

Handling complaints about therapists

Report of the UKCP
Professional Conduct Committee
1 January 2017–31 December 2017



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Foreword

Welcome to the Professional Conduct Committee's 2017 annual report. I hope you find it informative and that it reassures both UKCP members and the public, that we have a complaints procedure that is fit for purpose and operating well.

During 2017, we strengthened the way that we handle complaints with two key initiatives: our Alternative Dispute Resolution work and through producing our Indicative Sanctions Guidance.

Alternative Dispute Resolution will allow UKCP and its members to deal with a majority of complaints at grass roots level through facilitation and mediation. I would like to take this opportunity to put on record my personal thanks to Samantha Lind, one of our case managers, who was the driving force behind this project.

Another initiative is our Indicative Sanctions Guidance which is designed to complement our Complaints and Conduct Process, helping panel members when considering a sanction for proven cases of misconduct. Our aim is to ensure transparency, fairness, and consistency in our decision-making.

During the year, we held another complaints workshop, this one in London, and it was great to see so many members there. We produced a video of the day for those who could not attend and a link to this was sent to members in the first issue of our email complaints bulletin.

As promised, again in the new bulletin, the Professional Conduct Committee has produced with the help of the communications and complaints team a complaints leaflet that members can print off and display for members of the public. There are three versions, all contain the same information, and can be printed in black and white or colour.

We hope to issue a complaints bulletin four times a year. Thank you for all the positive feedback and suggestions received following the first release. Please contact the Complaints Team if you have missed the bulletin.

Brian Linfield MBE

Chair, Professional Conduct Committee

About UKCP

The UK Council for Psychotherapy (UKCP) is the UK's leading professional body for the education, training and accreditation of psychotherapists and psychotherapeutic counsellors.

Our register of over 8,000 individual therapists is accredited by the government's Professional Standards Authority. It includes the following health care professionals:¹

- psychotherapists
- psychotherapeutic counsellors
- psychotherapists who work with children, young people and families

As part of our commitment to protecting the public, we work to improve access to psychotherapy, to support and disseminate research, to improve standards and to respond effectively to complaints against therapists on our register.

The Complaints and Conduct Process

Our Complaints and Conduct Process (CCP)² has been in place since December 2012. It provides a centralised, transparent process for considering complaints or concerns raised by members of the public and clients about therapists on our register (also known as registrants).

The CCP has streamlined the way complaints are made and handled, resulting in a process that is much easier for the public to understand and engage with.

Our aim is that the CCP should:

- provide an objective and transparent way of dealing with concerns or complaints about therapists
- be relevant to the psychotherapy profession
- meet the Professional Standards Authority's requirements for accredited registers.

1. Defined by the Health and Social Care Act 2012.
2. For more information about the CCP visit <http://www.psychotherapy.org.uk/complaints>

The Professional Conduct Committee

The Professional Conduct Committee plays a key part in enabling us to meet our responsibility to maintain professional standards.

The Committee's remit is to contribute to the successful functioning of the Complaints and Conduct Process. It provides advice and guidance to our Complaints and Conduct Team and has oversight of each individual complaint that progresses through the CCP. Our Case Managers may call on the Committee to make the screening decision for an individual case if he or she feels unable to do so.

A key function of the Committee is learning from complaints. The Committee undertakes root cause analysis work at the conclusion of each case heard under the CCP in order to determine driving points for complaints and identify key areas of concern. This information is then used to help shape training programs and policy.

The Committee currently comprises a lay (non-therapist) chair, three professional UKCP members and three lay members. One of the professional members is also a member of UKCP's Ethics Committee, providing an easy way for the two committees to work together.

During the period covered by this report, the Professional Conduct Committee was as follows:

Brian Linfield MBE, Lay Chair

Brian comes from a 15-year background of statutory regulation within the water industry and as a regional lay chairman for complaints within the NHS. He sits as a specialist magistrate in the family court. He sits as a disability-qualified panel member of the First-tier Tribunal Service of the Social Entitlement Chamber and as a Specialist Member of the Health, Education and Social Care Chamber sitting on Mental Health appeals.

Shiela Foxgold

Sheila is a UKCP-registered psychotherapist who originally trained as a counsellor before qualifying as a psychotherapist in 2000. Her particular expertise and interest includes trauma work, the family dynamics of addiction, and therapeutic life story work with looked-after or adopted children and young people.

Graham Briscoe

Graham is a Chartered Engineer, Chartered Information Technology Professional, Certified Management Consultant and a Fellow of the British Institute of Facilities Management. Following his retirement in 2005, he has built up a portfolio of community investment involvement, including further education college governance and visiting fellowships and lectureships at a number of universities. He is a Board Non-Executive Director of the British Institute of Facilities Management and he chairs their Board's audit committee. He also provides pro-bono change and facilities management support to charity, voluntary and not-for-profit organisations in the South West and Wales. He is also a member of the Governors' Council at Bristol University Hospital, representing North Somerset.

Kedzie Penfield

Kedzie trained at the Scottish Institute of Human Relations. For the last 15 years, she has worked as a psychoanalytic psychotherapist with adults at a private practice in Edinburgh. She has served on various committees in voluntary organisations and is particularly interested in questions around complaints procedures and their relationship to ethics. As well as being a member of our Professional Conduct Committee, she co-chairs the Ethics Committee for the Scottish Association of Psychoanalytic Psychotherapy. She is UKCP and BPC registered.

Henry Adeane

Henry is a UKCP-registered psychotherapist. He divides his time between teaching, supervising and providing treatment. He works in the NHS, forensic settings, training placement organisations and private practice. He currently delivers clinical supervision at The Counselling Foundation, Cogwheel Trust and Centre 33. He is a Programme Lead on the BSc at Matrix College of Counselling and Psychotherapy.

Emi Gutwenger

Emi is an associate solicitor with Clifford Chance LLP and focuses on financial regulation. He has degrees in Austrian law and economics from Leopold-Franzens University in Innsbruck, Austria, and a graduate diploma in law from BPP Law School in London. Having previously worked as a judicial assistant in Austria and as a regular volunteer with various legal advice centres in London, he has considerable experience with judicial and quasi-judicial processes and complaints procedures.

Carmel Bamford

Carmel is a solicitor with over 25 years' experience of working in private practice and commercial organisations in the UK and Asia. She was a chair and a member of the Panel of Adjudicators of the Solicitors' Regulation Authority for five years and is a trustee of Age UK for the London Borough of Richmond.

The Complaints and Conduct Team

The Professional Conduct Committee works very closely with our Complaints and Conduct Team, from the receipt of a complaint or allegation through to its resolution. The team currently consists of a Complaints and Conduct Manager and two Case Managers. They are lay staff and have extensive experience in handling complaints and regulation in various fields.

The Complaints and Conduct Team receives all enquiries relating to complaints against psychotherapists registered with UKCP. It also addresses questions about best practice and provides information about the complaints process.

All complaints and allegations are received by the Case Managers, who are responsible for collecting all available information from the complainant and UKCP member. The information is put before the Professional Conduct Committee along with the Case Manager's recommendation regarding the way the complaint should be dealt with, taking into account UKCP's procedural requirements. The Committee then offers advice to the Case Manager, who then makes the final decision.

Neither the Case Managers nor the Committee make findings on the facts of the complaint. The Adjudication Panel makes findings of fact and it alone decides if an allegation is found proven and if so, whether any sanction should be imposed on the therapist.

Alternative Dispute Resolution

Last year our Board of Trustees approved a project to develop and implement a new Alternative Dispute Resolution process to sit alongside the CCP.

The CCP is by necessity a legalistic and thorough process. Only the most serious complaints – ones that suggest a member may not be fit to remain on our register – are sent down that route. ADR provides an alternate mechanism for resolving disputes or concerns, and will form an important part of our complaints process moving forward.

We started reviewing our current ADR process in February 2016. ADR is a voluntary process and one that only works if both parties have faith in the system. Therefore, we thought it only right that we speak directly to those who are going to be using the process on a day-to-day basis. To do this, we put a series of questions out for public consultation.

To determine the scope of the survey questions, we conducted interviews with more than 50 of our Organisational Members and Colleges, undertook detailed research regarding the use of ADR in the healthcare profession, and reviewed many different ADR and mediation policies.

The consultation was designed to cover a broad array of topics that our members and service users told us were important. This includes (but is not limited to):

- what sort of tools and types of resolution should be available
- whether mediation belongs at a local or more centralised level
- the confidentiality of mediation sessions
- independence and transparency of mediation
- cost of mediation
- mediation training.

We received 264 responses, and each was carefully considered and assessed. In April 2017, we produced and published a report detailing the consultation findings.³ We then instructed a working group to review the consultation results and work with us to produce a final ADR policy.

The working group was made up of representatives from the Professional Conduct Committee, the UKCP Complaints Team, our organisational members and colleges, professional mediators, and our registrants. The working group met during June and August, and developed a final process that was put before the Board of Trustees on 16 September for ratification. You can see the final process here (<https://www.psychotherapy.org.uk/wp-content/uploads/2017/12/Facilitation-and-Mediation-process-5-Dec.pdf>)

Now that the process is approved, we are training a pool of facilitators, and tendering a contract for external mediators. We will be promoting the process as a client-centric, positive process that will empower all parties to reach a constructive and collaborative resolution.

We will role out ADR fully once all the training, contracts and systems have been fully developed and tested.

3. <https://www.psychotherapy.org.uk/news/alternative-dispute-resolution-adr-consultation-results/>

Learning from complaints events

Centralising complaints against our members has allowed us to collate information and statistics to identify some common themes and trends.

In February 2016, we held a Learning from Complaints Workshop in London for our members to share some of what we had learned from handling complaints. Following the success of this workshop, we held another in the Manchester later that year in October, and another in London in October 2017. We are hoping to run another event in 2018.

These workshops aim to:

- provide an introduction of how UKCP's Complaints and Conduct Process works
- highlight areas of good practice
- enable attendees to gain a greater understanding of how we assess complaints – from the moment we receive a concern or complaint, to if and when it reaches an adjudication panel for a hearing
- provide the opportunity for attendees to ask questions and alleviate concerns through dialogue and discussion groups
- provide an update on the work we are doing on looking at other routes to resolve a grievance (alternative dispute) other than having to go through the formal complaints process.

Feedback from these events has been overwhelmingly positive. Although the days were filled with a lot of information to take in, members actively participated in lively discussions and debates throughout. Participants said they had a better understanding of the complaints and conduct process.

They also told us that meeting our Complaints Team made them feel that, should a concern or a complaint be made about them, it will be handled professionally, fairly and with the highest standards.

Complaints and complaint enquiries handled during 2017

While we take all complaints about our members very seriously and are committed to safeguarding the public, it is important to remember that the vast majority of members practise every day and never have a complaint made against them.

Whatever the cause or severity, each complaint is an opportunity for learning. By highlighting the causes of complaints in this report, we hope that members will review their current practices and procedures in order to avoid circumstances in which such trigger points may arise.

General enquiries

The Complaints and Conduct Team receive enquiries every day from registrants, organisational members, members of the public, or representatives from other professional organisations. Not all of these conversations are about complaints or are related to the CCP. For example, a therapist might contact the team to ask for advice about safely storing their client records.

Complaint enquiries

Before making a formal complaint, most people get in touch with the Complaints and Conduct Team to seek advice or discuss their problem. The team speaks to members of the public who might want to make a complaint and therapists who might be concerned about a particular client making a complaint. The Team also receives calls from people wanting to understand more about the CCP.

Complaints received and accepted

Once we receive a written and signed complaint, we consider this to be a formal complaint. All complaints are screened by a Case Manager to see whether they are within the scope of the CCP, and a decision about whether to refer the matter to an Adjudication Panel is made. This decision is based on the seriousness of the allegations, the quality of evidence, and whether or not the allegations constitute a breach of UKCP's Ethical Principles and Code of Professional Conduct.

Complaints activity

	Jan-Mar	Apr-Jun	Jul-Sep	Oct-Dec
CCP complaints received	6	6	8	10
Number of complaints accepted	2	0	1	0
General enquiries received	30	26	18	35
Complaint enquiries received	51	45	51	56
Number of Adjudication Panels	1	0	1	0
Number of appeals lodged	0	0	1	0
Number of appeals accepted	0	0	0	0
Number of interim suspension hearings	0	0	2	0

Complaint outcomes

When making a decision, an Adjudication Panel must follow a three-stage process. First it must determine whether the allegations are found proven; second, whether the allegations constitute misconduct and suggest that the therapist's current ability to practise unrestricted is impaired; and thirdly what sanction, if any, can be applied to remedy the shortcomings identified.

There are four possible outcomes:

- 1. No case to answer:** where the panel finds that there is insufficient evidence to prove the allegations against the therapist.
- 2. Allegations proved, but no misconduct or impairment:** where the panel finds that the alleged behaviour did occur, but that the therapist's ability to practise unrestricted is not currently impaired and the behaviour does not constitute misconduct.
- 3. Allegations proved and misconduct found, but no impairment:** where the panel finds that the alleged behaviour occurred and constitutes misconduct, but that the therapist's ability to practise unrestricted is not currently impaired.
- 4. Allegations proved, and misconduct and impairment found:** where the panel finds that the alleged behaviour occurred, and that the therapist's ability to practise unrestricted is impaired. The panel can only consider imposing a sanction if the therapist is found to be currently impaired.

Of the two cases referred to a panel in 2017, one resulted in the therapist being removed from the UKCP register, and the other resulted in a Conditions of Practice order being implemented alongside further personal supervision. This is proof that our system is working robustly and shows that each complaint is fully investigated and judged on its merits, and only the most serious cases are being referred to an Adjudication Panel.

The majority of the 31 complaints received in 2017 were deemed not serious enough to warrant a referral to an Adjudication Panel. Some of these complaints were dealt with by letters of warning or supervision recommendations issued by the Case Managers and the Professional Conduct Committee (for those cases where there were technical breaches of the Code of Ethics, but were not serious enough to warrant a referral to an Adjudication Panel). Others were rejected as having insufficient evidence or not falling within the scope of the CCP.

Examples of rejected complaints include:

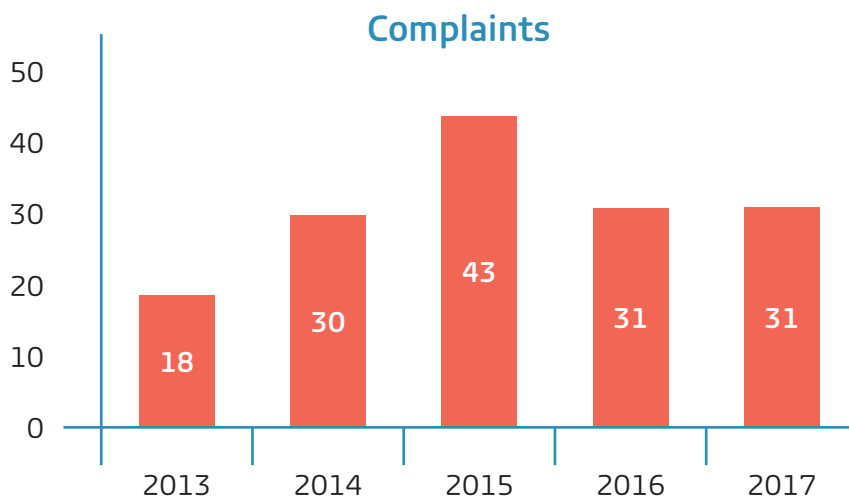
- employment disputes between colleagues
- unavoidable contact outside the therapy room in a small community
- perceived insensitivity about issues to do with trans people
- disagreements between therapists and clients
- failure to achieve therapy goals
- difficulties in a group therapy context
- complaints about organisations or clinics.

Year on year analysis

We have been collecting complaints data since 2013. The average number of complaints per year stands at 30.4.

In the early days of the CCP we saw a higher number of cases referred to an Adjudication Panel. However, as time goes on and we continue to refine our processes and increase the availability of alternate means of resolution, this number has reduced to only 2-3 per year. This is evidence of the robust screening process that we have in place to ensure that only those cases that present a potential threat to public safety are referred to a panel.

The cases referred to a panel in 2017 involved sexual misconduct and a serious breach of confidentiality in report writing.



Root cause analysis

At the conclusion of each case that we receive, the Professional Conduct Committee undertakes a detailed root cause analysis. This involves identifying the behaviours or situations that triggered the complaint being made, so that if they were removed, the complaint wouldn't have occurred.

For each complaint, we review the allegations and then categorise them into one or more broadly defined groups. This classification is useful because it gives us broad oversight of the areas that are driving complaints and throws up a red flag when certain issues recur.

Once we have this information, we can begin to drill down to try to understand the circumstances that are causing complaints within each category. For example, we know that there are many ways in which a therapist might breach confidentiality,

but we seek to understand whether there is a specific situation that may be causing difficulties for our members and, if so, how we can help.

Although some of the 31 complaints related to issues such as failing to support the best interest of the client, disputes about skills and competency, and communication difficulties, there were two areas that consistently arose:

- breaches of confidentiality (particularly in relation to report writing and legal proceedings)
- breaches of boundaries and holding dual relationships.

Confidentiality and legal proceedings

Confidentiality is a fundamental tenet of the profession, and when it is breached it can damage the reputation of the profession. Although all of our practitioners respect confidentiality, many members find themselves in difficulty when it comes to preparing summary reports or writing letters to be used in legal proceedings.

Brian Linfield wrote about this issue in the autumn 2017 issue of the *Psychotherapist* magazine. The Complaints and Conduct Team also gave a substantial presentation on this topic at our Learning from Complaints event in London.

Boundaries and dual relationships

Boundaries is a broad topic, and it is perhaps understandable that this is an issue that continues to arise in complaints.

Dual relationships happen when someone is acting in two different roles which may conflict. Transient and unintentional dual relationships can occur naturally in the course of everyday life: for example, when you have or have had a professional relationship with the person serving you at the checkout.

On one level, dual relationships blur the boundaries and create role confusion and, on the other, verge on being or are actually harmful.

Knowledge is power and the knowledge that therapists have of their clients' internal and external worlds puts them in a unique and powerful position. Moving into a dual relationship could therefore potentially involve abuse of that power and subsequent exploitation of the client. Such situations can be pre-empted by including in the therapeutic contract, or as general information, a statement outlining how encounters that occur outside the therapy space will be managed, and setting clear expectations for communication between sessions.

Indicative Sanctions Guidance

We produced Indicative Sanctions Guidance to compliment the Complaints and Conduct Process, and help panel members when considering a sanction for proven cases of misconduct.

The benefits of using the new guidance are that it:

- ensures transparency, fairness, and consistency in our decision-making
- ensures that Registrants and Complainants are aware of the process followed by a panel when considering a sanction
- may result in fewer appeals and challenges
- provides the panel with UKCP's clear position on sanction and acts as a point of reference
- will assist panels who are considering appeals about whether a sanction is too severe
- will clearly set out UKCP's approach for the Professional Standards Authority and brings us into line with other regulators.

Panels are not bound by the guidance, but if they do depart from the recommended guidelines they will need to give detailed reasons for doing so.

The next 12 months

Over the next 12 months, our focus is very much business as usual. The Complaints and Conduct Team will continue to deal with the serious complaints where a member's fitness to practice is brought into question. They will also use our facilitators and mediators to resolve other complaints at local level.

As requested, we have produced a leaflet about how we handle complaints for our therapists to download and use in their therapy space. We will continue to work on a generic contract that we can get out to members to use if they want too. Any suggestions you have will be gratefully received, please send to complaints@ukcp.co.uk

We have begun a quarterly email bulletin to members and will use it to update members on trends and analysis of complaints.

Sharing good practice

If you have examples of good practice relating to the way you run your practice and would like to share them with others, please get in touch with the Complaints and Conduct Team. We will aim to share this information with our members over the next 12 months.

If you would like a member of the Professional Conduct Committee to come and talk to your organisation or at a meeting please get in touch.

