



AUSTRALIAN
PHYSIOTHERAPY
ASSOCIATION

NATIONAL PROFESSIONAL STANDARDS PANEL

Complaints management and disciplinary hearing procedures

Approved by the APA Board of Directors | April 2017

Contents

Background, purpose and context	3
What constitutes a complaint about an Association member	3
Complaints the NPSP may consider	3
Complaints the NPSP must not consider	4
The NPSP must apply the principles of natural justice	4
The NPSP has limited rights and powers	4
Management of conflict of interest	4
Role of NPSP Manager	5
Management of records related to complaints	5
Managing enquiries about conduct prior to lodgement of complaint	5
Step 1: Receipt and referral of complaint	6
Step 2: Initial consideration of a complaint	6
Contact with the complainant	6
Report on the initial consideration	6
Decision by the NPSP following initial consideration of a complaint	6
Complaints the NPSP may investigate or progress to a disciplinary hearing	7
Advice to complainant and Association member about outcome of initial consideration	7
Step 3: Investigation	7
Request to complainant prior to investigation or hearing	7
Advice to Association member prior to investigation or hearing	7
Report on the investigation	7
Having a case to answer by way of a hearing by the NPSP	8
Finding of the initial investigation	8
Outcome of report on the investigation	8
Step 4: NPSP hearing	9
Notice of hearing	9
Conduct of NPSP hearing	9
Attendance and representation at the hearing	9
Outcome of the hearing and recommendation to the Board	9
Outcome of Board decision	10
Recovery of Costs	10
Step 5: Appeals	10
Step 6: Closing the case	10

National Professional Standards Panel

Complaints management and disciplinary hearing procedures

Background, purpose and context

Clause 42 of the Australian Physiotherapy Association's (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 Regulation 33.1. 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.

What constitutes a complaint about an Association member

Any expression of dissatisfaction made by a member of the public, an Association member or the Association's Chief Executive Officer (on behalf of the Association) about the conduct of any Association 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 Association's 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.

Complaints the NPSP may consider

The NPSP may consider the complaint if it is related to the categories of conduct listed in NPSP Regulation 33.3 being:

- » conduct determined by the Physiotherapy Board of Australia, or other panel, commission, tribunal or court of competent jurisdiction to constitute unprofessional conduct
- » 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 Association's Code of Conduct

- » other conduct referred to the NPSP by the Board from time to time such as at the request of a Health Complaints/Services Commissioner.

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 Association 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 Association 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
- » the complaint does not fall within the categories specified in NPSP Regulation 33.3 as listed above.

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

The NPSP is obliged 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 Association 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 Association's Chief Executive Officer must nominate a member of the Association's staff to provide secretariat and management support to the NPSP. In these procedures, that member of the Association's 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.

Correspondence details for NPSP Manager are:

- » email: npsp@physiotherapy.asn.au or
- » mail: Australian Physiotherapy Association, Level 1/1175, Toorak Road, Camberwell, VIC 3124

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 Association 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 Association 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:

- » confirms Association member status and registration status
- » 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:

- » Supporting the outcome of the enquiry
 - 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 on lodging a complaint, if requested
- » Providing statutory body contact details if appropriate:
 - Physiotherapy Board of Australia (Australian Health Practitioner Regulation Agency (AHPRA) or,
 - Health Complaints Commissioner (HCC for NSW)
 - Office of the Health Ombudsman (OHO for Queensland)
- » Providing other information
 - links to information relevant to the enquiry
 - contact details of organisations that may be able to assist with the enquiry
- » Contacting the person who is the subject of the enquiry to:
 - undertake action to resolve the matter if a less formal approach is warranted.

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

Step 1: 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 again to the complainant when the outcome of the initial consideration is decided. **(Letter template #1)**

Step 2: 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. **(Letter templates #2,3)**

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 NPSP may ask the NPSP Manager to request that the complainant provides written clarification of the complaint or any substantiating evidence. **(Letter template #4)**

To request information to clarify the nature of the complaint, to clarify accompanying evidence and to clarify that person's expectations of the complaint management process, during the initial consideration of a complaint, the NPSP Manager may, when appropriate, call or email the complainant.

Report on the initial consideration

The NPSP Manager will provide the NPSP with a brief report (see appendices) 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.

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.

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 33.3 as listed above
- » the NPSP reasonably believes the complaint is not frivolous, vexatious, misconceived or lacking in substance.

Advice to complainant and Association member about outcome of initial consideration

The NPSP Manager must write to the complainant advising them of the outcome of the initial consideration (i.e. that the case is dismissed, further investigation will be undertaken or a hearing is to proceed).

(Letter templates #5,6,7,8,9,10)

Where the Association member who is the subject of the complaint has been contacted by the NPSP Manager, the NPSP Manager must also write to the complainant advising them of the outcome of the initial consideration.

Step 3: Investigation

Request to complainant prior to investigation or hearing

If the NPSP decide to conduct an investigation or progress to a disciplinary hearing, the correspondence **(Letter template #4)** 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 Association 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. **(Letter template #5)**

Advice to Association member prior to investigation or hearing

Subject to the complainant providing the necessary written permission, the NPSP Manager must write to the Association member **(Letter template #6)**:

- » advising that a complaint has been received about their conduct
- » attaching a copy of the complaint and a copy of the complaints management and disciplinary hearing procedure document
- » 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 to clarify the procedure.
- » requesting the Association member to send a written response with supporting evidence 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. a brief objective summary of the complaint
- b. a brief objective summary of the member's response (if any)
- c. a brief objective summary of any substantiating evidence
- d. the findings of whether or not the complaint is a type that the NPSP may consider in accordance with the NPSP Regulations

- e. the section of the Association's Constitution or Code of Conduct with which the alleged professional misconduct is associated.

Having a case to answer by way of a hearing by the NPSP

The NPSP Manager and the NPSP Chair will generally recommend that the NPSP agree to proceed to a hearing where investigation finds there is evidence that an Association 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 Association's 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.

Finding of the initial investigation

At the conclusion of the initial investigation, the NPSP Manager, in consultation with the NPSP Chair, must consider the draft report on the investigation, the complaint, the response(s) (if any) from the Association member, and any substantiating evidence in relation to the complaint. They then determine whether or not the finding of the investigation is that the Association member has a case to answer.

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

(Letter templates #13,14)

If the NPSP Manager and the NPSP Chair determine that the Association member has a case to answer they must refer the report to the NPSP for ratification with a recommendation of a NPSP hearing.

(Letter templates #9,10)

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 on the outcome(s), the NPSP Manager must write to the complainant and the Association member advising them of the outcome(s).

Step 4: NPSP hearing

Notice of hearing

The NPSP Manager must write to the Association 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 Association's Constitution or Code of Conduct the member has allegedly breached. **(Letter template #11)**

The NPSP Manager must write to the complainant to advise that the NPSP will conduct a hearing into the professional conduct of the Association member about whom they have made a complaint and request the complainant's attendance at the hearing. **(Letter template #12)**

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.

It is at the sole discretion of the NPSP Chairperson to decide how the proceedings of the hearing must be recorded.

The Association 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 Association member within 30 days of the date of receipt of any request.

Attendance and representation at the hearing

The Association 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 Association member or 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 Association member and/or 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 Association 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.

The NPSP may recommend to the Board that:

- a) the Member be required to undertake a professional development and/or mentoring program with specified objectives; and/or
- b) the Board impose one or more of the following penalties on the Member:
 - vi. a reprimand or admonishment;
 - vii. suspension of the Member's membership of the Association for a period not exceeding 12 months;
 - viii. cancellation of the Member's membership under clause 15 of the Constitution.

Where the NPSP recommends to the Board that the Member be required to undertake a professional development and/or mentoring program with specified objectives, it is preferable that the components of the professional development and/or mentoring program be described under a goal-setting framework such as SMART (Table 1).

Table 1: SMART framework for achieving recommended activity

S	SPECIFIC	The activity be specific (e.g. mentoring occur for one hour each week)
M	MEASUREABLE	The activity, its output or outcome be measurable (e.g. the Member must successfully complete a validated assessment activity in a specific clinical area; or the member must provide a 1,000 word review of a specific issue).
A	ACHIEVABLE	The activity is achievable (e.g. The activity can be undertaken in the context of the Member's other time and financial commitments.)
R	RELEVANT	The activity is relevant to nature of the complaint (e.g. the professional development targets the lack of competence at the basis of the complaint; or the mentoring is with a person who has demonstrated competence in the area).
T	TIMED	The timeframe and milestones (including the end date) for the remediation activity is explicit.

Outcome of Board decision

The NPSP Manager must write to the Association member and the complainant to advise them of the Board's decision within 30 days of the Board's decision. **(Letter templates #15,16)**

Recovery of Costs

The Board may determine that an Association 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.

Step 5: Appeals

An Association member, against whom a complaint has been made, investigated and upheld, has the right to appeal in accordance with the NPSP Regulations. **(Letter templates #17,18, Notice of Appeal Template)**

Step 6: Closing the case

The NPSP manager writes to the Member to confirm that the NPSP is satisfied that the Member has complied fully with the NPSP's conditions **(Letter template #17)**. If the conditions have not been met, it is at the discretion of the NPSP to make a further recommendation to the Board. This may include cancellation of membership.

List of appendices

Flow charts

- a) Flow chart of procedure for enquiries on alleged misconduct
- b) Flow chart of procedure for complaint management

Letter templates

- 1. Confirm receipt of lodgment of complaint: initial consideration accepted
- 2. Confirm receipt of lodgment of complaint: Complaint dismissed—Non-member
- 3. Confirm receipt of lodgment of complaint: Complaint referred back to complainant—
Does not meet NPSP regulation 33
- 4. Advise that preliminary investigation will proceed—complainant
- 5. Advise investigation cannot proceed because requisite permission/information not provided within
14 days-complainant
- 6. Seek comment on complaint-member
- 7. Advise outcome of preliminary investigation: complaint dismissed—member
- 8. Advise outcome of preliminary investigation: complaint dismissed—complainant
- 9. Advise outcome of preliminary investigation: hearing to proceed—member
- 10. Advise outcome of preliminary investigation: hearing to proceed—complainant
- 11. Advise hearing procedure—member
- 12. Advise hearing procedure—complainant
- 13. Advise outcome of hearing: no case to answer—member
- 14. Advise outcome of hearing: no case to answer—complainant
- 15. Advise outcome of hearing: case to answer—member
- 16. Advise outcome of hearing: case to answer—complainant
- 17. Confirm full compliance with Panel conditions—member
- 18. Advise hearing of appeal (Board of Directors)—member
- 19. Advise hearing of appeal (general member meeting)—member

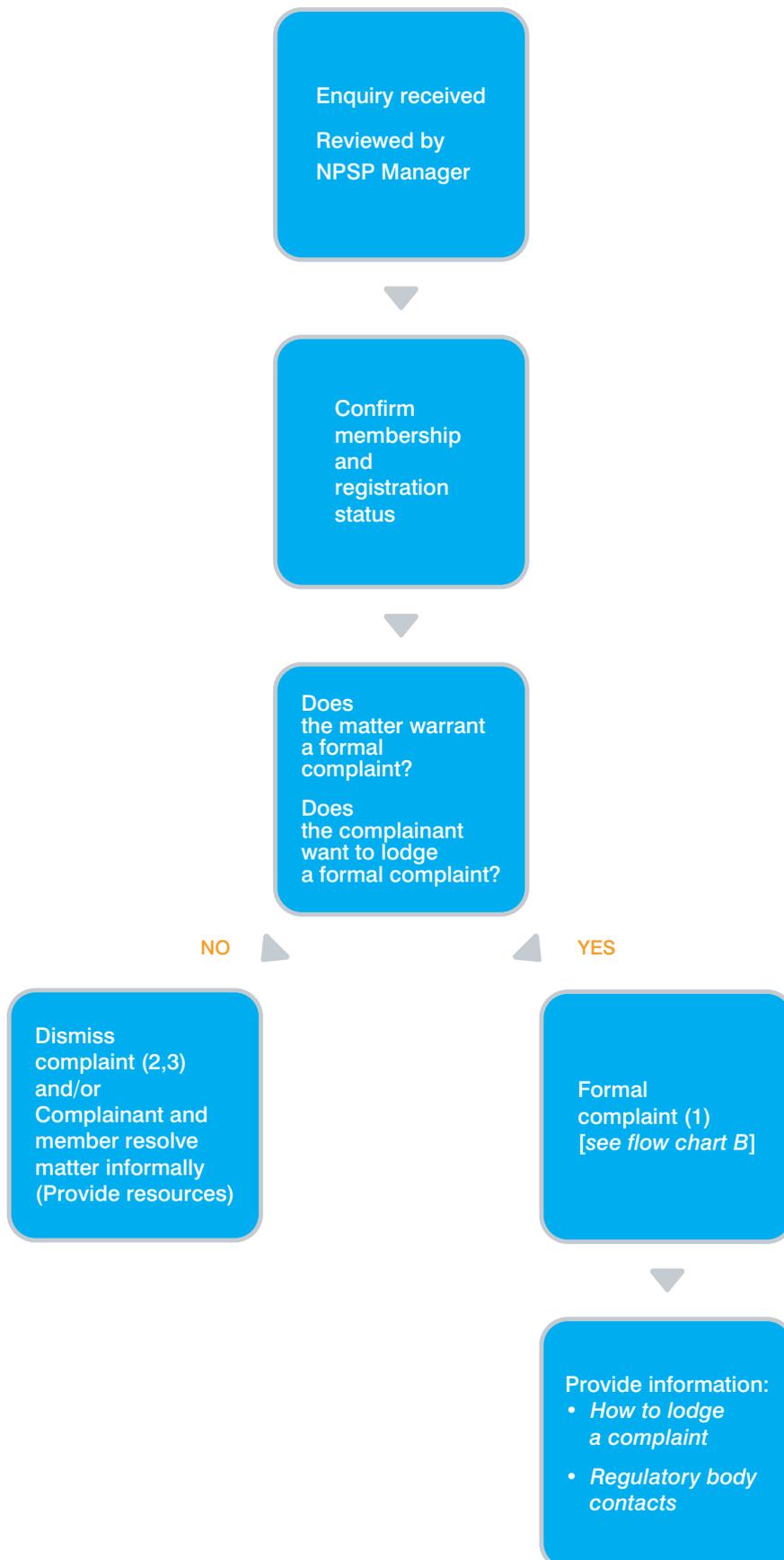
Notice of Appeal template

Complaint Report template

Flow charts

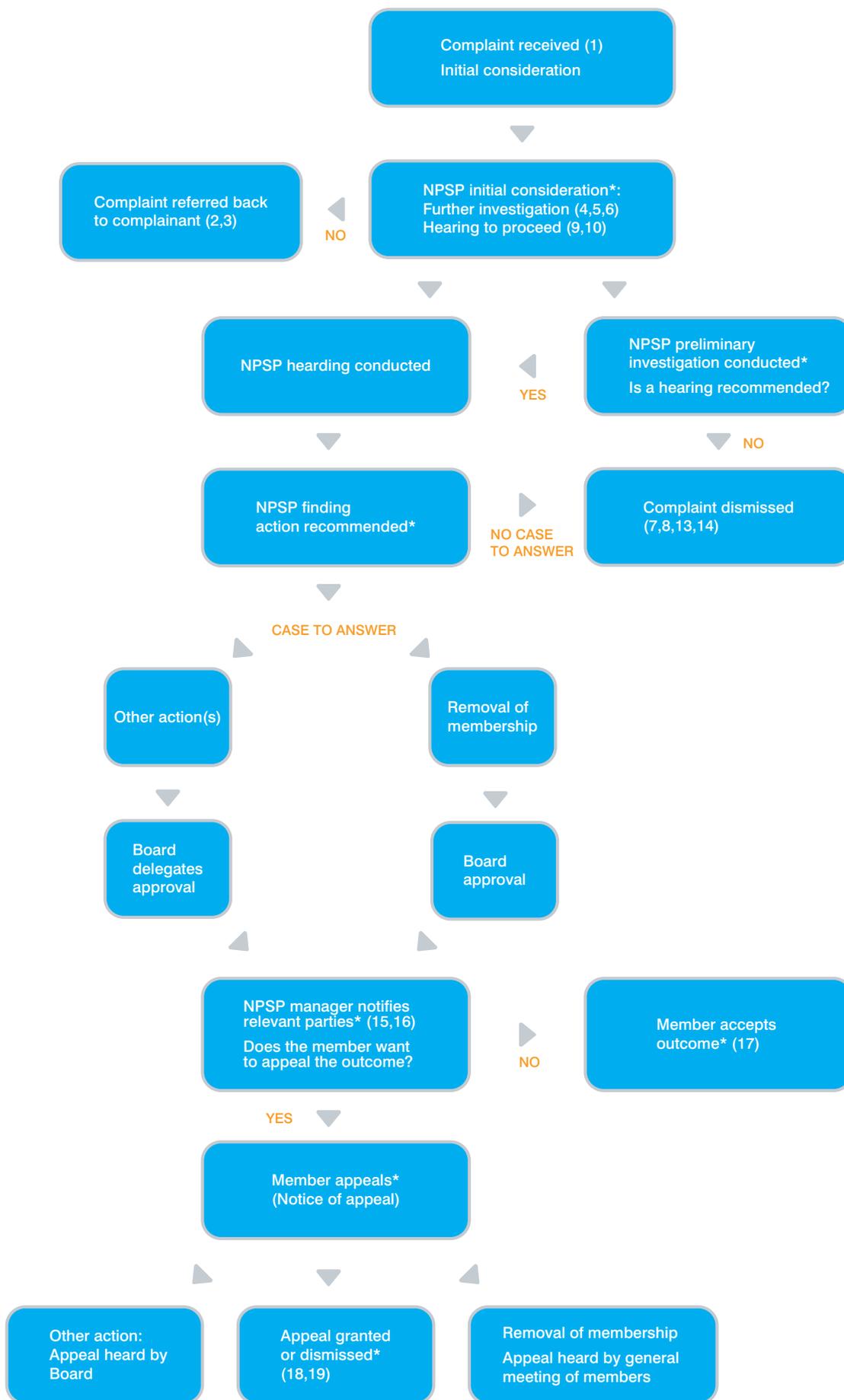
a) Flow chart of procedure for enquiries on alleged misconduct

(bracketed numbers refer to letter template)



b) Flow chart of procedure for complaint management

(bracketed numbers refer to letter template. * Report PART completed)



Letter templates

1. Confirm receipt of lodgment of complaint: initial consideration accepted

Thank you for your lodgment/letter of complaint [date] about [name], a registered physiotherapist and member of the Australian Physiotherapy Association (APA).

I am writing to acknowledge that I have received your complaint for initial consideration. Following this I will write to you again to notify you of the outcome of the initial consideration. Please note that this is the first step in APA's approved procedure for managing complaints. The outcome of the initial consideration will indicate if further investigation will proceed and how you will be required to support this with additional information if required.

I would like to assure you that the APA has a strong commitment to ethical and professional conduct and will follow the APA's approved procedure for managing complaints.

Yours sincerely

Name

Title

on behalf of APA National Professional Standards Panel

2. Confirm receipt of lodgment of complaint: Complaint dismissed—Non-member

Thank you for your lodgment/letter of complaint [date] about [name], a registered physiotherapist.

[Name] is not a member of the Australian Physiotherapy Association (APA). 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.

Discussing the problem with the physiotherapist concerned often helps. However, if this isn't possible, you feel uncomfortable doing this, or you're not satisfied with the response you have received, you may also consider speaking to:

- Australian Health Practitioner Regulation Agency (AHPRA)
- Health Care Complaints Commission (HCCC-NSW)
- Office of the Health Ombudsman (OHO-Queensland)

Contact details are:

*

The APA has a strong commitment to ethical and professional conduct and I hope 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 National Professional Standards Panel

3. Confirm receipt of lodgment of complaint: Complaint referred back to complainant—Does not meet NPSP regulation 33.3

Thank you for your lodgment/letter of complaint [date] about [name], a registered physiotherapist and 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 the following statutory body:

- Australian Health Practitioner Regulation Agency (AHPRA)
- Health Care Complaints Commission (HCCC-NSW)
- Office of the Health Ombudsman (OHO-Queensland)

- [other regulation 33 non-compliance]

Discussing the problem with the physiotherapist concerned often helps resolve your issue. However, if this isn't possible, you feel uncomfortable doing this, or you're not satisfied with the response you have received, you may also consider speaking to the above mentioned statutory body. Contact details are:

*

Your letter is therefore being returned to you and if you wish you may submit your complaint to the appropriate statutory body (contact details below).

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

[Contact details of statutory body]

Yours sincerely

Name

Title

on behalf of APA National Professional Standards Panel

4. Advise that preliminary investigation will proceed-complainant

Thank you for your lodgment/letter of complaint [date] about [name], a registered physiotherapist and a member of the Australian Physiotherapy Association (APA).

In accordance with the APA's approved procedure for managing complaints, it is my understanding that [name], [role in] National Professional Standards Panel (the Panel), contacted you on [date] to clarify your complaint and your expectations of the investigation process. It was also requested that you provide written permission for a copy of your complaint to be forwarded to [name of APA member] for comment.

The Panel will commence a preliminary investigation into your complaint when you have provided the Association within 14 days from the date of this letter [date], with the following:

- permission for a copy of your complaint to be forwarded to [name of member]
- additional information/points of clarification requested by [manager name] [during your recent telephone conversation]
- [list of additional points]

I would like to assure you that the APA 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 so that a preliminary investigation of your complaint can proceed, please do not hesitate to contact me by telephone () or email (). If the information is not received by [date above], the NPSP will not be able to proceed with the preliminary investigation.

Yours sincerely

Name

Title

on behalf of APA National Professional Standards Panel

5. Advise investigation cannot proceed because requisite permission/information not provided within 14 days-Complainant

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

As outlined in my previous letter, in order for the APA National Professional Standards Panel (the Panel) to commence a preliminary investigation into your complaint, the APA required the following:

- Your written permission for a copy of your complaint to be forwarded to [name of member] for comment
- 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 the previous letter, the APA is unfortunately unable to investigate your complaint.

I would again like to assure you that the APA 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 National Professional Standards Panel

6. Seek comment on complaint—member

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

A copy of the letter of complaint by [name of complainant] and APA's complaint management procedure are enclosed.

Please forward your written comments on the complaint together with any related documentary evidence, within 14 days of the date of this letter [date].

If you would like the opportunity to speak to or meet [name of NPSP Case Manager], or [a member of the Panel,] please contact me directly so I can make suitable arrangements (telephone or email). Further discussion of this case may assist the Panel to fully understand your point of view.

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 [resource name] which summarises the APA's complaints management procedure.

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

Yours sincerely

Name

Title

on behalf of APA National Professional Standards Panel

7. Advise outcome of preliminary investigation: complaint dismissed—member

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

The complaint has been investigated according to the Association's approved complaints management procedure.

After careful consideration of the complaint and your response, the Panel has found there is no substantiating evidence (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 Panel thanks you for the very professional way you have responded to this matter.

Yours sincerely

Name

Title

on behalf of APA National Professional Standards Panel

8. Advise outcome of preliminary investigation: complaint dismissed—complainant

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

The complaint has been investigated according to the Association's approved complaints management procedure.

After careful consideration of your complaint and the APA member's response, the Panel has found there is no substantiating evidence (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 Panel thanks you for the very professional way you have responded to this matter.

Yours sincerely

Name

Title

on behalf of APA National Professional Standards Panel

9. Advise outcome of preliminary investigation: hearing to proceed—member

I am writing on behalf of the Australian Physiotherapy Association (APA) National Professional Standards Panel (the 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 procedure.

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 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 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 National Professional Standards Panel

10. Advise outcome of preliminary investigation: hearing to proceed—complainant

I am writing on behalf of the Australian Physiotherapy Association (APA) National Professional Standards Panel (the 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 procedure.

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 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 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 National Professional Standards Panel

11. Advise hearing procedure—member

I am writing on behalf of the Australian Physiotherapy Association (APA) National Professional Standards Panel (the 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 APA'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 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 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 Panel. This representation is taken to mean legal representation or other such representation as you may choose 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 APA will require you to pay an amount of not more than \$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 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 National Professional Standards Panel

12. Advise hearing procedure—complainant

I am writing on behalf of the Australian Physiotherapy Association (APA) National Professional Standards Panel (the Panel) in relation to your complaint against [name], a member of the APA. 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 Panel.

You are advised that the 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 Panel. This 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 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 National Professional Standards Panel

13. Advise outcome of hearing: no case to answer—member

I am writing on behalf of the Australian Physiotherapy Association (APA) National Professional Standards Panel (the 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 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 National Professional Standards Panel

14. Advise outcome of hearing: no case to answer—complainant

I am writing on behalf of the Australian Physiotherapy Association (APA) National Professional Standards Panel (the 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 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 appreciates that it is not easy for you to be involved in a professional conduct complaint matter. The Panel thanks you for the professional way you have handled this matter.

Yours sincerely

Name

Title

on behalf of APA National Professional Standards Panel

15. Advise outcome of hearing: case to answer—member

I am writing on behalf of the Australian Physiotherapy Association (APA) National Professional Standards Panel (the 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 from [date: 30 days from the date of this letter].

As indicated in previous correspondence, since the complaint against you has been upheld, you are required to pay an amount of [not more than \$2000] towards the costs and expenses of the Panel. This payment should be made by [date: 30 days from the date of this letter].

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

The 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 National Professional Standards Panel

16. Advise outcome of hearing: case to answer – complainant

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

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 National Professional Standards Panel

17. Confirm full compliance with Panel conditions—member

I am writing on behalf of the Australian Physiotherapy Association (APA) National Professional Standards Panel (the 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 National Professional Standards Panel

18. Advise hearing of appeal (Board of Directors)—member

I acknowledge receipt of your Notice of Appeal in which you lodge an appeal against the decision of the Australian Physiotherapy Association (APA) National Professional Standards Panel (the 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 APA 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 National Professional Standards Panel

19. Advise hearing of appeal (general member meeting)—member

I acknowledge receipt of your Notice of Appeal in which you lodge an appeal against the decision of the Australian Physiotherapy Association (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 APA 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 National Professional Standards Panel

Notice of Appeal template *(to be placed on APA letterhead)*

Notice of Appeal

Please complete the following and send to NPSP Manager:

- email: npsp@physiotherapy.asn.au or
- mail: Australian Physiotherapy Association, Level 1/1175, Toorak Road, Camberwell, VIC 3124

(Please attach any additional information to this document)

Name of Member appealing: Membership No.:

Date of finding/determination being appealed against:

Brief description of finding:

.....
.....
.....
.....
.....

Brief description of determination:

.....
.....
.....
.....

I am appealing against the (please tick either or both):

- Finding
 Determination

Grounds for your appeal:

.....
.....
.....
.....
.....
.....
.....
.....
.....

Signature of Member: Date:.....

Complaint report template

Report—Complaint lodged with National Professional Standards Panel

Complaint details

Date of complaint:
Complainant:
Person subject of complaint:

PART A: Initial consideration of complaint [date of report]

Summary of complaint

.....
.....
.....
.....
.....

Appendix list(evidence and other material)

.....
.....
.....
.....
.....

Findings

.....
.....
.....
.....
.....

PART B: Preliminary investigation [date of report]

Summary for preliminary investigation

.....
.....
.....
.....
.....

Member's response

.....
.....
.....
.....
.....

Substantiation and evidence

.....
.....
.....
.....
.....

Appendix list (evidence and other material)

.....
.....
.....
.....
.....

Associated Code of conduct

.....
.....
.....
.....
.....

Findings and recommendation(s):
(case or no case to answer; dismissal or hearing)

.....
.....
.....
.....
.....

PART C: Hearing [date of report]

Summary of hearing conducted

Date/Time:
Location:
Persons present:

Appendix list (evidence and other material)

.....
.....
.....
.....
.....

Outcome of hearing

.....
.....
.....
.....
.....

Outcome of Board meeting

.....
.....
.....
.....
.....

PART D: Appeal [date of report]

Summary of appeal

.....
.....
.....
.....
.....

Appendix list (evidence and other material)

.....
.....
.....
.....
.....

Outcome

.....
.....
.....
.....
.....