

PERFORMAT COMPLAINT PROCEDURE

1. Introduction

- 1.1 One of the functions of the joint Ethics and Professional Practice Committee (herein after EPPC) is to provide a mechanism whereby PerFormat members and members of the public may be protected, while flexibility and creativity in support of personal and professional development is facilitated.
- 1.2 The EPPC enables PerFormat members and clients to obtain prior clarification as to whether a proposed course of action would constitute an ethical violation. Where there is a possibility that procedures or behaviors may operate on the borderline of such violations, the EPPC will be available to help PerFormat members and clients to work in an approved way within a framework of checks and balances, perhaps monitored by a third party.
- 1.3 It is recognized that a request to invoke an ethics charge is indicative of the highest level of professional intent.
- 1.4 The EPPC provides a structure for confrontation which ensures that members of PerFormat represent and conduct themselves professionally in ways consistent with the type of membership and credentials they have within PerFormat.

2. Ethical Complaints Procedure

- 2.1 Preamble.
 - ✓ Confidentiality must be observed at all times from the outset by all parties. Both complainant and respondent should be advised of this. All other parties involved are required to maintain confidentiality as to both the content and the process of an ethics complaint.
 - ✓ Any individual having a concern that a member's professional behavior is not consistent with their PerFormat membership is required to confront the member involved directly and invite the desired change in behavior. Failure to do so is, in itself, a breach of the Ethics Code.
 - ✓ Procedures for Handling Ethics Complaints: the complainant contacts and invites the confidential help of the Chair of EPPC in this process. The Chair of EPPC may appoint a third party to act as facilitator in assisting the complainant and respondent to reach a resolution acceptable to all parties.
 - ✓ In the event that such a confrontation or facilitation fails to produce the desired result, or is deemed impractical for any reason, the concerned person may file a formal complaint with the EPPC by making such a complaint in writing and supplying any substantiating evidence. Individuals submitting complaints should be aware that in so doing they are acting to resolve difficulties, that they may be confronted, and that they may seek no reward.
- 2.2 Limitation of Time Complaints will not be considered where the alleged violation took place more than three years prior to the first written notification of the complaint to the Chair of EPPC.

3. Making a formal complaint

- 3.1 Initiating a Complaint.

The complaint should be made in writing, detailing the nature of the alleged violation and indicating the section/s of the Ethics Code which are believed to have been breached. The complaint should be accompanied by any substantiating evidence. The complaint should be sent, marked 'Complaint' to PerFormat Administrator.
- 3.2 Assessing the Allegation.
 - ✓ The Administrator will forward the complaint to the Chair of EPPC, who together with another member of the EPPC will make an initial Assessment. In the event of the unavailability of the Chair or Co-Chair the administrator will appoint a substitute from the EPPC.
 - ✓ In considering the complaint the Chair of EPPC will advise the committee of any legal or procedural implications of the complaint. In doing this s/he will take any appropriate legal or other professional advice where deemed necessary.
 - ✓ the Assessors will form an opinion as to whether or not the allegation is appropriate to the EPPC. In forming their opinion the Assessors will consider only the written complaint and any

accompanying evidence. Any evidence offered must follow normal rules of evidence. Assessors will record their opinion. This process will normally be completed within 14 days; the Assessors will conclude that either:

- There is reason to believe that there may be a breach of the Ethics Code and the complaint should be investigated, or
 - There is no evidence of a breach of the Ethics Code and the charge should not be investigated.
- ✓ The Assessors will give their reasons for their conclusions and, if in their opinion, the clause(s) differ from those alleged by the complainant; they will indicate this together with their reasoning.
 - ✓ In the event that the Assessors conclude that there may be a breach of the Ethics Code, the Assessment Committee will recommend to the EPPC that an investigation should take place.
 - ✓ In the event that the Assessors' opinion is that there is no breach of the Code of Ethics, the Chair of EPPC will normally inform the complainant within 7 days of this opinion. The Chair of EPPC will also inform the complainant of the reasons for this decision and return any documentation.

3.3 Informing both parties.

Where the Assessors have concluded that investigation of the alleged breach of the code is imperative, within seven days the Chair of EPPC will:

- ✓ Inform the respondent that a complaint has been received which may indicate a breach of the Ethics Code.
- ✓ Give notice to both complainant and respondent that the alleged breach of the Ethics Code is subject to an investigation which might lead to an ethics hearing and that a Hearing Panel at such a hearing has the power to recommend sanctions, including suspension of membership or expulsion from PerFormat.
- ✓ Include a copy of the complaint submissions to the respondent, together with a letter requiring the respondent to make a written response to the allegations within twenty-eight days of receiving notification of the alleged breach. This reply can be sent by electronic transmission (email attachment) as well as other conventional means.
- ✓ Inform the respondent that failure to make such a response, without sufficient reason, is in itself a breach of the Code of Ethics and may be assumed by PerFormat to indicate that the allegations are valid. In this case a Hearing Panel may be convened without further reference to the member.
- ✓ Inform the complainant that the assessing panel have decided to proceed with the complaint and that the respondent has been informed. Ask the complainant to submit any additional evidence to the Case Manager within twenty eight days.
- ✓ Inform the complainant and the respondent that mediation may be made available by the Case Manager and may be offered prior to the Case Manager further investigating the complaint and that the Case Manager will contact them to notify that they are now managing the complaint on behalf of the EPPC.
- ✓ Appoint a Case Manager from within the EPPC who will be responsible for contacting both parties to notify them of his/her involvement.

3.4 Investigating the Complaint.

- ✓ Should the Assessors deem the alleged breach essential for an investigation the Chair of EPPC will be responsible for expediting the following:
 - The Chair of EPPC will bring the case to the next meeting of the EPPC or convene an extraordinary meeting if this is in excess of twenty-eight (28) days following the receipt of the respondent's reply.
 - At that meeting the Chair together with the EPPC will appoint an impartial Case Manager from among the members of the Ethics Committee (but not one of the Assessors). Where the respondent is a psychotherapy member or psychotherapy trainee, and there are no impartial members of the committee to act as Case Manager, the Chair may co-opt a qualified member from the membership of PerFormat.

Both complainant and respondent shall have the right to advise the Chair of EPPC if they have concerns regarding the capacity of the Case Manager to be impartial.

The task of the Case Manager includes making a preliminary investigation of the complaint. Where the respondent is a non-psychotherapy professional, the EPPC shall have discretion regarding resourcing an impartial Case Manager. In this event due attention shall be given to ensuring that the Case Manager is suitably qualified.

- ✓ The Case Manager shall be responsible for:
 - Investigating the complaint and the response, calling on all such additional information as may be required either from the parties to the complaint or from any witnesses or other parties. At the completion of the investigation the Case Manager shall either
 - Recommend to the EPPC via the Chair, that there is no case to answer and that the allegation should not be proceeded with: in this case the Chair of the EPPC shall convey this information to both parties; or
 - Offer a mediator to facilitate an outcome acceptable to both parties where this seems to the Case Manager to be practicable and both parties agree. If both parties accept this option the Case Manager will be responsible for appointing a mediator in liaison with the Chair of the EPPC. Both parties will be informed that the outcome of mediation will be reviewed by the EPPC for ratification. Where such an agreement is reached, the agreement, together with any action or procedure agreed by the respondent shall be ratified by the EPPC. Should the EPPC not ratify the agreement, the EPPC may refer the complaint back to the Case Manager; or
 - Upon finding that there has been a minor breach of the Code, notify the Chair of EPPC and make recommendations for appropriate sanctions. The Chair of EPPC shall take this outcome to the EPPC for ratification and shall then notify both parties of the outcome; or
 - Recommend that the Chair of EPPC appoint a Hearing Panel to determine the complaint.
 - The Case Manager, in gathering information, shall always be open to facilitating a resolution of the issues through suggesting any appropriate line of action which is agreed upon by all parties including the EPPC. When such a recommendation is ratified by the EPPC, the EPPC is responsible for official recording and enactment.

4 Adjudication procedures

- 4.1 The adjudication procedure by a Hearing Panel exists to examine complaints in a formal manner and to determine the validity of such complaints and, if the complaint is found to be valid, to recommend sanctions as appropriate. Where there is more than one complaint against a member they shall be determined at the same hearing. Should there be more than one complaint against a member from different complainants they may be heard separately or together at the discretion of the Ethics and Professional Practice Committee.
- 4.2 If, in the judgement of the Case Manager, a hearing is warranted it shall, on the instructions of the EPPC, be conducted by a Hearing Panel.
- 4.3 The EPPC will appoint a Hearing Panel of three people none of whom shall be either the original Assessor(s) or Case Manager. Members appointed to the Hearing Panel have a duty to declare any interest which may threaten their impartiality.
- 4.4 At this stage of the procedure, the names of the members of the Panel shall be notified to both parties. Both parties have the right to ask one member of the Panel to stand down. In the event that any member of the Hearing Panel is excluded, an alternative member shall be appointed by the Ethics Committee as a replacement.

5 Protocols governing complaints procedure

- 5.1 The disposition of any complaint investigated by the EPPC or a Hearing Panel and all records of the investigation will be archived for seven years from the date of the formal complaint. The papers will be placed in a coded sealed file to be held by the current Chair of EPPC. The Chair of EPPC will maintain, separately from this record and in a secure place, a record of the file codes, listed against member's names.

- 5.2 Failure of the complainant to attend investigatory meetings and/or the Hearing Panel or to respond to requests for information, without good reason or due notice, means the complaint shall be regarded as withdrawn and the respondent is automatically exonerated with regard to that complaint.
- 5.3 Failure of the respondent to attend investigatory meetings and/or the Hearing Panel or to respond to requests for information, without good reason or due notice, may result in the Hearing Panel recommending the termination of membership of that PerFormat member. The respondent will also lose their right to appeal.
- 5.4 Findings of complaints procedures shall be notified to the complainant, the respondent, and to other parties directly involved.
- 5.5 All persons taking part in PerFormat Complaints Procedure shall act in a manner which does not breach confidentiality; neither will they attempt to influence the outcome of the investigation. In the event that confidentiality is breached or a party to the complaint attempts to influence the process or outcome, the EPPC will have the power to terminate the proceedings, or to order an immediate hearing or to dispose of the complaint in any other way which is deemed appropriate. Members who breach confidentiality or attempt to influence the outcome may face an ethics charge in respect of their behavior.
- 5.6 The resignation of a respondent will not be accepted until PerFormat Complaints Procedure has been completed.
- 5.7 PerFormat will not be responsible for travel or any other expenses incurred either by the complainant or the respondent in connection with any stage of the complaint.
- 5.8 In the event that a potential complainant only attains an ability to complain after the three year statute of limitation has lapsed, s/he may still seek privately some form of resolution to his or her concern. For reasons relating to the availability and quality of evidence this resolution will not include invoking the formal Complaints Procedure.
- 5.9 A complainant can withdraw their complaint at any time. A withdrawn complaint cannot be resubmitted at a later date. All documentation relating to said complaint will be destroyed.
- 5.10 Complaints made anonymously will not be considered and all material relating to them will be destroyed.
- 5.11 All PerFormat communications regarding complaints will be made through the EPPC, addressed to the Chair of EPPC. Communications not so channeled will not be recognized by PerFormat.
- 5.12 All correspondence regarding the setting of schedules or which contains points of fact germane to the complaint must be sent by Recorded Delivery. Correspondence which is claimed to be lost will be assumed not to have been sent unless evidence of dispatch can be produced. Lost correspondence is not grounds for changing the timetable of the procedure or affecting its progress in any way.
- 5.13 The complainant and the respondent must act and appear in person. Powers of attorney will not be accepted except under extraordinary circumstances which must have the prior approval of the Ethics and Professional Practice Committee.

Complaints or correspondence concerning Ethics to be sent to: The Administrator PerFormat, via Giuntini 25 int.1, 56030 Navacchio di Cascina (Pisa) Italy.