

Referral of Ethical Complaints to Police

For the purpose of this Position Statement, the following definitions apply;

"Police" means the commonwealth, state or territory police force that is the most appropriate body to refer the complaint to;

"Serious Complaint" means a complaint that;

- a) indicates that a member may have engaged in criminal conduct;
- b) reasonably appears that it can be substantiated; and
- c) is considered sufficiently serious and is of a nature that justifies referral to police;

Preamble

Members of Massage & Myotherapy Australia (Association) are required to act in accordance with the [Association's Constitution](#)ⁱ, [Code of Ethics and Standards of Practice](#)ⁱⁱ which describe the standard of professional conduct expected of members. Under Clause 6.11 of the Constitution the National Ethics Committee (NEC) may, if the Code of Ethics is breached or a member is otherwise engaged in conduct unbecoming of a member, discipline that person.

Aim

The Association is committed to responding to complaints and to resolving them in a timely, professional and fair manner. From time to time, the Association is likely to receive a Serious Complaint. The aim of this position statement is to provide a standard where all Serious Complaints will be handled in accordance with the [Disciplinary and Dispute Resolution Procedure Guidelines](#)ⁱⁱⁱ and in conjunction with this policy.

Process

Referral of Complaints to Police

The Association considers that the referral of a Serious Complaint to police is a very significant step and it will never be undertaken lightly.

The CEO, or their delegate, will consult with the Chair of the Ethics Committee and the President to determine whether the complaint is a Serious Complaint. If the complaint is considered a Serious Complaint, the Association will refer the Serious Complaint to police as soon as is reasonably practical upon receipt of the complaint, but within three (3) business days. Any referral to police will be in writing from the CEO, or their delegate, as soon as is reasonably practicable following receipt of the complaint.

The Association may recommend to the complainant to contact the Police directly.

The act of referral of a Serious Complaint to police must not impact on the conclusion or finding made against a member in relation to the complaint in accordance with the Association's Disciplinary and Dispute Resolution Procedure Guidelines.

If, upon receiving a complaint the CEO considers that the matter is not a Serious Complaint, the CEO will refer the matter to the Chairperson of the NEC in accordance with the Association's Disciplinary and Dispute Resolution Procedure Guidelines.

The CEO will highlight to the NEC that the complaint is, in their opinion, not serious. The NEC may determine that a complaint is a Serious Complaint even if that complaint has not been highlighted as such. Upon receiving a Serious Complaint the Chairperson of the NEC will ensure that the complaint is reviewed and handled in accordance with the Association's Disciplinary and Dispute Resolution Procedure Guidelines.

Form of a Complaint – in writing

To constitute a Serious Complaint, the complaint, where practicable for the most efficient and effective outcome, should be submitted to the Association in writing on the complaint form. The full name and contact details of the complainant is required for Association follow up^{iv}.

Form of Complaint – not in writing

If a Serious Complaint is not received in writing, on an exception's basis, the Association may proceed to refer the matter to the police, however, will not proceed to review. However, each and every complaint must be assessed by the CEO and the Chair of the NEC on its merits and not the form of communication.

More than one complaint against a particular Member may become a Serious Complaint

Whilst a single complaint may not, in itself, constitute a Serious Complaint, two or more complaints when considered together, may amount to a Serious Complaint. Upon receiving a complaint about a member, the CEO, or their delegate, will review the member's file to ascertain whether the member has previously been proven to have engaged in conduct similar to the conduct that is the subject of the complaint. The NEC will consider whether a multiple number of complaints together constitute the complaint being elevated and treated as serious for referral to police.

Effect of a Referral on Disciplinary and Dispute Resolution Procedure Guidelines

Despite any referral to police, the NEC must carry out all reviews and make decisions in accordance with the Association's Disciplinary and Dispute Resolution Procedure Guidelines.

Only where a court of law has convicted a member of a criminal offence, and that conviction relates to the subject matter of a complaint, may the NEC take the conviction into account when handling the complaint.

Informing Members and Clients of Referrals to Police

If a Serious Complaint is referred to police, the CEO, or their delegate, will simultaneously write to the complainant and the member whose conduct is the subject of the complaint informing them that the matter has been referred to police.

Confidentiality

For the avoidance of doubt, the Association's standards of confidentiality apply to referring the complaint. It is incumbent on the Association by contractual agreements that the Association notify the individual Private Health Funds of the Serious Complaint.

ⁱ AAMT Constitution

ⁱⁱ Code of Ethics & Standards of Practice

ⁱⁱⁱ Disciplinary & Dispute Resolution Procedure Guidelines

^{iv} Ibid. Disciplinary & Dispute Resolution Procedure Guidelines