

SMTO Disciplinary & Complaints Policy

A guide to handling professional conduct and complaints

Information for SMTO Members and the general public

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Summary of the SMTO Disciplinary & Complaints Policy

The purpose of this guide is to set out the procedure to be followed when a complaint is received by the Scottish Massage Therapists Organisation (SMTO), either about the organisation, one of its affiliated schools or one of its Members.

Introduction

The Scottish Massage Therapists Organisation (SMTO) was formed in 1992 and exists to provide a service to the public, the Massage Therapist and the profession. The SMTO also works with the General Council for Massage and Soft Tissue Therapies (GCMT) in developing and maintaining standards, and has been approved by the Complementary and Natural Healthcare Council (CNHC) as a verifying organisation.

Our key function is to enhance public protection by ensuring that SMTO Members maintain these standards and demonstrate that they meet, as a minimum, the National Occupational Standards (NOS) for Massage Therapy. All SMTO Members must adhere to the SMTO Practice Standards: Code of Conduct, Performance and Ethics and agree to be bound by its terms to include the SMTO Continuing Professional Development Policy and the SMTO Disciplinary and Complaints Policy. Members of the public can expect Members to uphold these standards.

As a Professional Association, the SMTO provides membership to its Members and offers them the SMTO Block Scheme Insurance Policy if required and subject to acceptance by the insurers, Balens Ltd. The SMTO is an Introducer Appointed Representative of Balens Limited, 2 Nimrod House, Sandy's Road, Malvern, Worcs WR14 1JJ, who are authorised and regulated by the Financial Conduct Authority.

The purpose of this guide is to set out the procedure to be followed when a complaint is received by the Scottish Massage Therapists Organisation (SMTO), either about the organisation, one of its affiliated schools or one of its Members.

The goal of the SMTO is to establish, maintain and improve the standards of all Massage Therapies in order to protect both the public and its Members. A Disciplinary & Complaints Procedure allows members of the public, as well as fellow practitioners, to make a complaint about a Member, affiliated training organisation or the SMTO itself, if they feel that it is appropriate. This helps us to ensure that the best service is available to everyone.

In the case where the complaint is made against a Member then, following initial investigation by the Secretary, the complaint will be:

- a) Dealt with by the Secretary or Designated Person (DP), i.e. an informal complaint
- b) Referred to the Professional Conduct Panel, i.e. a formal complaint

For the purposes of this document "Member" may refer to an individual or training provider/ establishment and "Complainant" refers to the person lodging the complaint.

Every SMTO Member is subject to the under mentioned Disciplinary and Complaints Procedure and agree to this by signing the SMTO membership application form.

Types of complaints which can be considered

The SMTO can only consider complaints about fitness to practice. These types of complaints are those which question whether an SMTO Member's fitness to practise is 'impaired' by:

- A lack of competence.
- Misconduct.
- Failure to observe personal standards, for example, acts of dishonesty, indecency or violence, conviction in a court of law, drunkenness or drug abuse. These may have serious consequences even if not directly connected with your professional practice. This would include a conviction outside of the jurisdiction if it would be considered to be a recognised conviction in this jurisdiction.
- Their physical or mental health.
- An adverse determination made by another regulator responsible for massage practice.
- Allegations that a successful application for SMTO membership has been made fraudulently or incorrectly.

Any action taken by the SMTO may affect a person's membership throughout the UK.

Cases can include:

- Theft
- Violence
- Child Pornography
- Inappropriate behaviour

Misconduct includes:

- Not keeping adequate or satisfactory records.
- Not communicating well enough with clients.
- Working under the influence of alcohol or drugs.
- Having sexual relationships with clients.

N.B. This is by no means an exhaustive list: each case will be considered separately with reference to the specific set of facts.

Disciplinary & Complaints Procedure

This procedure is designed to help and encourage all Members to achieve and maintain standards of conduct and practice as laid down in the SMTO Practice Standards: Code of Conduct, Performance and Ethics. The aim is to ensure consistent and fair treatment for all Members if a formal complaint is received about alleged violations of any of the set SMTO ethical standards, allegations of professional misconduct or allegations of serious impairment due to ill health of a Member of the SMTO.

The SMTO, the SMTO Committee and any Disciplinary Panels, e.g. Professional Conduct Panel (PCP) or Appeals Committee (AC) support the Member by following these procedures.

Principles

1. The SMTO can only become involved if the complaint is about an SMTO Member's fitness to practise. The SMTO cannot (i) look at complaints about professionals who are not members of the SMTO or (ii) help you make a claim for compensation.
2. All complaints will be received positively and taken seriously.
3. The SMTO considers all complaints including those, which if serious enough, would justify removing the Member from the online Directory of Therapists in order to protect the public.
4. All complaints should normally be made within six (6) months from the time of the event; however, complaints being made outwith these guidelines are at the discretion of the Secretary or Designated Person (DP).
5. The Secretary or DP of the SMTO is responsible for discussing the initial complaint and then initiating and ensuring that the correct procedures are followed. Many complaints may be satisfactorily resolved and dealt with quickly and easily by the initial response that is made. The SMTO Secretary will endeavour to liaise with the complainant and the Member to reach a resolution.
6. Complaints will be dealt with promptly and investigated thoroughly and all parties will be kept fully informed at all times especially when there is a delay in resolving the issue. Timescales are for guidance, and will depend upon the nature of the complaint, and should not be imposed where the integrity of the process may be compromised.
7. Once a completed formal written complaint form has been received by the SMTO the Member will be informed of the nature of the complaint/allegation against them and be given the opportunity to state their case.
8. If disciplinary action is necessary it will be taken only after the case has been fully investigated.
9. If disciplinary action is decided upon by the Secretary or DP then the matter will be referred to the PCP who may consider it necessary for a hearing to be arranged. The Member will have the right to be accompanied by a person of their choosing at any hearings that may be held, if they are invited to attend.
10. A Member will have the right to appeal against any disciplinary penalty imposed by the PCP through an Appeals Committee (AC). The decision of the Appeals Committee is final and binding on all parties.

Procedure

1. In the first instance, complaints should normally be directed to the SMT0 Secretary or Chairperson. Any Member receiving a complaint direct from a client and/or member of the public should refer this on to the SMT0 Secretary or Chairperson immediately.
2. Any complaint received verbally, electronically or in writing against a Member will be verbally acknowledged by the SMT0 and recorded in the Complaints Register. If in the event no formal written complaint is made the entry in the Complaints Register will be erased.
3. The Secretary, or DP, will acknowledge any verbal or written complaint, that is submitted to the SMT0, in writing, and will enclose a copy of the 'SMT0 Disciplinary and Complaints Policy' and the 'SMT0 Complaints Form' within five (5) working days of its receipt.
4. All complainants will be required to put their complaint in writing using the 'SMT0 Complaints Form' provided to them. If a written statement is not possible then an alternative method of recording the complaint will be agreed upon. If assistance is required in filling out the form contact should be made to the Secretary or DP.
5. The complainant should identify the persons alleged to be involved and the facts concerning the alleged conduct in as much detail and specificity as possible, with available documentation. The statement should identify by name, address and telephone number the person making the information known to the SMT0 and others who may have knowledge of the facts and circumstances concerning the alleged misconduct.
6. The completed 'SMT0 Complaints Form' should be addressed to the Secretary and sent by recorded mail. Supplementary information relating to the complaint may be requested.
7. Once the 'SMT0 Complaints Form' is received a copy of the formal written complaint will be sent to the Member, who is the subject of the complaint, requesting agreement or rebuttal within fifteen (15) working days. The Member will be advised to make immediate contact with their insurance company's claims department for advice. At the same time, the complainant will be sent written confirmation that the complaint is being investigated.
8. On receipt of the completed 'SMT0 Complaints Form' the Secretary or DP will carry out further investigation as appropriate. This review will normally take no longer than thirty (30) working days and includes time for the response by the Member to the complaint. If the complaint is of a minor nature it may be possible for the Secretary to resolve it and complaints falling into this category will normally be resolved within a further ten (10) working days.
9. On receipt of the reply by the Member who is the subject of the complaint, the Secretary or DP will determine if there is a case to be answered. It may be necessary for the Secretary or DP to consult with one or more relevantly qualified members of the SMT0 committee in order to make this decision.
10. Standard of Proof will be the civil and not the criminal standard. The burden of proof will be with the party or parties bringing the complaint, unless otherwise stated.
11. All Complaints are judged against the SMT0 Practice Standards: Code of Conduct, Performance and Ethics.
12. Professional misconduct complaints would include, but not be limited to (as already defined in pages 2 and 3):
 - inappropriate behaviour e.g. this would apply to complaints arising from lack of respect in regard to the views and beliefs of their clients in regard to gender, ethnic origins, culture, sexuality, lifestyle, age and social status.
 - exploitation of client/therapist relationship, e.g. disregard of personal and professional boundaries, involvement in sexual relationships, etc.
 - physical, sexual or verbal abuse of clients, and/or cyberbullying and inappropriate use of modern information and communication technologies, e.g. text, email, social media.
 - professional incompetence
 - stealing from clients
 - failing to keep proper records and/or falsifying them
 - failing to care for clients properly by obtaining consent
 - failing to care for client's property including safety in the treatment room
 - deliberately concealing unsafe practice
 - committing serious criminal offences

13. Medical unfitness to practise complaints, which would require two independent opinions to be sought, include:
 - alcohol or drug dependency
 - untreated mental illness
 - serious personality disorder
 - physical disability or illness, including contagious diseases
14. If it is decided there is no case to answer, the person making the complaint will be informed in writing of the decision and the reasons for the decision.
15. Where the complaint is to be referred for further investigation, or is deemed to be one of alleged professional misconduct or unfitness to practice, the Secretary will inform the members of the Professional Conduct Panel (PCP) and convene a meeting within fifteen (15) working days to review the complaint and discuss further action. The Chairperson of the PCP will be provided with a copy of the formal complaint to distribute to the PCP ahead of this meeting.
16. The PCP may take disciplinary action against the Member if in their opinion the Member has conducted him/herself in any way against the SMTO Practice Standards: Code of Conduct, Performance and Ethics. Such disciplinary action will follow the procedures herein set out.
17. Criminal proceedings. In the event that in the opinion of the PCP the matter complained of is in the nature of a criminal act or omission the complainant will be advised to contact her/his local police authority and the Member will be so informed. Regardless of the outcome the PCP may still take disciplinary action against the Member if in the PCP's opinion the therapist has conducted him/herself in any way against the SMTO Practice Standards: Code of Conduct, Performance and Ethics. Such disciplinary action will follow the procedures herein set out.
18. Having considered the complaint and the Member's reply, the Chairperson of the PCP or SMTO will send a written response within thirty (30) working days of the decision to proceed, making the PCP's findings known to the Member and the complainant.
19. Where considered necessary a hearing may be held. The PCP may call witnesses, who may include the person making the complaint and/or the Member who is the subject of the complaint. Additionally, the person bringing the complaint and the Member who is the subject of the complaint, have the right to provide a full written explanation of all the circumstances. In cases deemed by the PCP to be of a particularly serious nature the complainant and the Member may be invited, at the discretion of the PCP, to give personal evidence if they wish to do so and each may be accompanied by a person of their choosing, e.g. friend, adviser etc. All costs of attending any such hearing(s) shall fall to the parties.
20. If the PCP decides to arrange a hearing any party may request an adjournment in order for further facts to be gathered. The PCP, complainant and the Member who is the subject of the complaint should, in principle, agree on all dates and timings, however, should this prove impossible the decision of the PCP is final.
21. At the hearing, those invited, e.g. the complainant and/or the Member, may make opening statements, present documents and testimony, examine and cross-examine any witnesses, make closing statements and present written briefs as scheduled by the PCP.
22. Once the PCP has considered the complaint and the outcome of the hearing (where necessary) one or more of the following actions would be taken:
 - the case may be found unproven or does not constitute professional misconduct and/or unfitness to practice, in which case no action would be taken
 - a formal written caution or reprimand could be issued; this would be kept on record for a fixed period of time as specified by the PCP
 - recommendation of any other action as specified by the PCP including, but not limited to, counselling or retraining
 - a period of supervision with the possibility of formal reassessment before reinstatement, as appropriate
 - suspension of membership for a fixed period of time as determined by the PCP/SMTO after which the Member could apply formally to be restored to the online Directory of Therapists
 - interim suspension until such times that the problem has been resolved – this might be when criminal proceedings are underway and would be reviewed after the court case and/or every three months

- removal of the member from the online Directory of Therapists indefinitely
 - expulsion from membership N.B. sexual abuse of a client will result in automatic, permanent expulsion
 - or a combination of the above
23. Once the PCP reaches a decision, the Chairperson of the PCP or SMTO will send a written response within ten (10) working days to the Member and the complainant informing them of the ruling; this will contain factual findings, conclusions and any sanctions applied.
 24. All decisions of the PCP must be reported to the SMTO Committee at its next meeting. The SMTO Committee shall not have the power to overturn any decision (other than through the process of the Appeals Committee – set out below) but may advise the Chairperson of the PCP of its views.
 25. The Member and the complainant will have ten (10) working days to lodge an appeal or accept the decision of the PCP, **in writing**.
 26. If the decision rendered by the PCP is not favourable to the Member, they can appeal the decision to the SMTO Committee by submitting a written appeals statement to the Chairperson. The SMTO Committee will consider the appeal and any further evidence, and if the appeal is thought to be justified they will form an Appeals Committee (AC) and appoint a Chairperson. The final decision of the majority of the SMTO Committee will be binding.
 27. The Member and the complainant will be informed, in writing, as to whether the Appeal was deemed reasonable or not within ten (10) working days. If the complaint goes to the Appeals Committee (AC) then the decision of the Appeals Committee is final and binding on all parties.
 28. Should the complaint be upheld by the AC, they can uphold the decision of the PCP or apply their own sanction, see clause 21 above.
 29. The name of any Member expelled from the SMTO will be advised to any other professional organisation to which the Member belongs.
 30. In the event the complaint is withdrawn at any time, the Member will be informed and, subject to clause 2 above, the complaint will be deleted from the Member's record.
 31. The upkeep of the Complaints Register is the responsibility of the Secretary or DP and will contain accurate records of all complaints and their outcomes; this includes complaints about individual Members, affiliated training organisations or the SMTO itself.
 32. The Secretary will inform the SMTO Committee of the number of complaints in the Complaints Register, and their outcomes at the SMTO Committee Meetings.
 33. If the Complaints Register has been updated in the twelve (12) months following the SMTO AGM, then a Complaints' Report will form part of the Secretary's AGM report for all **completed** complaints.
 34. Costs. No costs are charged for the process of the Initial Investigation or PCP but the Member will be charged a fee of £100.00 to cover the costs of any Appeal by that Member.
 35. Non-renewal. Should the Member's SMTO membership expire during the complaints process it will be at the discretion of the SMTO whether to continue with the process or not.

Initial Investigation

1. In the case where a complaint is made against a Member an initial investigation into the complaint will be completed by the Secretary, or Designated Person (DP)
2. If the complaint is informal then the Secretary or DP will deal with the complaint in an 'informal' way.
3. If the complainant has completed and submitted the SMTO Complaints Form, the Member will be given the opportunity to respond to the complaint, and if disciplinary action is decided upon by the Secretary or DP then the matter will be referred to the Professional Conduct Panel (PCP).

Professional Conduct Panel (PCP)

1. The Members of the SMTO Committee shall elect persons to form the Professional Conduct Panel (PCP). The PCP shall consist of a Chairperson and two other Members.
2. The Chairperson will be a permanent appointment on a fixed two-year term. There is no limit to the number of consecutive terms a Chairperson may be appointed.
3. The other two members will be invited as required and will be drawn from a wide range of modalities within complementary medicine, and will both be Members of the SMTO. However, in

exceptional circumstances, if in the opinion of the PCP Chairperson a particular expertise is needed to adjudicate the issue, one Member of the PCP may be appointed from outside the membership of the SMTO.

4. The Chairperson of the PCP may co-opt further Members, with the prior agreement of the SMTO, when considered appropriate.
5. The PCP will consider alleged violations of any of the set SMTO ethical standards, allegations of professional misconduct or allegations of serious impairment due to ill health of a registered massage therapist, referred to it by the Secretary or DP.
6. A PCP member may not serve in any situation where his or her impartiality or the presence of actual or apparent conflict of interest might reasonably be questioned.
7. A quorum consists of three PCP members, and PCP action shall be determined by majority vote.
8. Where a vacancy of a PCP member occurs as a result of resignation, unavailability, disqualification, expiry of term, or a conflict of interest (see 6 above), the members of the SMTO Committee shall designate or elect a substitute/replacement, as appropriate.

Appeals Committee (AC)

1. In the event of an appeal against the decision of the Professional Conduct Panel (PCP), an Appeals Committee (AC) will be formed by the SMTO Committee, and a Chairperson appointed.
2. The justification of the appeal and all documentary evidence and assessment by the PCP will be sent to the Chairperson of the AC.
3. The appeals procedure may take up to four calendar months.
4. The decision of the AC, submitted in writing to the SMTO Committee, is final and will be binding on all parties. Copies of the decision will be available to the Member and the complainant.
5. There is no further appeal process within the SMTO.

Contact Details

Any individual or organisation wishing to make a complaint against the SMTO (organisation), one of its affiliated schools or an SMTO Member, within the context of the SMTO Practice Standards: Code of Conduct, Performance and Ethics should in the first instance contact:

**THE SECRETARY
SCOTTISH MASSAGE THERAPISTS ORGANISATION
70 LOCHSIDE ROAD
BRIDGE OF DON
ABERDEEN AB23 8QW
Tel. 01224 822960 Email. info@scotmass.co.uk**

Appendix A: SMTO Complaints Form



Scottish Massage
Therapists Organisation

SMTO Complaints Form

Making a Complaint

The SMTO Disciplinary & Complaints Policy explains how the SMTO can help you if you have a problem with the SMTO, an affiliated training organisation or one of its Members. It will help you to understand how the SMTO deals with complaints against its members. If you have read the policy and wish to proceed with a complaint please help us by providing the following information. If you need help with this form, please telephone the SMTO and we will do our best to help you.

Section One - Your details

Name:	<input type="text"/>		
Address:	<input type="text"/>		
	<input type="text"/>	Postcode:	<input type="text"/>
Daytime Tel no.	<input type="text"/>	Mobile no.	<input type="text"/>
Email address:	<input type="text"/>		

	Yes	No
Are you the client in the complaint?	<input type="checkbox"/>	<input type="checkbox"/>
If yes, are you still seeing the Massage Therapist?	<input type="checkbox"/>	<input type="checkbox"/>
Are you complaining on behalf of a client?	<input type="checkbox"/>	<input type="checkbox"/>
If yes, what is your relationship to the client?	<input type="text"/>	
	Yes	No
Does the client know you are making this complaint on their behalf?	<input type="checkbox"/>	<input type="checkbox"/>
Have you raised the complaint directly with the Massage Therapist?	<input type="checkbox"/>	<input type="checkbox"/>

If yes, please describe what happened. If no, please explain why you decided not to.

	Yes	No
If you are claiming that your Massage Therapist has been negligent have you seen a solicitor or taken legal advice?	<input type="checkbox"/>	<input type="checkbox"/>

If you wish to make a complaint about a Member of the SMTO please complete SECTION TWO.

If you wish to make a complaint about an affiliated training organisation please complete SECTION THREE.

If you wish to make a complaint about the Scottish Massage Therapists Organisation please complete SECTION FOUR

All complainants must fill in Sections 1, (2, 3 or 4), 5 and 6 or the form will be returned as incomplete.

Section 2 – Massage Therapist Details

Please provide as much information as you can about the person that you are reporting. This will help us to identify them on the SMTO Database.

Name of Massage Therapist involved in the complaint:

Therapy practised:

Practice address:

	Yes	No
Were you/the client referred to the Massage Therapist by a doctor or other healthcare professional?	<input type="checkbox"/>	<input type="checkbox"/>

If yes, please give name and address.

	Date of first visit	Number of visits
Please state for how long you/the client had been going to the Massage Therapist and how many visits you/the client had.	<input type="text"/>	<input type="text"/>

Section Three – Training Organisation Details

Name of Training Organisation involved in the complaint:

Training organisation address:

Section Four – Complaint against the SMTO

	Yes	No
Do you wish to make a complaint against the Scottish Massage Therapists Organisation (SMTO)?	<input type="checkbox"/>	<input type="checkbox"/>

Section Five – Complaint Details

When did the incident take place?

Where did it take place?

Please describe what you think happened?

Did anyone else see what happened? If so, please give us their contact details.

Other Organisations

Have you reported this matter to anybody else (e.g. police, employer, another professional body)?

If so, what was their response?

Please give us their contact details. Please keep us informed of any progress with the matter you have reported and let us know the final decision.

Additional Information

Please list below any papers or documents that you are sending us with this form.

Please also use the space to provide us with any additional information that might help us to deal with this matter. Please continue on another page, if necessary.

Section Six – Checklist & Declaration

Thank you for completing this form. Now please make sure you have:

- Fully completed Section One – Your Details
- Fully completed Section Two – Massage Therapist Details (if applicable)
- Fully completed Section Three – Training Organisation Details (if applicable)
- Fully completed Section Four – Complaint against the SMTO (if applicable)
- Fully completed Section Five – Complaint Details
- Fully completed Section Six – Checklist & Declaration (please read this carefully)
- Given as many details as you can about your complaint, together with any supporting papers and documents.
- Kept a copy of this completed form for you records

Declaration

I have no objection to the Massage Therapist/Training Organisation/SMTO^{*delete} seeing my complaint

I consent to any medical/client records and/or reports being forwarded to the Scottish Massage Therapists Organisation to help them investigate the allegations that I have made

I would be willing to appear as a witness in any hearing that might take place

I declare that the information that I have given is true and accurate.

Signed:

Date:

If you would like to discuss any part of your complaint before sending this form, or would like help completing it, please telephone 01224 822956 / 01224 822960.

When you have completed this form, please send it recorded delivery, along with all supporting documents, to:

SMTO Secretary, SMTO, 70 Lochside Road, ABERDEEN AB23 8QW

We will acknowledge receipt of your complaint and then keep you informed about what is happening next.