



**UKCP's Complaints and Conduct Process
Complaint Hearing**

**6 & 7 November 2023
ONLINE**

Name of Registrant:	Errol John Hendrickse
Heard by:	Adjudication Panel
Panel Members:	Catherine Hinton (Lay Chair) Hilary Brown (HIPC) Ian Roberts (UTC)
Legal Assessor:	Jon Whitfield KC, Doughty Street Chambers
Panel Secretary:	Kat Zhou
UKCP Presenting Officer:	Kriti Upadhyay, Guildhall Chambers
Registrant:	Not present and unrepresented
Charges found proved:	1, 2, 3, 4, 5, 6
Charges found not proved:	None
Panel decision:	Misconduct and Impairment found.
Sanction:	Removal from UKCP Register

Detail of allegations

That being a UKCP registered psychotherapist since 1 April 2020, you, Errol John Hendrickse (the Registrant):

1. On 14 July 2020, published an article on your blog called, "**Article A** [REDACTED]" (**Appendix B**). In this article, you plagiarised the article "**Article B** [REDACTED]" (**Appendix A**) which was written by a UKCP registered psychotherapist, Complainant A, and published in July 2010. In particular, you:
 - a. copied Complainant A's article (**Appendix A**);
Denied
Found proved
 - b. edited the article to make it appear as if you had written it yourself;
Denied
Found proved
 - c. did not give any credit to Complainant A.
Denied
Found proved
2. On 9 January 2023, in response to Complainant A's emails of 6 and 9 January 2023 asking you to remove the article (**Appendix B**), sent her an email saying, "I have only just logged on to my emails and if you notice it has been removed". You did not offer an explanation or apology.
Denied
Found proved
3. On 18 January 2023, contacted Complainant A saying, "I have been informed that you have contacted the UKCP with regard to my accreditation – let me make clear if you make any further moves or accusations to discredit my practice I will take legal action".
Denied
Found proved
4. Your conduct at 1 above was dishonest.
Denied
Found proved

5. Your conduct at 2 – 3 above was unprofessional.

Denied

Found proved

6. The behaviours set out at 1 – 5 above are in breach of the UK Council Code of Ethics and Professional Practice 2019 (Code). In particular:

a. You made claims which you cannot demonstrate to be true, thereby breaching clause 13 of the Code, in that you presented an edited version of Complainant A's article as your own.

Denied

Found proved

b. You have not acted in a way which upholds the profession's reputation and promotes public confidence in the profession and its members, thereby breaching clause 32 of the Code.

Denied

Found proved

c. Your communication was not carried out in a manner consistent with this Code, thereby breaching clause 34 of the Code, in that you behaved in a manner that was unprofessional and/or threatening towards Complainant A when she contacted you.

Denied

Found proved

For the reasons set out above, your fitness to practice is impaired by reason of misconduct.

Denied

Found proved

Documents

The Panel had placed before it the following documents:

- A principal bundle on behalf of UKCP amounting to 160 pages, hereafter referred to as C1;
- A second bundle on behalf of UKCP amounting to 29 pages, hereafter referred to as C2;
- A service bundle on behalf of UKCP amounting to 35 pages, hereafter referred to as C3
- A reference submitted on behalf of the Registrant; hereafter referred to as R1

Hearing

1. The complaint was heard under the UKCP Complaints and Conduct Process 2022, and the Panel considered the alleged breaches of the UKCP Code of Ethics and Professional Conduct 2019 (the Code).

Preliminary Matters

2. The Panel considered the following preliminary matters:

Service of notice

3. Ms Upadhyay, on behalf of UKCP, submitted that all reasonable efforts had been made to notify the Registrant of today's hearing, the date of which had been set for some months. He was notified by email on 16 August 2023 and by recorded delivery on 17 October 2023.

Decision on Service

4. The Panel accepted the advice of the legal assessor. It considered the overarching objective of the proceedings and the UKCP's Complaints and Conduct Process document.
5. Having considered the documentation the Panel was satisfied that all reasonable efforts had been made to notify the Registrant of the hearing and that service had been effected since the Registrant had referred to the hearing and had commented upon whether he would attend or not.

Application to proceed in absence

6. Ms Upadhyay submitted that it was in the public interest to proceed in the Registrant's absence. UKCP had made efforts to engage with the Registrant and help him participate in the proceedings but he had not done so nor had he asked for an adjournment.
7. Ms Upadhyay submitted that the Registrant had made the decision to voluntarily absent himself and that he would be unlikely to attend any future hearing. Adjourning would therefore only delay the timely conclusion of this case. The public interest (including the interests of Complainant A who had attended and the UKCP) and the overarching objective would not be met by further delay.
8. Ms Upadhyay submitted that, given the Registrant had deliberately absented himself; the need to avoid unnecessary delays and the fact that an adjournment was unlikely to yield a different result, the public interest favoured proceeding in the absence of the Registrant.

Decision on proceeding in absence

9. The Panel accepted the advice of the legal assessor. This included consideration of the overarching objective, the right of the Registrant to attend and the careful assessment of those matters set out in the case of *R v Hayward [2001] 2 Cr App R 11*. [REDACTED]
[REDACTED]
[REDACTED]
10. The Panel determined that it should proceed in the absence of the Registrant. In coming to this conclusion the Panel was satisfied that the Registrant was aware of the hearing and that it may proceed in his absence. He had commented negatively upon the proceedings themselves and had advised the UKCP that he would not attend. The Panel concluded that it was unlikely an adjournment would result in the Registrant attending. Adjourning would thus serve no useful purpose but would only delay matters. Conversely the overarching objective required the case to be dealt with fairly and expeditiously to protect the public, and the public interest including the interests of Complainant A who reported feeling distressed and vulnerable as a result of these [proceedings].
11. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
12. The Panel determined that it could ensure that a fair hearing was held by testing the evidence concerning the matters complained of in the absence of the Registrant.
13. The Panel noted that despite email correspondence in which the Registrant commented on Complainant A and the propriety of proceedings he had not formally admitted or denied the allegations. The Panel therefore determined that it should treat all the allegations as denied and that the UKCP should be required to prove all/any allegations against the Registrant.

Application for health matters to be heard in private

14. [REDACTED]
[REDACTED]
[REDACTED]
15. The Panel accepted Ms Upadhyay's submission and determined that any detail regarding [REDACTED]
[REDACTED] health would be heard in private.

Determination of Facts

16. The Panel considered all the documentary evidence before it and received oral submissions from Ms Upadhyay on behalf of UKCP. The Panel heard oral evidence from Complainant A on behalf of UKCP and noted the representations made by the Registrant in the email correspondence contained in the bundles and the reference submitted on his behalf.
17. Ms Upadhyay opened the case and said that Allegation 1 concerned the Registrant publishing an article as his own work when it was in fact wholly based on the work of Complainant A. He did so without reference to her and without acknowledgement of her. She took the Panel to the original article written by Complainant A, the Registrant's article and a comparison between the two which demonstrated that he had edited it extensively. It was not a simple 'cut and paste' as he asserted. She submitted that this gave rise to Allegation 4 since to alter and publish someone else's work as one's own was dishonest. Following the complaint by Complainant A, the Registrant communicated in the terms as set out in Allegations 2 and 3. Ms Upadhyay submitted that this was unprofessional as stated in Allegation 5. Allegation 6 concerned specific breaches of the UKCP Code of Ethics and Professional Practice (the "Code"). Having opened the case, Ms Upadhyay then called Complainant A to give evidence.
18. Complainant A affirmed, she then identified and adopted her statement as true to the best of her knowledge and belief. Ms Upadhyay asked a number of supplementary questions. Complainant A identified her article published in 2010 and entitled "Article B [REDACTED]". She next identified a printout of the Registrant's blog which was brought to her attention by a member of the public. This was entitled "Article A [REDACTED]". She next considered exhibit [REDACTED] 03 a comparison of the two documents and described how this showed her original words, and the deletions, alterations and substitutions made by the Registrant. Complainant A described how she was made aware of the Registrant's article which she then viewed and took screenshots to record what was online. She then contacted him. She said the totality of the correspondence was in her statement and exhibits save for one email from the Registrant asking her to leave him alone and sending her love and light. (*Note: For the avoidance of doubt this email was in the Panel's bundle and was considered by the Panel.*) She said she had received no apology from him. She was aware that an apology was mentioned by him in correspondence with the UKCP, but she had not received this nor had he provided any explanation, nor had he provided credit to her for her work.
19. Complainant A was asked questions by the Panel and said that her original article was the product of her final year at college. She had undertaken a five year training course and was required to produce an essay at the end of the final year. Having done so she was urged to publish the essay which became this article. She described it as a very personal piece having been long engaged in gay-rights and working with gay patients. She said it was an essay about her reflection on who she would be as a therapist, what was important to her and how she would work. It was deeply personal, and it

represented many hours work at the British Library including integration of her source material. It was a year's work.

20. Regarding the correspondence, Complainant A said she was shocked at the tone of his emails. She had submitted a complaint. The UKCP had made an error concerning the Registrant's accreditation, but he appeared to interpret this as her (Complainant A) having attacked him. She described the tone of his emails as "incredibly aggressive and threatening" and even when both she and UKCP had explained that the UKCP had made a mistake this continued. She said the Registrant threatened her with legal action when all she was complaining about was that he had stolen her work.
21. When asked how she felt about what had occurred and what impact it had had on her, she said she read his article and recognised it to be her own work, but it was twisted in a nonsensical way. He had replaced the experience of a [REDACTED] with that of a [REDACTED]. She said it made her stomach churn, she felt violated, and she just wanted it to go away. She said at first she just wanted him to apologise and take the article down. His terse response, which did not even address her by name, was very upsetting and he neither explained nor apologised. She said that she discussed matters with her supervisor and a colleague and considered that she had a duty to report the matter to uphold standards and protect the public since his article was in effect false advertising to the public.
22. Complainant A said that she had written three articles, and this was the middle one. She said the Registrant's actions were intellectual theft. She had spent a year working on her paper, researching, collecting and assessing articles in the British Library. He had stolen her work, her research, analysis, interpretation and conclusions and put his name to it. She did not know if others had seen the article but said it was just luck that it was reported to her. She said the time between January 2023 when she contacted him and this hearing was very difficult and that she had felt threatened or intimidated by him. She confirmed she did not know the Registrant and had had no prior contact with him.

Submissions on the evidence and the allegations

23. Ms Upadhyay provided written submissions on the matter of dishonesty. She reminded the Panel of the burden and standard of proof and observed that whilst the panel had comment from the Registrant it had no sworn evidence from him unlike the sworn evidence from the Complainant. She said the Complainant's evidence should therefore be preferred.
24. Regarding Allegation 1, Ms Upadhyay said that if one placed the two articles next to each other it was difficult to see how there could be any conclusion other than that the Registrant had copied the Complainant's article. He had extensively amended her work just like an editor. He had not simply 'cut and paste' it as he asserted in correspondence. It was plainly not a simple error or oversight and, he had posted the article to reflect his own experience. He had, she submitted, edited it to make it look like his own. There was no suggestion that the information had been taken from Complainant A's

article and there was no reference to her. Instead, he had even copied and referred to all her references and research work as if it was his own. There was no evidence that the Registrant had done any of the work that Complainant A had undertaken in her year of research. Ms Upadhyay submitted that in the correspondence the Registrant appeared to accept the matters set out at 1a, 1b and 1c.

25. Turning to Allegation 2, Ms Upadhyay said that nowhere had the Registrant offered an apology. He had told the UKCP that he had or that he would apologise, but the Complainant made it clear that none had been received. None was evident in the emails. Regarding Allegation 3, Ms Upadhyay submitted that the words were clear and contained in an email sent by the Registrant. The Complainant had said she received it and the Registrant had not denied sending it.
26. Ms Upadhyay then turned to Allegation 4 and the matter of dishonesty. She said that this rested upon Allegation 1 being proved. Ms Upadhyay outlined the test to be applied to the facts namely that the Panel should decide what the Registrant's state of mind was at the time of the events and then go on to consider whether the public would consider his actions to be dishonest given that state of mind. Ms Upadhyay said the Registrant was not present and little if any weight should be given to his untested assertion that he had cut and pasted the document or that it was just an oversight not to credit Complainant A. He had extensively edited her work and passed it off as his own. She submitted that this was a deliberate course of conduct by him and not an error. She submitted that this was dishonest by the objective standards of ordinary people. She said that the single testimonial which did not really address the Registrant's character, was of little relevance. [REDACTED]
[REDACTED]
[REDACTED]
27. Next Ms Upadhyay addressed Allegation 5 and said that this relied upon proof of Allegations 2 and/or 3. In short, she submitted that the Registrant's lack of apology or explanation for what he had done was itself unprofessional. His repeated assertions that he would apologise or had apologised were refuted by Complainant A. She pointed to Complainant A's comment that had the Registrant swiftly and courteously apologised she would probably not have complained but instead he was threatening and aggressive.
28. Finally, when dealing with Allegation 6 a, b and c, Ms Upadhyay said it was clear the Registrant had claimed the work was his own. She said plagiarism was serious and intellectual theft had an impact on the individual as well as the wider context. It undermined public confidence in the profession. Finally there was both the article itself and the correspondence which was abrupt, aggressive, threatening and contained no apology or explanation.
29. Concerning bundle C2, the documents provided by the Registrant, Ms Upadhyay said it was a matter for the Panel to determine what if any weight to apply to these but there was little information about the documents and no explanation.

Decision on the Facts

30. The Panel heard and accepted the advice of the Legal Assessor. This included the burden and standard of proof, the separate consideration of the allegations, the absence of the Registrant, his character, assessing the witness and the meaning of plagiarism, dishonesty and unprofessional.

31. On balance, having fully considered the above, the Panel made the following findings. The Panel considered the written evidence and the supplementary oral evidence from Complainant A. It noted that her account of events was consistent with the documentation and the Panel found her to be credible and reliable in her description of events. When describing the importance of her article, how she felt when she was made aware of the Registrant's article, and the impact this had had on her, she did so in a clear and straightforward way without embellishment.

1) On 14 July 2020, published an article on your blog called, "Article A [REDACTED]" (Appendix B). In this article, you plagiarised the article "Article B [REDACTED]" (Appendix A) which was written by a UKCP registered psychotherapist, Complainant A, and published in July 2010. In particular, you:

a. copied Complainant A's article (Appendix A);

Found proved

b. edited the article to make it appear as if you had written it yourself;

Found proved

c. did not give any credit to Complainant A.

Found proved

The Panel determined that the Registrant did publish his article on his blog indeed he had admitted as such in the correspondence. The Panel noted that the Registrant had extensively edited Complainant A's article, significantly altering it and putting his own name to it. It was not a simple 'cut and paste' error as he had asserted in correspondence. The Panel found that to undertake such an extensive re-write the Registrant must have copied the original article and then edited it in the way shown on the papers to make it look as if he had written it. In so doing he sought to pass it off and did pass it off as his own work. Through his actions he plagiarised Complainant A's article and reworked it as his own. The Panel noted that despite the article being posted in an area of his blog relating to his thoughts, he had added no such thoughts of his own, rather he had repurposed Complainant A's thoughts, work and conclusions and published them as if they were own.

The panel concluded that by extensively editing Complainant A's document the Registrant had intended to make it look as if he had created it. He had changed the recounted experience from that of a [REDACTED] to that of a [REDACTED] and added his own name to the article. The extensive alterations must have taken a considerable amount of time and effort. It was by no means a simple cut and paste error. There was no evidence to suggest that he had referenced Complainant A as a source or an author or that he intended to do so as he claimed. Rather he put himself forward as the author in her place, removing Complainant A from the picture entirely. Given the extensive editing and the amount of time the article had been on his blog the Panel did not find credible the Registrant's suggestion that he intended to credit her but had forgotten.

Complainant A was notified of the Registrant's article by a scholar researching this area of practise finding the Registrant's article and noticing the similarity between it and the Complainant's work. The Registrant's article contained no acknowledgement of Complainant A's work or reference to her previously published paper. The fact that the Registrant's paper was flagged up by the scholar's internet search demonstrates the potential damage arising from plagiarism. It has the potential to divert attention and credit from the person who has undertaken the original work (in this case Complainant A) thereby reducing their standing and citations of their work. It was only because the scholar informed Complainant A of her discovery that this came to light.

- 2) On 9 January 2023, in response to Complainant A's emails of 6 and 9 January 2023 asking you to remove the article (**Appendix B**), sent her an email saying, "I have only just logged on to my emails and if you notice it has been removed". You did not offer an explanation or apology.

Found proved

Having considered the documentation the Panel found that over the period 6th to 9th January 2023 the Registrant responded as set out in the Allegation and that this contained neither an apology nor an explanation. It was a simple terse statement without more. Whilst the Registrant subsequently informed the UKCP that he had, or he intended to apologise to Complainant A, the Panel accepted her evidence that he had not done so, nor had he explained his actions. Instead, the Registrant reacted with hostility toward Complainant A and was defensive of his own actions. Rather than accepting Complainant A's point of view and acknowledging his wrongdoing the Registrant was critical of her.

The Panel considered that Complainant A had acted professionally by contacting him regarding his wrongdoing. His response was that she was at fault rather than himself. His comments in the subsequent correspondence did little to dispel the notion that he regarded himself as the victim of events rather than the perpetrator of them.

- 3) On 18 January 2023, contacted Complainant A saying, “I have been informed that you have contacted the UKCP with regard to my accreditation – let me make clear if you make any further moves or accusations to discredit my practice I will take legal action”.

Found proved

The Panel found this proved since on 18th January 2023 the Registrant sent an email containing these words. The Registrant did not dispute that he had sent this email. The email was received by Complainant A, and she described its effect on her. She regarded it as threatening and aggressive. The Panel agreed with that description.

- 4) Your conduct at 1 above was dishonest.

Found proved

The Panel concluded that the Registrant copied, extensively edited, and then posted Complainant A's work as his own. He had done so deliberately as opposed to making a 'cut and paste error' as he asserted. There was nothing to suggest that he had credited her in any way or that he sought to do so. The document had been reworked to make it look like it was his. The Panel concluded that the alterations were done deliberately with the intention of deceiving the reader into believing that the Registrant was the author and that the article related to his lived experience and his work. He had done so to the extent of putting his name to the article and suggesting it was written by and about a [REDACTED] rather than a [REDACTED]. In addition the article had been posted for some considerable time with no evidence that the Registrant intended to credit Complainant A as he asserted.

The Panel concluded that the Registrant knew what he was doing. He had deliberately passed off work as his own and had published it into the public domain. The Panel had no doubt that this would be regarded as dishonest according to the objective standard of ordinary people.

- 5) Your conduct at 2 – 3 above was unprofessional.

Found proved

Having found that the Registrant was at fault in publishing the article, the Panel considered whether, when challenged or asked about it, he had reacted in an appropriate and professional way. It concluded that he had not.

When contacted by Complainant A, whose article he had plagiarised, the Registrant responded with the terse statement contained in Allegation 2. He provided no explanation and no apology which, in the opinion of the Panel, was the minimum required of a professional. When challenged the Registrant had responded in the terms set out in Allegation 3 which included a threat to instruct lawyers. It may be that he had mistakenly believed that Complainant A had questioned his accreditation, but this was not the case. Rather the UKCP had made an error. Nonetheless, he should not have written in the hostile, discourteous, and unprofessional language he had used.

The Panel was of the view that healthcare professionals such as psychotherapists may be expected to explain and give an account of themselves when challenged. They should take responsibility for what they have done and manage their response in a professional and courteous tone. The Registrant had not done so, rather he had been unable to manage himself or moderate his response when caught in the situation which was of his own making.

- 6) The behaviours set out at 1 – 5 above are in breach of the UK Council Code of Ethics and Professional Practice 2019 (Code). In particular:

- a. You made claims which you cannot demonstrate to be true, thereby breaching clause 13 of the Code, in that you presented an edited version of Complainant A's article as your own.

Found proved

Having read the Registrant's article and considered the screenshots of how it appeared online, the Panel found as set out above that he had rewritten the article as if it described his experience. He had copied references provided by Complainant A but he had not referenced her original article at all. The Panel concluded that he had amended the paper and put his name to it in place of Complainant A's. Claiming himself to be the author was not true.

- b. You have not acted in a way which upholds the profession's reputation and promotes public confidence in the profession and its members, thereby breaching clause 32 of the Code.

Found proved

The Panel determined that plagiarising an article, publishing it and, when challenged, responding, and communicating as the Registrant did, were all actions that brought discredit to the Registrant himself and to the wider profession. The Panel was of the view that dishonesty, intellectual theft, the lack of explanation and apology and the terse, hostile language used by the Registrant all have the potential to damage and did in fact damage the reputation of the profession. The Panel found this would adversely affect public confidence in the profession.

- c. Your communication was not carried out in a manner consistent with this Code, thereby breaching clause 34 of the Code, in that you behaved in a manner that was unprofessional and/or threatening towards Complainant A when she contacted you.

Found proved

The Panel adopts the reasoning set out in 'b.' above in respect of both the posting of the original article and the subsequent communication by the Registrant.

32. In total the Panel found three breaches of UKCP's Code of Ethics and Professional Practice proved.

Determination of Misconduct and Impairment

33. This determination should be read in accordance with the Panel's previous determinations.

Misconduct

34. In accordance with rule 7.23 of UKCP's Complaints and Conduct Process, the Panel then went on to consider the question of misconduct. In addressing this question the Panel took into account of the relevant information before it.

35. The Panel heard further submissions from Ms Upadhyay on behalf of UKCP.

36. Ms Upadhyay submitted that the Panel should first consider whether the facts found proved amounted to misconduct and thereafter consider whether the Registrant's fitness to practise was currently impaired. She submitted these were matters for the Panel's own judgement.
37. Concerning misconduct, Ms Upadhyay referred to the comment by Lord Clyde in *Roylance v GMC [2000] 1 AC 311* that misconduct included behaviour that was 'infamous' toward a colleague as well as including dishonesty and breaches of the Code. As to impairment, Ms Upadhyay referred to the four questions posed in *CHRE v Grant [2011] EWHC 927* concerning the Registrant's past conduct and the issue of future risk. Whilst she did not rely upon the first question (putting patients at risk) she submitted that the second third and fourth questions were engaged. She said the Registrant had brought the profession into disrepute, had breached a fundamental tenet of the profession and had acted dishonestly furthermore there was a risk of repetition since the Panel had no information concerning his current or future intentions and there was no evidence of remediation.
38. Ms Upadhyay referred to the questions posed in *Cohen v GMC [2008] EWHC* as to whether the misconduct was remediable, whether it had been remediated and whether it was likely to be repeated. She said that whilst the conduct may be capable of remediation there was no evidence of this and there was a risk of repetition. She observed that the attitude of the Registrant as demonstrated in his correspondence may be taken into account when considering this. He had reacted by challenging both Complainant A and the proceedings.
39. Ms Upadhyay referred the Panel to comments made by the Registrant in the correspondence in which he said that he apologised unreservedly but said that he appeared to be saying this in the context of what he described as an unintended act. She therefore questioned the veracity of the apology and submitted there was no apology for the plagiarism, the dishonesty or the intimidation. She pointed to the fact that the Registrant had removed the article from his blog. Finally she said there was no evidence or remorse, reflection or remediation.
40. The Panel accepted the advice of the Legal Assessor as to the approach it should adopt in considering the question of misconduct. The Panel recognised that the questions of misconduct and impairment are a matter of independent judgement and are not a matter of proof for the parties.
41. In addressing whether the facts proved amounted to misconduct, the Panel had regards to the words of Lord Clyde in the case of *Roylance (above)*. He stated:

"Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required by...a practitioner in the particular circumstances."

42. The Panel had regard to the judgement of Collins J in the case of *Nandi v General Medical Council (2004) EWHC 2317 (Admin)* in which he said: *“The adjective “Serious” must be given its proper weight, and in other contexts, there has been reference to conduct which would be regarded as deplorable by fellow practitioners. . . .”*
43. The Panel first considered the issue of misconduct. It determined that the Registrant’s actions were both deplorable and serious. They also had the capacity to adversely affect public confidence in the profession. The plagiarism alone constituted serious misconduct since it involved the Registrant’s dishonest appropriation of another professional’s work and then passing it off as his own. When challenged by the author whose work had been plagiarised, his response was hostile and defensive. It included a threat of legal action and in both tone and content it involved breaches of the Code as set out above. None of this conduct met the standards expected of a registered professional, indeed it fell far below such standards. The Panel then went on to consider the question of current impairment.

Impairment

44. The Panel was mindful that the question of impairment is a matter for its professional judgement. The Panel was required to determine whether the Registrant’s fitness to practise is currently impaired. The Panel had to assess the current position looking forward, basing its decision on how the Registrant had acted or failed to act in the past. The Panel acknowledged that a finding of misconduct does not necessarily mean that of fitness to practise is currently impairment. There are situations in which a panel can properly conclude that a registrant’s misconduct was isolated and/or had been remediated such that the risk of repetition was sufficiently remote to conclude that their fitness to practise is not currently impaired.
45. The Panel applied the approach to determine the question of impairment by Dame Janet Smith as set out in the 5th Shipman Enquiry and cited with approval in the case of *CHRE v Grant (2011) EWHC 927 (Admin)*:

“Do our findings of fact in respect of the doctor’s misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:

- a. Has [the registrant] in the past acted and/or is [he] liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b. Has [the registrant] in the past brought and/or is [he] liable in the future to bring the medical profession into disrepute; and/or*
- c. Has [the registrant] in the past breached and/or is [he] liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d. Has [the registrant] in the past acted dishonestly and/or is [he] liable to act dishonestly in the future.*

46. The Panel considered that it should look at any insight shown by the Registrant paying due regard to the decision in the case of *Cohen v GMC (2008) EWHC 581* and whether the Registrant's misconduct could be remedied; had been remedied; and whether it was likely to be repeated.
47. The Panel was also mindful that when considering impairment, it should have regard to the wider public interest in the form of maintaining public confidence in the profession and declaring and upholding proper standards. The Panel had regard to the following part of the judgement in the case of Grant:
- "In determining whether a practitioner's fitness to practice is impaired by reason of misconduct, the panel should generally consider not only whether the practitioner constitutes a present risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances."*
48. The Panel determined that the Registrant's fitness to practise is currently impaired. In coming to that conclusion, it first considered the four questions set out in *CHRE v Grant* above. It considered that the first question regarding patient risk was not directly engaged however, it concluded that each of the other questions were to be answered in the affirmative.
49. Concerning disrepute, the Registrant's actions in plagiarising Complainant A's work was itself disreputable. It adversely impacted the Registrant's standing as a practitioner, Complainant A's standing as an author and practitioner and the profession as a whole. The Panel considered this to be a very serious matter. Regarding breaching a fundamental tenet of the profession the Panel was satisfied that the Registrant was aware of what he was doing and it had judged it to be dishonest conduct.
50. Turning to the issue of whether all or any of the Registrant's misconduct may be repeated, the Panel noted that he had not acknowledged the totality of his wrongdoing nor the potential impact it may have on the profession as a whole. Rather the Registrant appeared to minimise the seriousness of this case and had over-reacted to challenge. He had been hostile and defensive both toward Complainant A and toward the UKCP and these proceedings. Save for removing the article from his blog, the Panel had received no evidence to suggest that the Registrant had done anything to remediate his actions.
51. Whilst the Panel acknowledged that the Registrant may experience a considerable degree of stress and upset because of these proceedings [REDACTED] [REDACTED] the Registrant had done nothing to explain his actions or to demonstrate that he had acknowledged and remediated his misconduct. The Registrant had shown no insight or self-awareness as regards the plagiarism or his subsequent communications. Instead he had painted himself as the victim and not taken responsibility as the instigator of these proceedings.

He had chosen not to participate in the proceedings (save to the limited extent of providing some documentation which he had done little to explain) but had criticised the proceedings in trenchant terms. That being the case the Registrant had provided no information upon which the Panel could consider what if any degree of responsibility or remorse he felt or what if any steps he had taken to remediate his wrongdoing.

52. Taking all the above into account the Panel determined that it had no evidence from which to conclude the Registrant would not act in this way again. It therefore concluded that as regards each of the questions b, c and d, the risk of repetition remained. The Panel had no confidence that the Registrant would not behave dishonestly or that he would not over-react were he to face criticism in the future. The Panel therefore concluded that the Registrant was currently impaired.

Determination on Sanction

53. In accordance with rule 7.25 of UKCP's Complaints and Conduct Process, the Panel then went on to consider the question of sanction. This determination should be read in accordance with the Panel's previous determinations on the facts, misconduct and impairment.
54. The Panel heard further submissions from Ms Upadhyay on behalf of UKCP.
55. Ms Upadhyay submitted that the Panel should have regard to the Indicative Sanction Guidance provided by the UKCP and to the issues of risk regarding clients, the wider profession and declaring and upholding professional standards. She said the Panel must consider the issue of proportionality and the impact that any sanction may have upon the Registrant. However, she pointed out that the Registrant had indicated he did not wish to remain registered with the UKCP. She observed that the Panel should consider the seriousness of the misconduct and any aggravating or mitigating factors. She then took the Panel to various of its findings indicating that overall, the Panel found the Registrant to have been dishonest and to have fallen well below the standards expected of him.
56. Ms Upadhyay further submitted that although the Registrant had provided some documents and a testimonial his lack of engagement meant that he had provided no evidence for the Panel to consider sanctions at the lower end of the spectrum. She submitted that the dishonesty in this case was serious and it had been aggravated by his subsequent behaviour. She submitted that the appropriate sanction was one of removal from the register. She reminded the Panel that it could consider alternative lesser sanctions only if they met the need to protect the public and only if there was evidence from which to conclude that the Registrant would, for example, abide by conditions or provide real evidence of change.
57. In reaching its decision, the Panel had regard to the UKCP's Indicative Sanctions Guidance 2019 ("the ISG") but exercised its own independent judgement.

58. The Panel heard and accepted the advice of the Legal Assessor. The Panel recognised that the purpose of any sanction is not to punish the Registrant, although that may be the consequence of a carefully weighted decision. The Panel recognised that any sanction must be proportionate and weigh the public interest with that of the Registrant.
59. The public interest includes the protection of members of the public, including clients; the maintenance of public confidence in the profession; and the declaring and upholding of proper standards of conduct and behaviour within the profession.
60. The Panel considered the sanctions available to it under rule 7.25 of the Complaints and Conduct Process in ascending order and was mindful that any sanction imposed should be the minimum that would be considered proportionate and appropriate in the circumstances.
61. The Panel considered the issue of plagiarism and the dishonesty demonstrated by the Registrant to be at the higher end of the spectrum of seriousness. Thereafter in terms of aggravating factors he had reacted to challenge in a hostile and defensive manner. As to mitigating factors the Panel recognised that the Registrant had removed the article from his blog and his initial terse exchange of emails softened slightly as regards the UKCP. Nonetheless the Registrant had provided no evidence from which the Panel could conclude he has any insight into his misconduct or that he had the ability and/or willingness to change. Indeed he has disengaged from the proceedings almost entirely.
62. The Panel took into account that the Registrant appears to have worked with clients who may have complex needs and may be marginalised from society. From the documentation he has provided it is possible to infer that he provides such clients with a benefit. In addition, he has provided a short testimonial from his supervisor who regards him as a good practitioner.
63. Having reviewed the facts found proved and the above factors, the Panel went on to consider the appropriate sanction(s) in order of seriousness. It kept the issues of public protection and proportionality at the forefront of its consideration.
- a. *Apology*

The Panel determined that there was no evidence from which to conclude an apology would be genuine or meaningful. The Panel determined that an apology would be insufficient to address the serious issue of dishonesty. The Panel concluded that this sanction would not protect the public nor was it sufficient to declare or uphold professional standards.
 - b. *Warning*

The Panel adopts the above reasoning. There was no evidence from which to conclude that a warning would be heeded by the Registrant. The Panel determined that a warning would be insufficient to address the serious issue of dishonesty. The Panel concluded that this sanction would not protect the public nor was it sufficient to declare or uphold professional standards.

c. *Written report or oral statement*

The Panel adopts the above reasoning. There was no evidence from which to conclude that a report or oral statement would be genuine or meaningful. The Panel determined that this sanction would be insufficient to address the serious issue of dishonesty. The Panel concluded that this sanction would not protect the public nor was it sufficient to declare or uphold professional standards.

d. *Further training*

The Panel adopts the above reasoning. The Panel had no evidence from which to conclude that the Registrant would benefit and learn from further training such that the public would be protected and appropriate standards declared and upheld. The Panel concluded that this sanction would not protect the public nor was it sufficient to declare or uphold professional standards.

e. *Further supervision or therapy*

The Panel adopts the above reasoning. The Panel had no evidence from which to conclude that the Registrant would benefit and learn from supervision and training such that the public would be protected and appropriate standards declared and upheld. The Panel concluded that this sanction would not protect the public nor was it sufficient to declare or uphold professional standards.

f. *Conditions of Practise order*

When considering whether the impairment could be addressed by placing conditions on the Registrant's practise the Panel was unable to draw up conditions that would directly address his misconduct. In addition the Panel was of the view that there was no evidence that he would abide by and engage with any conditions. The Panel concluded that this sanction was not proportionate and would not protect the public nor was it sufficient to declare or uphold professional standards.

g. *Suspension Order*

The Panel was of the view that a suspension combined with conditions of training, reflection and reporting might be sufficient to protect the public and/or to declare and uphold standards in the exceptional case of a registrant who had demonstrated a real willingness and ability to abide by conditions and/or learn from training and support. However, in this case there was no evidence from which to conclude this Registrant was willing to do so, indeed he had made it clear he did not consider the proceedings to be necessary or appropriate. In the circumstances the Panel concluded this sanction would not protect the public nor would it be sufficient to declare and uphold professional standards of conduct.

h. *Removal from UKCP Register*

The Panel was of the view that the seriousness of the allegations and the lack of evidence to suggest that the Registrant would abide by any lesser sanction meant that any such lesser sanction would not protect the public. In addition, the Panel was of the view that a lesser sanction would not be insufficient to meet the seriousness of the dishonesty and thus be insufficient to declare and uphold professional standards.

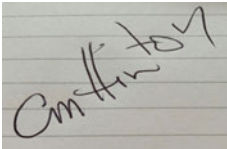
64. The Panel determined that the appropriate sanction is removal from the UKCP register.

Right of Appeal

65. Both the Registrant and UKCP have 28 days from when the written decision is served in which to exercise their right of appeal.

66. The sanction outlined above will not take effect until after the 28 day period has lapsed. If no appeal is received the decision will take effect after the 28th day.

Signed,

A handwritten signature in black ink on a light-colored background. The signature is written in a cursive style and appears to read 'Catherine Hinton'.

Catherine Hinton, Lay Chair

7 November 2023