



REPRESENTING PROFESSIONAL HERBALISTS FROM ALL THE TRADITIONS ACROSS EUROPE

**ANNEX III:**

**CODE OF ETHICS  
(CODE OF CONDUCT &  
DISCIPLINARY PROCEDURES)**

## Definition of terms used throughout this document

*The Practitioner:* the person registered as a qualified herbal practitioner.

*The Council:* the registering body for herbal practitioners.

*The Patient:* the person requesting treatment or the person being treated in the case where a third party has legal responsibility for the patient.

*The Practice:* the business and/or the place of business of the practitioner.

*Colleagues:* fellow herbal practitioners and students training at establishments accredited by the Council and fellow health-professionals of other disciplines.

*Unacceptable professional conduct:* dishonourable or ethical misconduct which falls short of the standard required of a registered herbal practitioner.

*Official Complaint:* a written complaint regarding a practitioner addressed to the Council.

*Professional Association:* a professional herbal association which is affiliated to the Council.

## Abbreviations

PCC Professional Conduct Committee

PCO Professional Conduct Officer

PESC Professional Ethics Sub-committee

PEAC Professional Ethics Appeal Committee

## **CODE OF CONDUCT**

### **1. Compliance with Code of Conduct**

Practitioners shall at all times comply with the Code of Conduct

The principle of the code is to encourage honesty and responsibility in the practice of herbal medicine.

The Code of Conduct will be used when considering any complaint made against a practitioner. Practitioners failing to meet the requirements outlined below may be subject to disciplinary measures on the grounds of unacceptable professional conduct.

Practitioners are expected to seek advice from the Professional Conduct Officer or elsewhere if uncertain as to how to behave in any clinical or other situation.

Practitioners are reminded that this Code of Conduct represents minimally accepted standards of legal and ethical conduct in the United Kingdom at the present time. The primary reason for adhering to them is the well being of the patient, the public, of colleagues and of the profession.

The practitioner must be familiar with all laws or regulations relevant to the practice of herbal medicine in the locality in which they practise. The practitioner must obey the provisions of all such health and safety legislation, employment legislation, medical and pharmaceutical legislation as is in force at the time. The practitioner should make her/himself aware of the relevant provisions of the Medicines Act 1968 and any subsequent medicines legislation.

Furthermore it is the responsibility of the practitioner to ensure that he/she becomes aware of any legal changes that may affect his/her practice.

The practitioner must be covered by professional and public liability insurance.

## **2. Relationship with Patients**

### **2.1 Obligations to patients**

The relationship between the practitioner and the patient is a professional relationship and is based on trust. The practitioner must at all times exercise her/his moral judgement with regard to this relationship. In particular, the practitioner should listen to and respect the views of the patient, ensure that the practitioner's own beliefs do not adversely affect the therapeutic relationship. Where necessary, the practitioner should refer patients promptly to another competent health professional.

Practitioners must act with consideration when considering fees and justification for treatment.

It is unacceptable to solicit a patient by any means other than when treatment is specifically requested, but it is acceptable to advertise within the guidelines set out here.

Practitioners who have reason to believe that patients may be at risk due to of their own ill health, whether mental or physical, have an obligation to seek and to follow professional advice. Failure to act with regard to the interests of patients in this case may be regarded as unacceptable professional conduct.

Practitioners should not use their professional position as a means of pursuing an improper personal relationship with a patient or a relative or personal companion of a patient.

Where it appears that a patient is becoming involved in an improper personal relationship with the practitioner, it is the duty of the practitioner not to encourage the patient and to seek advice from another professional or from the Professional Conduct Officer.

Practitioners who find that they are becoming involved in a sexual or non-professional relationship with a patient should end the professional relationship and arrange alternative care for the patient.

### **2.2 Examination and Treatment of Patients: Informed Consent**

It is the practitioner's duty to explain the procedures applied in treatment, and to obtain informed consent for any treatment administered. Practitioners should inform patients about any matters relating to their condition, treatment or prognosis in a way that can be understood. The practitioner must recognise the right of the patient to refuse treatment and to refuse to follow advice.

Any physical examination requires the patient's consent, or the consent of the person legally responsible for the interests of the patient. Examination of any intimate area requires the presence of a third party unless explicitly agreed to by the patient.

A person from whom informed consent for examination or treatment is sought must possess the necessary intellectual and legal capacity to give consent. It is necessary to write on the patient record that informed consent was obtained. A person will have the intellectual capacity if able to understand in simple language what the examination or treatment is, its purpose and why it is being proposed, to understand its principal benefits, risk and alternatives, and to retain the information for long enough to make an effective decision and make a free choice.

### **2.3 Treatment of minors and mentally handicapped patients**

In the case of minors or mentally handicapped persons, the informed consent of the parent or guardian or the person legally responsible for the patient is necessary.

In the case of patients under the age of 16, practitioners are advised not to institute any examination or treatment unless they are satisfied that the patient's parent or other legal guardian has given informed consent.

Examination of a child under the age of 16 requires the presence of a third party.

In the case of patients aged over 16 but under 18, consent may be given by the patient, if able to make an informed decision, or by the patient's parent or guardian.

In the case of patients aged under 18, where there is or may be a conflict between the patient and a parent or guardian, or between parents, the practitioner is advised to seek the advice of the Professional Conduct Officer before undertaking any treatment or advice.

The practitioner is required to act responsibly when there is evidence of a child being at risk of sexual abuse or of other harm, and to contact the Child Protection Officer at the local Social Services Department so that action may be considered under the Children Act (1989).

### 3. Competence

Practitioners are responsible for undertaking continuing professional development.

Where offering another therapy apart from herbal medicine, practitioners must ensure that their training is adequate, that they remain aware of changes in that therapy, and that, where possible, they remain registered with the relevant professional association.

Where possible, the practitioner must ensure that he/she is aware of current practice in other health professions.

The practitioner must remain aware of current information relevant to the medical care that he/she gives and to the prescription of herbal medicines. It is the practitioner's duty to read and retain relevant documents received from the Council or affiliated professional associations and take note of the advice of the Traditional Medicines Evaluation Committee (TMEC).

It is illegal for anyone not registered as a medical practitioner to attempt to procure an abortion. A practitioner must not knowingly administer an abortifacient or emmenagogue herb for the purposes of procuring an abortion, nor use instruments for the purpose of procuring an abortion, nor assist in any illegal operation.

The practitioner must be aware of those diseases which are notifiable and take appropriate action in such cases.

## **4. Practice Management**

### **4.1 Due diligence in the management of the practice**

Practitioners must take care to see that their practices are managed with due diligence. In particular, delegation of any professional duty, including preparation of medicines, should be made only in favour of those qualified to accept them. Where the practitioner has people employed (paid or unpaid) to carry out a function in the practice, e.g. receptionist, dispenser, it is the practitioner's duty to ensure that they are suitably trained in their function, and are aware of the relevant parts of the Code of Conduct that relate to their activity within the practice. The practitioner is responsible for mistakes in dispensing and should ensure that dispensers are competent.

The practitioner is responsible for the actions of assistants, including students or colleagues who are not registered with the Council. Practitioners must ensure that patients are not misled, directly, indirectly or by default, so as to believe that any person giving treatment as an assistant is registered with the Council when they are not.

It is the practitioner's duty to ensure that adequate arrangements are made for patients to receive treatment if, or when, the practitioner is away from their practice for any length of time and to make patients aware of these arrangements. It is the practitioner's duty to provide adequate means of contacting the practitioner out of clinic hours.

The safe and effective disposal of disposable surgical appliances and examination equipment must be carried out as advised by the Council Quality and Safety Committee. The Environment Protection Act specifies that it is the duty of all persons involved in producing clinical waste to dispose of it safely and effectively.

It is the practitioner's duty to inform the patient of the Council complaint and disciplinary procedures, if requested to do so by the patient or the person legally responsible for the patient's interests.

Practitioners must provide a practice complaints procedure, and display a notice for patients stating that there is a practice complaints procedure and advising the patient who to contact in the first instance.

### **4.2 Patient records**

Patient records belong to, and thus are the responsibility of, the practitioner.

Patient records must on no account be transferred to a new practitioner without the authorization of the patient.

Patient records should be retained in safe custody by the practitioner to whom they belong for a minimum of seven years from the date of the last appointment. Where the practitioner retires or otherwise ceases practice at any practice address, appropriate arrangements must be made for the safe custody of, and access of patients to the records.

Where herbal practitioners work together, in any capacity, in the same practice or premises, they are advised to enter into a specific agreement as to the ownership and thus, responsibility for the records of patients.

Where practitioners practise at a clinic owned by a third party, the ownership of and responsibility for the patient records should be made clear in the contract between the parties.

If so requested by a patient in writing, a practitioner shall make available without delay copies of any patient records. Practitioners are advised to keep the original patient records in case of any future complaint or legal action.

Where the patient wishes to transfer to another practitioner, a request for the transfer on patient records should be dealt with promptly.

Practitioners who retire or who sell practices are advised to follow the Council guidelines on sale of practices. In particular, they must ensure the continuity of patient care by making clear arrangements for the patient notes to be available to the patient if they wish to transfer to another practitioner or, with the consent of the patient, to the new practitioner. Patients should be informed of the intentions of the practitioner.

### **4.3 Confidentiality**

The protection of confidentiality is a legitimate expectation of patients and failure to observe confidentiality may be regarded as unacceptable professional conduct.

The practitioner must abide by the law of the country including that relating to electronic recording of patient information including the Data Protection Act (1984).

Practitioners have an implicit duty to keep all information concerning, and views formed about, patients entirely confidential. Practice personnel must maintain the same level of confidence. This duty applies also to disclosure of information about a patient to a member of the patient's family, other than parent, guardian or the person legally responsible for the patient's interests.

A practitioner may disclose information relating to a patient:

- if disclosure is required by statute or law
- if the practitioner believes it to be in the patient's interest to disclose information to another health professional
- if the practitioner believes it to be essential for the sake of the person's health to disclose information to someone other than a health professional
- if the advice of the Professional Conduct Officer is that disclosure should be made in the public interest.

In each of the cases referred to the practitioner shall:

- inform the patient, before disclosure takes place, of the extent of the information to be disclosed, the reason for the disclosure and, where possible, the likely consequences
- disclose only such information as is relevant, and ensure that the information is held in an appropriate manner by the person to whom it is disclosed
- record in writing both the information disclosed and the reasons for disclosure
- be prepared to justify the decision

### **4.4 Court proceedings**

Patient records do not enjoy legal protection; police can apply to a Court for an order for access, and the Court may insist on disclosure.

If requested to provide a copy of patient records or to give evidence in court, the practitioner should immediately refer the matter to the Professional Conduct Officer for advice. In a court of law, the practitioner may request the Court's exemption, for not wishing to divulge information between patient and practitioner on the grounds of professional confidentiality. If the court overrules this contention and requires disclosure, the practitioner should be aware that further refusal may place the practitioner in contempt of Court. For a member refusing to divulge information and found in contempt of court, the Professional Conduct Committee will not hold the member to be acting in breach of this Code of Conduct.

Note: In cases where the practitioner withholds information against a Courts decision, the Court may construe the action to be an attempt to obstruct the course of justice. In cases where sensitive information is given to a practitioner, especially regarding activities of a possibly criminal nature, members are strongly advised to take legal advice and to consult the Professional Conduct Officer.

#### **4.5 Research**

When taking part in clinical trials, clinical audit, case-history reporting, qualitative research or any other method of research, practitioners must ensure that:

- where appropriate, they adhere to a research protocol which has been approved by the appropriate ethics committee, adequate records are maintained and the true findings published
- informed consent is obtained from any patient
- the confidentiality of the patient is maintained
- current professional guidance is sought

## 5. Relationship with Colleagues

### 5.1 Honourable Conduct

Practitioners must at all times conduct themselves in an honourable manner in their relations with fellow practitioners and other healthcare professionals.

Practitioners should be respectful of the treatment philosophy of other professional associations.

Practitioners must not speak publicly in a derogatory manner with reference to colleagues. Criticism of fellow practitioners and other healthcare professionals should be communicated in a discreet and professional manner through the appropriate channels. Critical views concerning a fellow practitioner's competence and/or behaviour should be brought to the attention of the Professional Conduct Committee through the PCO, where possible with necessary evidence and the consent of any patients concerned for information disclosure.

Action taken by a member to persuade the patient of another practitioner to patronise him/her is in all circumstances considered unethical. It is advisable that members should apply a clear and proper procedure when exchanging or referring patients or dealing with the patients of other practitioners.

Where a practitioner wishes to pursue a complaint against another practitioner, the principles and procedures of the Council complaints and disciplinary procedure apply.

### 5.2 Communication with other healthcare professionals

Herbal practitioners must always be aware of the necessity to communicate with the relevant healthcare professional, directly or indirectly, when the expertise of such a professional fits more properly the needs of a particular patient.

Subjects of communication may include a request that a particular medical investigation be conducted; a request to refer to other medical practitioners/services (e.g. consultant, speech therapist, counsellor, physiotherapist); to alert the prescribing practitioner to a possible adverse drug reaction; to discuss the possibility of a patient withdrawing from a conventional drug onto a herbal medication; to query the appropriateness of a specific investigative procedure, medication, treatment plan, or diagnosis; to alert the patient's doctor to a possible undiagnosed condition or other problem (e.g. suspected abuse); to inform of a herbal medicine being prescribed and to list its contents, actions and potential adverse drug interactions; to alert the patients doctor to a possible case of a notifiable disease; to request further details of the patients case e.g. test results, prescribing details, treatment plan, diagnosis, prognosis; to ask for a professional opinion or to seek guidance and advice; to give feedback on a particular intervention; to give evaluation, criticism and praise.

When dialogue with another healthcare professional is deemed desirable the reasons for this should be explained to the patient. The patient should then have an opportunity to discuss these reasons. The patient's consent should be sought before contacting the other healthcare professional and their written and signed consent should be attached to the letter. A copy of all written communications should be kept on file and made available to the patient on request. There are circumstances when it may be appropriate to contact another healthcare professional without the patients consent (e.g. in cases of threatened suicide) or indeed their knowledge (e.g. when abuse is suspected).

A number of avenues of communication are open. These include letter, telephone, fax, email, and discussion in person. The professional letter however still remains the major medium for formal correspondence. Herbal practitioners are advised that all potentially important medico-legal issues should be documented in letter form and that copies of all

originals should be kept on file. There may be times when a matter is of such urgency that a letter sent by post is an unsuitable first choice of communication. If a fax or email is sent instead a copy of this should be kept on file. It may also be necessary to speak directly with a fellow healthcare professional, making email or fax an unfeasible alternative to a posted letter. In such cases a written account of the conversation should be made and saved. Such records will normally be stored appended to the patient's notes and/or in a file dedicated to professional case correspondence.

## **6. Relations with the Public**

### **6.1 Honourable conduct**

Practitioners shall at all times conduct themselves in an honourable manner in their relations with the public.

Communication with the public may include advertising, contact through the media (newspapers and other publications, television, radio, world wide web), talks to public groups, discussions with enquirers.

In all these instances the practitioner is required to conduct themselves in a manner congruent with the code of ethics, to avoid misleading claims to cure disease or in any way imply abilities beyond their competence, to seek to enhance the understanding of the theory and practice of herbal medicine.

### **6.2 Advertising**

The promotion of a practitioner's practice should be in compliance with both legal requirements and with the British Code of Advertising Practice.

Advertising and promotion must not be false or fraudulent. It is not permitted for the practitioner, in any form, to claim a cure for illness.

In cases where there are no legal guidelines regarding this issue, advertising and promotions should be in accordance with the code of conduct and also in line with that of other health care professionals.

Advertising and promotion, both in form and content, on paper, on websites or in any other presentation, shall be appropriate to the interests of patients and to the standing of the profession. Advertising shall not denigrate colleagues or other professions.

### **6.3 Teaching**

Practitioners are permitted to lecture to the public and other health-care practitioners, where the purpose is to promote an understanding of herbal medicine and the practitioner's mode of practice. These lectures should be of an informational nature, and not an instruction in the practice of herbal medicine.

The practitioner must not teach or instruct in the practice of herbal medicine on any course which is presented as being competence giving, but is not accredited by the Council or another legally established accreditation body.

## 7. Infringement of the Code

Infringement of this Code of Conduct may render practitioners liable to disciplinary action with subsequent loss of the privileges and benefits of registration.

A complaint can only be upheld when it is shown to be in breach of the Code of Conduct. However, it is the principle of ethical professional conduct which informs discussion of allegations made against practitioners. Practitioners must therefore always be prepared to explain and justify their actions and decisions. The interpretation of "unacceptable professional conduct" provided in the Code of Conduct cannot be exhaustive and is intended as guidance only.

The Professional Ethics Appeal Committee and Council are obliged to accept the findings of a court of law and are not able to re-open the investigation of facts which led to a conviction. The PEAC will consider only the seriousness of the conviction and any surrounding circumstances in mitigation. Practitioners should therefore treat with caution any encouragement to plead guilty to an offence and should take appropriate legal advice.

Where revalidation has been refused due to a relevant criminal offence (as defined by the PCC), due to ill-health or due to failure to fulfil the requirements of the revalidation committee, then the disciplinary procedure will be invoked by a complaint from the Board of the Council to the PCC.

## **COMPLAINTS AND DISCIPLINARY PROCEDURES**

The following procedures will be used to investigate all allegations made against practitioners.

### **8. COMPLAINTS PROCEDURE**

#### **8.1 The Professional Conduct Committee**

The Council will set up a permanent Professional Conduct Committee (PCC) which will have an effective role in promoting high standards of professional conduct. It will continue to review practice within herbal medicine in the light of current good practice in health professions and the wider society.

The PCC:

- will be responsible for the effective implementation of the Code of Conduct, Complaints Procedure and Disciplinary Procedure
- will ensure that a system for monitoring and audit of procedures is in place and maintained.
- will ensure procedures such that the strictest confidentiality is maintained at all parts of the procedure.
- will ensure that the time taken to make decisions is reasonable.
- will ensure that written or oral evidence is provided by any other relevant Council Committee such as TMEC or by any committee of a member professional body.

#### **8.2 Membership of PCC**

The Chair will be the Member of the Council responsible for ethics and professional conduct. There should be seven Members. At least two should be non-practitioners and the composition of the Committee will include legal representation, elected representatives of the profession and appointed or elected laypersons. The appointment procedure will be transparent, fixed term, with formal declaration of interests.

#### **8.3 Professional Conduct Officer**

The PCC will appoint a Professional Conduct Officer (PCO) who will be responsible to the PCC for implementation of the Complaints Procedure and Disciplinary Procedure. The PCO will be responsible for ensuring the progress of cases.

The PCO will be responsible for advising practitioners concerning the code of ethics and code of conduct, and complaints procedures.

#### **8.4 Verbal complaints**

Where a verbal complaint is received by any officer of the Council, this should be passed immediately to the Professional Conduct Officer (PCO). The name, address and telephone number of the complainant should be noted. The PCO should call the complainant within 48 hours.

The PCO may:

- record the complaint on an Action Log and contact the practitioner verbally in an effort to resolve the complaint. A system where some complaints can be dealt with informally and verbally can be supportive to all parties.
- request that the complaint be submitted in writing and send a pack including a summary of the Council complaints procedure and, where necessary, code of conduct, a form on which to give a statement and a form giving permission for an investigation.

- where the patient insists on remaining anonymous, enquire whether the complainant would like to speak to a mediator appointed by the Council.
- where the practitioner is not on the register of the Council, advise the complainant how to pursue the matter directly with the practitioner.

## 8.5 Written complaints

Where a written complaint is received by any officer of the Council, it must be passed immediately to the PCO and a reply sent within 4 days.

The PCO may:

- record the complaint on an Action Log and contact the patient and the practitioner by telephone in an effort to resolve the complaint.
- request further details and send a pack including a summary of the Council complaints procedure and where necessary, code of conduct, a form on which to give a statement and a form giving permission for an investigation.
- refer the complaint directly to the Professional Conduct Committee to refer to the disciplinary procedure. The Professional Conduct Officer will need to be able to refer immediately to specialised legal advice where it appears that the complaint may have to be passed straight to the Disciplinary Procedure.

## 8.6 Progress of complaints

The PCO, with reference to the Council Code of Conduct and related Council documents, will be able to resolve some complaints. The PCO must submit an anonymised report to the PCC of all complaints dealt with during the preceding period. The PCC will review the decisions and recommendations of the PCO.

When the complaint is resolved, whether verbally or by correspondence, the Action Log and any relevant documents must be kept on file for seven years. (Guidelines to be prepared for this procedure).

## 8.7 Referral to PCC

Where the PCO refers the complaint to the PCC, the complainant must be kept informed of progress and informed of the next meeting date of the PCC.

The Professional Conduct Committee reviews all written complaints and has the authority to:

- dismiss the complaint.
- investigate whether the health of the practitioner is such that there is a risk to patients
- complete the complaints procedure and, for example, reprimand the practitioner or advise the practitioner to take further training or advice.
- refer any complaint to be dealt with according to the Disciplinary Procedure.
- advise the Council to make an interim order suspending registration for a specified period, while the Disciplinary Procedure is completed. Criteria for such decisions will be prepared based on the General Medical Council interim orders committee referral criteria.
- advise that, where any practitioner against whom a complaint has been made which is under investigation, tenders his/her resignation or allows his/her registration to lapse by not renewing their subscription, the resignation will be received and placed on file but not accepted until the Complaints and Disciplinary Procedure is completed.

It is the duty of the PCO, acting on behalf of the PCC, to ensure that the practitioner complies with any advice. Non-compliance with advice may result in a further allegation of unacceptable professional conduct.

## **9. DISCIPLINARY PROCEDURE**

Where the Professional Conduct Committee wishes to investigate an allegation of unacceptable professional conduct it will, within 7 days, appoint a Professional Ethics Sub-Committee (PESC).

### **9.1 Composition of the Professional Ethics Sub-Committee**

The PESC consists of not less than three and not more than five persons appointed by the Professional Conduct Committee, to include a minimum of three herbal practitioners who provide a reasonably balanced representation of the Membership preferably including a representative of the traditional system practised by the Practitioner concerned. If, after the first hearing, the membership of the PESC shall fall below five, for any reason whatsoever, the remainder of the members of the PESC who sat at the first hearing shall be deemed to be a properly constituted PESC for further or adjourned hearings provided that their number does not fall below three. No more than one member of the PESC should be a member of the PCC, the Council or the Board of any of its associated professional bodies.

Any person about whose conduct a complaint has been made or who has lodged a complaint against a Member or is likely to be called upon to give evidence in relation to any such complaint or who is directly interested in its outcome shall not be eligible to sit on the PESC at which any such complaint is considered.

### **9.2 Notice to practitioner**

The PCC shall, within 7 days of the decision to refer the complaint to the disciplinary procedure, serve on the practitioner concerned written notice of the allegation made against him including:

- full details of the complaint made against him.
- the date, time and place of the first hearing of the PESC which shall be not less than 15 days after the date of service of the notice.
- notification of his right to submit a full written statement of evidence on his own behalf.
- a written request to submit oral evidence on his own behalf if he wishes to do so.
- notification that such statement and/or request must be served on the PESC not more than 12 days after service on the practitioner concerned of the notice specified in this clause.
- notification of the practitioner's right to seek legal representation.

### **9.3 Postponement of hearing and request for further evidence**

The Member concerned may, not less than 7 days before the date for the hearing notified to him/her (but not an adjourned or postponed hearing), serve on the PESC a request for further time in which to prepare his/her case. The PESC shall, on receipt of such a request, adjourn or postpone the hearing for a period of at least 15 days from the date of the request for further time.

The PESC may call for such further evidence as it may require to be submitted before the first or subsequent hearings (or any adjournment or postponement), provided that it serves on the practitioner concerned a written notice including reasonably full details of such further evidence and notifying him of his right to submit:

- a written reply to such further evidence
- a written request to give oral evidence in reply to such further evidence

Such reply and/or request is to be served on the PESC not more than 14 days after service on the practitioner concerned of such notice of further evidence. If there are less than 14 clear days between the service of such a notice of further evidence and the date (or adjourned or postponed date) of the first or subsequent hearing, the PESC shall postpone or

adjourn such hearing and give notice thereof at the same time as it serves the notice of further evidence specified in this Section.

#### **9.4 Conduct of the enquiry**

The decision whether to accept oral evidence at the first hearing shall be at the absolute discretion of the PESC who shall, before the date of the first hearing, or any adjourned or postponed date, serve on the practitioner notice of such decision.

If the practitioner concerned shall fail to serve a statement and/or reply and/or notice in accordance with 9.2 or 9.3, the PESC may, after expiry of the time for service permitted by such clause, proceed to the first hearing without considering any written evidence which would have been included in such statement and/or reply and/or notice and in the absence of the practitioner concerned.

The PESC may adjourn or postpone (more than once, if necessary) any hearing for such period as it thinks fit, provided that at least 15 days before the new date fixed for such hearing, it serves written notice of the new date, time and place for such hearing on the practitioner concerned.

#### **9.5 Decision of Professional Ethics Sub-Committee**

The PESC shall, at the time and place and on the date notified for the first hearing, or of any duly notified postponement or adjournment thereof, meet to decide whether a case of unacceptable professional conduct has been made out against the practitioner concerned.

If it finds that a case has not been made out against the practitioner concerned, the PESC shall dismiss the case.

If it finds that a case has been made out, then it shall hear the matter and, if it finds the case proved, it may advise the Professional Conduct Committee to:

- admonish the practitioner
- admonish and fine the practitioner concerned a sum not exceeding £2,000 requiring him to pay such sum within 28 days.
- make the practitioner subject to a conditions of practice order for up to three years, or a suspension order for up to one year and refer the case to the Professional Ethics Appeal Committee

#### **9.6 Decision of Professional Conduct Committee**

The Professional Conduct Committee shall, not more than 28 days after receiving the report of the PESC, submit a written report to the Council and serve written notice on the practitioner concerned of the decision of the PCC and of his right to appeal to the Professional Ethics Appeal Committee and details of the appeal procedure.

#### **9.7 Appeal by practitioner**

If the practitioner concerned intends to appeal to the PCC against either the finding of the PESC or the penalty imposed or a fine imposed, he shall appeal not more than 28 days after service on him of written notice of the decision of the PESC and PCC. If the practitioner concerned fails to serve such notice within such time, his right to appeal shall be lost.

If the PCC shall have received notice of appeal in accordance with 10.8, it shall, within 14 days, notify the practitioner of the date that the appeal procedure will begin.

## **9.8 Service of notices**

Notices to be served in connection with any procedure relating to unacceptable professional conduct shall be served in accordance with the following procedure:

- a notice may be served by the Council, PCC, PESC OR PEAC upon any practitioner either personally or by letter, sending it by first class recorded delivery post addressed to the practitioner at his last registered address.
- a notice so sent through the post shall be deemed to have been served two days following that on which the letter containing the same was posted.
- any notice, requisition or other document which is to be served on the PCC, Council or any officer thereof may be served by sending it by first class postal delivery to the Registered Office.

## **9.9 Professional Ethics Appeal Committee**

The Appeal will be heard by the Professional Ethics Appeal Committee. The PEAC shall have vested in it all the powers and discretions conferred upon the Council by the Memorandum of Association or by these clauses so far as they relate to any disciplinary action to be taken against a practitioner or the reason therefore.

## **9.10 Composition of Professional Ethics Appeal Committee**

The PEAC shall consist of six to seven persons, including at least two lay members, who will be assisted by a Legal Assessor who shall be a barrister or solicitor. The PEAC is appointed by the Council, with the advice of the PCC, using appropriate procedures. If sufficient members of the PEAC are not available or eligible to form a quorum, sufficient additional persons may be appointed by the Council as members of the PEAC to constitute such quorum.

A minimum of four members of the PEAC must be herbal practitioners preferably including a representative of the traditional system practised by the Practitioner concerned. No more than two members of the PESC should be a member of the PCC, the Council or of the Board of any of its associated professional bodies.

## **9.11 Notice to practitioner**

The PEAC shall serve on the Member concerned written notice informing him of the hearing, which shall be not less than 15 days after the date of service of such notice, and notifying the Member concerned of his right to submit:

- notice of his intention to be heard in person or by his counsel, solicitor or lay representative.

Such notice or statement to be served on the PEAC not more than 14 days after service on the practitioner concerned of the notice specified in this clause.

The practitioner concerned may, not less than 7 days before the date for the hearing (but not an adjourned or postponed hearing) notified to him, serve on the PEAC a request for further time in which to prepare his case. The PEAC shall, on receipt of such a request, adjourn or postpone the hearing for a period of at least 15 days from the date of the request for further time.

## **9.12 Decision of Professional Ethics Appeal Committee**

The PEAC shall at the time and place and on the date notified for the hearing or any duly notified postponement or adjournment thereof meet to determine the case. In considering the case, a conviction of any offence or any finding of fact by a Court or competent jurisdiction or of any other relevant professional tribunal shall be binding on the PEAC. After hearing all the evidence presented for and against the Member concerned, the PEAC shall determine whether he has been guilty of unacceptable professional conduct.

If it finds that he has not been guilty of unacceptable professional conduct, the PEAC shall dismiss the case.

If it finds that he has been guilty of unacceptable professional conduct it shall:

- admonish the practitioner
- admonish and fine the Member concerned a sum not exceeding £1000, requiring him to pay such sum within 28 days
- make the practitioner subject to a conditions of practice order for up to three years or suspension order for one year
- remove the name of the practitioner from the Register

The PEAC shall, not more than 14 days after the final hearing, serve written notice on the Member concerned of its decision which will be final and binding on all parties and shall submit a written report to the Council.

The final decision to remove the name of the practitioner from the register must be ratified at a meeting of the Council

### **9.13 Fines**

No Member who has been fined, shall, so long as his fine remains unpaid, be entitled to attend or take part in the meetings of his/her Professional Association nor shall he/she be entitled to vote. If any Member on whom a fine has been imposed in accordance with 9.12 or 10.13, shall fail to pay such fine in full within the period required for payment thereof, the Council may resolve that name be removed from the Register forthwith, and, if it thinks fit, the Council may prescribe a period of time during which no application for reinstatement of the Member concerned shall be considered.

### **9.14 Reinstatement onto Register**

A person who has been removed from the Register, or whose membership has been terminated, may apply for re-admission to the Register, provided that such application is made after any period which has been prescribed in accordance with such clauses and subject to the provisions of Council Articles (reinstatement following termination of membership or expulsion from the Register).

### **9.15 Variation in rules**

The Council, having been advised by the PCC, shall have power to make or vary rules for any matters or procedures relating to unacceptable professional conduct which are not covered by these clauses.