

Referral of Ethical Complaints to Police

For the purpose of this position, 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;

"Urgent Serious Complaint" means a complaint that is sufficiently serious and is of a nature that warrants immediate referral to police.

Preamble

Members of Massage & Myotherapy Australia (Association) are required to act in accordance with the Association's Constitutionⁱ, Code of Ethics and Standards of Practiceⁱⁱ 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 seriously 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 Guidelinesⁱⁱⁱ and in conjunction with this policy. Unless the Association's Disciplinary and Dispute Resolution Procedure Guidelines are inconsistent with this policy, the referral of a Serious Complaint to police will not alter the operation of the Association's Disciplinary and Dispute Resolution Procedure Guidelines which must still be adhered to.

Process

The Association considers that the referral of a Serious Complaint to police is a very significant step and it will never be undertaken lightly. Such referral will only occur in accordance with the policies and procedures in existence at the time and only when, on a sound basis, it is reasonably believed to be appropriate action.

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.

Referral of Complaints to Police

If the Association reasonably believes a complaint to be a Serious Complaint or Urgent Serious Complaint the Association will refer the Serious Complaint to police.

If, upon receiving a complaint the CEO considers that the matter is not a Serious or Urgent 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 or urgent. The NEC may determine that a complaint is a Serious Complaint or Urgent 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 investigated and handled in accordance with the Association's Disciplinary and Dispute Resolution Procedure Guidelines.

Any referral to police will be in writing from the CEO, or their delegate, as soon as is reasonably practicable.

Form of a Complaint

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

However, each and every complaint must be assessed on its merits and not the form of communication.

A Serious or Urgent Complaint, in whatever form received, must be investigated in accordance with the Association's Disciplinary and Dispute Resolution Procedure Guidelines notwithstanding that those guidelines deal primarily with written complaints and the limited nature of the investigations possible where a complainant is not available to assist.

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

Whilst a single complaint may not, in itself, constitute a Serious or Urgent Complaint, two or more complaints when considered together, may amount to a Serious Complaint. Upon receiving a complaint about a member, the CEO 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 investigations 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 suspend the member's eligibility for health fund reporting until the matter is closed.

ⁱ AAMT Constitution

ⁱⁱ Code of Ethics & Standards of Practice

ⁱⁱⁱ Disciplinary & Dispute Resolution Procedure Guidelines

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