

## EMDR ASSOCIATION

COMPANY NUMBER: 07428145

CHARITY NUMBER: 1140865

### COMPLAINTS and DISCIPLINARY POLICY

This Disciplinary Policy is intended to clarify the procedure to be followed in circumstances where the board of trustees of EMDR Association becomes aware of any issues relating to a member's conduct that might require disciplinary action, including (without limitation) the removal of a member under the Articles of Association of EMDR Association.

#### 1. Definitions

Complainant	person making a formal complaint about a member;
Defendant	member about whom a formal complaint has been made;
Misconduct	any action that is contrary to the standards expected of a member which are outlined in the Code of Conduct for Members.

#### 2. Principles

- 2.1. To ensure that the Code of Conduct is upheld, from time to time it may be necessary to conduct investigations into instances of misconduct or complaints against EMDR Association members.
- 2.2. These investigations:
  - 2.2.1. Will uphold the principle that defendants are innocent of all allegations until the formal process has been concluded and a decision reached;
  - 2.2.2. Will ensure a fair hearing for the defendant through a committee process with the right to appeal;
  - 2.2.3. Will be conducted as quickly, confidentially and professionally as possible to minimise distress to all concerned.
- 2.3. Complainants may be identified to defendants but the decision as to whether or not to do so will be at the discretion of the trustees of EMDR Association. The identity of a complainant will not be disclosed in circumstances where the trustees judge that to do so might endanger the complainant.
- 2.4. Complaints judged to be vexatious, for example if they are not substantiated in writing or with evidence, will not be considered, and members found to be making vexatious complaints are themselves considered to be in breach of the Code of Conduct.
- 2.5. Wherever reasonable EMDR Association will seek to conciliate to resolve any possible complaint.
- 2.6. The trustees hold the view that minor conduct issues can often be resolved informally by way of discussion between the President (or any other trustee) and the member or members concerned. These discussions should be held in private and without undue delay whenever there is cause for concern. Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).

- 2.7. EMDR Association shall have no liability to any member or third party for any member's non-compliance with the law. All members agree to abide by the law, in particular not to defame anyone or commit libel. Members indemnify EMDR Association against any damage, costs, expenses or other claims for compensation arising from any material supplied by them which is indecent, untrue, defamatory, libellous or otherwise contrary to the legal rights of other members or third parties.
- 2.8. Members who have been expelled or otherwise sanctioned under this Policy shall have no claim against EMDR Association (whether in contract or in tort, including negligence).

### **3. Making complaints**

- 3.1. Any EMDR Association member may bring a complaint against an EMDR Association member who they believe to be in breach of the Code of Conduct.
- 3.2. It will be the duty of all members to bring to the attention of the trustees a complaint against a member who they believe to be in breach of the Code of Conduct.
- 3.3. The process for making a complaint shall be as follows:
  - 3.3.1. A person wishing to make a complaint will be sent a copy of the Code of Conduct and asked to confirm that they wish to make a formal complaint;
  - 3.3.2. Complaints must be sent confidentially in writing to the President and include full details and evidence of the alleged breach of the Code of Conduct;
  - 3.3.3. Provided the complaint does fall within the scope of the Code of Conduct, the President will send details of the complaint to the defendant and invite him or her to respond in writing;
  - 3.3.4. A Disciplinary Panel will be set up by the trustees of EMDR Association, comprising of at least three trustees. The Disciplinary Panel will meet to examine the complaint and available evidence and begin to conduct any investigation that may be required.

### **4. Investigation**

- 4.1. The purpose of an investigation is for the Disciplinary Panel to establish a fair and balanced view of the facts relating to any disciplinary allegations, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from a complainant, defendant and any witnesses, and / or reviewing relevant documents.
- 4.2. Investigative interviews are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held.
- 4.3. A defendant will not normally have the right to bring a companion to an investigative interview. However, the Disciplinary Panel may allow a defendant to bring a companion if it helps to overcome any disability, or any difficulty in understanding English.
- 4.4. All parties involved in an investigation are expected to co-operate fully and promptly in any investigation. This will include informing the Disciplinary Panel of the names of any relevant witnesses, disclosing any relevant documents and attending investigative interviews if required.

### **5. Notification of a Hearing**

- 5.1. Following any investigation, if the Disciplinary Panel considers there are grounds for disciplinary action, the defendant will be required to attend a disciplinary hearing. The Disciplinary Panel will inform the defendant in writing of the allegations against him or her, the basis for those allegations, and what the likely range of consequences will be if the Disciplinary Panel decides after the hearing that the allegations are true. The Disciplinary Panel will also include the following where appropriate:
  - 5.1.1. a summary of relevant information gathered during the investigation;
  - 5.1.2. a copy of any relevant documents which will be used at the disciplinary hearing; and
  - 5.1.3. a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case the Disciplinary Panel will provide as much information as possible while maintaining confidentiality.
- 5.2. The Disciplinary Panel will give the defendant written notice of the date, time and place of the disciplinary hearing. The hearing will be held as soon as reasonably practicable, but a defendant will be given a reasonable amount of time to prepare for the hearing.

## **6. Right to be accompanied**

A defendant will not normally have the right to bring a companion to a hearing. However, the Disciplinary Panel may allow a defendant to bring a companion if it helps to overcome any disability, or any difficulty in understanding English.

## **7. Procedure at disciplinary hearings**

- 7.1. If a defendant cannot attend the hearing the defendant should inform the Disciplinary Panel immediately and an alternative time will be arranged. Defendants are expected to make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct in itself. If a defendant fails to attend without good reason, or is persistently unable to do so (for example for health reasons), the Disciplinary Panel may take a decision based on the available evidence.
- 7.2. The hearing will be chaired by a member of the Disciplinary Panel selected by the Disciplinary Panel.
- 7.3. At the disciplinary hearing the Disciplinary Panel will go through the allegations against the defendant and the evidence that has been gathered. The defendant will be able to respond and present any evidence.
- 7.4. The Disciplinary Panel may adjourn the disciplinary hearing if it needs to carry out any further investigations such as re-interviewing witnesses in the light of any new points raised during the hearing.
- 7.5. Decisions by the Disciplinary Panel will be taken on the basis of what is reasonable on the balance of probabilities. If the Disciplinary Panel is not unanimous the decision can be made on a majority vote.

- 7.6. The Disciplinary Panel will inform the defendant in writing of its decision and its reasons for it, usually within two weeks of the disciplinary hearing.

## **8. Penalties**

- 8.1. The Disciplinary Panel may dismiss a complaint against a member on the basis of either not being relevant to the Code of Conduct or lack of evidence, or may uphold or partially uphold the complaint and sanction the defendant.

- 8.2. No penalty should be imposed without a hearing. The trustees aim to treat all members fairly and consistently, and a penalty imposed on another member for similar misconduct will usually be taken into account but should not be treated as a precedent. Each case will be assessed on its own merits. The usual penalties for misconduct are set out below:

- 8.2.1. A written reprimand;

- 8.2.2. Suspension of membership for up to one year;

- 8.2.3. Exclusion from holding an official post (such as being a member of a committee) or from representing EMDR Association at any external event or occasion for up to one year;

- 8.2.4. Permanent removal from membership.

- 8.3. No refund of paid membership fees will be made in the event of the above sanctions.

- 8.4. Immediately upon being expelled or suspended as a member, members must stop using the EMDR Association logo or the name EMDR Association. They should take down any signage and stop using any stationery etc. incorporating the logo or the name.

## **9. Appeals**

- 9.1. If a defendant feels that disciplinary action taken against him or her is wrong or unjust the defendant may appeal in writing, stating the full grounds of appeal, to the President within one week of the date on which the defendant was informed in writing of the Disciplinary Panel's decision.

- 9.2. An Appeal Panel will be set up by the trustees of EMDR Association, comprising of at least three trustees. Where possible, the Appeal Panel will be comprised of trustees who have not been previously involved in the case

- 9.3. If a defendant raises any new matters in his or her appeal, the Appeal Panel may need to arrange for further investigation to be carried out.
- 9.4. The Appeal Panel will give the defendant written notice of the date, time and place of the appeal hearing.
- 9.5. The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at the discretion of the Appeal Panel depending on the circumstances of the particular case. In any event the appeal will be dealt with as impartially as possible.
- 9.6. The Appeal Panel may adjourn the appeal hearing if any further investigations are required in light of any new points the defendant has raised at the hearing.
- 9.7. Following the appeal hearing, the Appeal Panel may:
  - 9.7.1. confirm the original decision;
  - 9.7.2. revoke the original decision; or
  - 9.7.3. substitute a different penalty.
- 9.8. The Appeal Panel will inform the defendant in writing of its final decision as soon as possible, usually within one week of the appeal hearing. There will be no further right of appeal.

## **10. Review**

This policy will be reviewed every three years or more regularly if the trustees identify problems or in the light of emerging legislation or best practice that could impact on this policy.

**Date: 2019/03/23**

**Date of next review: 2022/03/23**