you intend to be present at the hearing and if you intend to be accompanied or represented, would you kindly advise me no later than 14 days before the due date of the hearing.

A list of the members of the National Professional Standards Panel is enclosed for your information. If you have any questions about the procedures for the hearing, you may contact me (telephone or email).

Yours sincerely

name
title
on behalf of APA Professional Standards Panel

12. Sample notification of hearing to complainant

I am writing on behalf of the APA Professional Standards Panel in relation to the complaint you made against [name], a member of the Association. As indicated in previous correspondence, the complaint is being investigated according to the Association's approved complaints management procedures.

After careful consideration of your complaint and the response of [name of member] via a preliminary investigation, the Panel has found that [name of member] may have engaged in conduct which breaches the APA Constitution and/or the APA Code of Conduct. On this basis, the Panel has determined that the complaint be further investigated via a hearing to be conducted by the Professional Standards Panel.

You are advised that the Professional Standards Panel will conduct a hearing into this matter on [date], [time], [venue]. The purpose of the hearing is to consider evidence previously submitted by you and [name of member] to determine whether or not [name of member] has a case to answer in relation to alleged breach[es] of the APA Constitution/Code of Conduct.

You are entitled to be present at the hearing, to make submissions on your own behalf and to be accompanied by another person. You are not entitled to be represented at the hearing without the prior approval of the National Professional Standards Panel, where representation is taken to mean legal representation or other such representation as you may choose. These provisions apply equally to [name of member].

If you elect not to be present at the hearing or if you elect to be present but fail to attend without good cause, the hearing will proceed in your absence at the specified time and place.

If you intend to be present at the hearing and if you intend to be accompanied or represented, would you kindly advise me no later than 14 days before the due date of the hearing.

A list of the members of the National Professional Standards Panel is enclosed for your information. If you have any questions about the procedures for the hearing, you may contact me (telephone or email).

Yours sincerely

name
title
on behalf of APA Professional Standards Panel

13. Sample letter to member advising outcome of hearing – no case to answer

I am writing on behalf of the APA Professional Standards Panel to advise you of the outcome of the hearing into the complaint made against you by [name of complainant].

After careful consideration of all the evidence presented by you and [name of complainant] at the hearing held on [date], the Panel has found there is no case for you to answer.

The reasons for the Panel's finding are as follows:

The Panel has accordingly determined that the complaint be dismissed.

[Name of complainant] has been advised of the Panel's decision.

The Professional Standards Panel appreciates that it is not easy for any physiotherapist to have a complaint made about their professional conduct. The Panel thanks you for the professional way you have handled this matter.

Yours sincerely

name
title
on behalf of APA Professional Standards Panel

14. Sample letter to member advising outcome of hearing – case to answer

I am writing on behalf of the APA Professional Standards Panel to advise you of the outcome of the hearing into the complaint made against you by [name of complainant].

After careful consideration of all the evidence presented by you and [name of complainant] at the hearing held on [date], the Panel has found that you have breached the APA Constitution/Code of Conduct.

The reasons for the Panel's finding are as follows:

On the basis of its finding, the Panel has determined that [you shall be required to undertake a professional development (and/or mentoring program) as specified below to improve your professional knowledge and skills] and/or [you shall be subject to the penalties as specified below].

- * specify objectives, content, time frame of PD program or mentoring program
- * specify penalties if any.

This determination shall become effective within 30 days of the date of this letter.

As indicated in previous correspondence, since the complaint against you has been upheld, you are required to pay a fixed amount of \$2000 towards the costs and expenses of the Panel. This payment should be made within 30 days of the date of this letter.

[Name of complainant] has been advised of the outcome of the hearing.

The Professional Standards Panel appreciates that it is not easy for any physiotherapist to have a complaint made about their professional conduct. However, the Panel hopes you will be able to achieve positive learning from this experience.

Yours sincerely

name
title
on behalf of APA Professional Standards Panel

15. Sample letter to complainant advising outcome of hearing – no case to answer

I am writing on behalf of the APA Professional Standards Panel to advise you of the outcome of the hearing into your complaint against [name of member], a member of the Association.

After careful consideration of all the evidence presented by you and [name of member] at the hearing held on [date], the Panel has found there is no case for [name of member] to answer.

The reasons for the Panel's finding are as follows:

- *
- *
- *

The Panel has accordingly determined that the complaint be dismissed.

[Name of member] has been advised of the Panel's decision.

The Panel hopes that the explanation of its finding will help clarify the issues which have caused you such concern. Thank you for seeking the Association's assistance on this matter.

Yours sincerely

name
title
on behalf of the APA Professional Standards Panel

16. Sample letter to complainant advising outcome of hearing – case to answer

I am writing on behalf of the APA Professional Standards Panel to advise you of the outcome of the hearing into your complaint against [name of member].

After careful consideration of all the evidence presented by you and [name of member] at the hearing held on [date], the Panel has found that [name of member] has breached the APA Constitution/Code of Conduct.

The reasons for the Panel's finding are as follows:

- *
- *
- *

On the basis of its finding, the Panel has determined that [[name of member] will be required to undertake a professional development (and/or mentoring program) with objectives specified by the Panel] and/or [will be subject to specified penalties as indicated below].

- * describe objectives, content, time frame of PD program or mentoring program
- * describe penalties if any.

The Panel will monitor [name of member] compliance with each of these conditions.

[Name of member] has been advised of the outcome of the hearing.

The Panel would again like to assure you of the Association's commitment to professional accountability. The Panel appreciates this matter has been difficult for you but hopes the outcome of the investigation will help resolve your concerns. The Panel thanks you for seeking the Association's assistance on this professional matter.

Yours sincerely

name
title
on behalf of APA Professional Standards Panel

17. Sample letter to member confirming full compliance with Panel conditions

I am writing on behalf of the APA Professional Standards Panel in relation to the complaint previously made against you by [name of complainant].

Following the Panel's investigation of this complaint, the following conditions/penalties were imposed on you:

This letter is to acknowledge that you have now fully complied with these conditions/penalties and to advise that the case against you is therefore closed.

The Panel appreciates the way you have demonstrated professional accountability in this matter [and hopes you will continue to undertake regular professional development activities].

Yours sincerely

name
title
on behalf of APA Professional Standards Panel

AUSTRALIAN PHYSIOTHERAPY ASSOCIATION

Notice of Appeal

Name of Member: Membership No.:

Date of finding/determination being appealed against:

Brief description of finding:

.....

.....

Brief description of determination:

.....

.....

I am appealing against the finding determination (please indicate either or both with a tick)

Grounds for your appeal:

.....

.....

.....

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.....

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.....

.....

Signature of Member: Date:

19. Sample letter advising hearing of appeal by Board of Directors

I acknowledge receipt of your Notice of Appeal in which you lodge an appeal against the decision of the Professional Standards Panel made on [date].

The APA Board of Directors will conduct a hearing into your appeal on [date], [time], [venue].

You are entitled to be present at the hearing, to make submissions on your own behalf and to be accompanied by another person. You are not entitled to be represented at the hearing without the prior approval of the Board, where representation is taken to mean legal representation or other such representation as you may choose. You are also not entitled to produce new evidence without the prior approval of the Board.

If you elect to be present at the hearing but then fail to attend without good cause, the hearing will not proceed and the appeal will be considered dismissed.

I should also advise you in advance that if the appeal is dismissed, the Association will require you to pay a fixed sum of \$2000 towards the costs and expenses of the hearing.

If you intend to be present at the hearing and if you intend to be accompanied or represented, would you kindly advise me no later than 14 days before the due date of the hearing.

A list of the members of the Board of Directors is enclosed for your information. If you have any questions about the procedures for the appeal hearing, you may contact me (telephone or email).

Yours sincerely

name
title
on behalf of APA Professional Standards Panel

20. Sample letter advising hearing of appeal by general meeting of members

I acknowledge receipt of your Notice of Appeal in which you lodge an appeal against the decision of the APA Board of Directors in relation to the forfeiture/removal of your APA membership.

You are entitled to exercise your right appeal at the next available general meeting of members which is scheduled for [date], [time], [venue].

You are entitled to provide a written statement to accompany your Notice of Appeal and to have these documents distributed by the APA to all members entitled to vote at the meeting. You are also entitled to speak to such statements at the meeting. The APA Board of Directors has comparable rights.

You are not entitled to produce new evidence without the prior approval of the Board.

If you elect to be present at the meeting but then fail to attend without good cause, the hearing of your appeal will not proceed and the appeal will be considered dismissed.

I should also advise you in advance that if the appeal is dismissed, the Association will require you to pay a fixed sum of \$2000 towards the costs and expenses of the appeal.

If you intend to be present at the meeting and if you intend to be accompanied, would you kindly advise me no later than 14 days before the due date of the meeting.

If you have any questions about the procedures for the hearing your appeal at the forthcoming general meeting of members, you may contact me (telephone or email).

Yours sincerely

name
title
on behalf of APA Professional Standards Panel