



## CCP Review Group Minutes

**Meeting Date:** Wednesday 11 June 2014

**Time:** 12.30 to 15:30

**Location:** Room 1, UKCP

**Present:** David Pink (DP) – Chair  
Sally Forster (SF)  
Fiona Biddle (FB) – Dial in  
Haya Oakley (HO)  
Sian Ellis (SE)  
Brian Linfield (BL) – Dial in  
Catherine Freeman (CF)  
Debbie Livingstone (DL) – Dial in  
Sunita Thakore (ST)  
Samantha Lind (SL)

**Apologies:** Kate Waters (KW)

**Minutes:** Samantha Lind (SL)

Item	
1.	<b>Welcomes and Apologies</b> It is important moving forward that we are aware who is and is not attending each meeting in advance as it has relevance to the topics that will be discussed. Those who cannot attend can still contribute to the topic if inclined to do so.
2.	<b>Review of Minutes of 28 May 2014</b> The group discussed the intended audience of the minutes of these meetings. If they are to be made public on request then it is important to ensure that the language used throughout is an accurate reflection of the discussions of the group. The group agreed that the minutes will need to clearly reflect the difference between the recommendations made by the group in relation to

	<p>the consultation questions and the record of proceedings. All were in agreement that the minutes should be made readily available to the public in order to ensure accountability and transparency of the process. Procedure for the minutes agreed – SL/ST will draft and send to the group who will make amendments as required. These will then be collated and signed off at the following meeting. Minor amendments to the previous meeting's minutes in regard to language were deemed necessary. <b>AP: ST to amend minutes as required</b></p> <p><u>Actions from 28 May 2014</u></p> <p>2.1 <i>DP to contact College Chairs (with the exception of CPJA) to encourage them to send in a response to the consultation on behalf of the college.</i> This has been actioned, however no date was prescribed. All in agreement that a date should be given so as to avoid confusion and to ensure that any feedback is able to be considered during the review process. <b>AP: DP to send a follow-up e-mail asking that responses are sent within the next two weeks (14 days).</b></p> <p>2.2 <i>ST and SL to liaise with SK to ensure that the responses are being published.</i> SL Responses are due to be published next week, WC 16 June 2014. The group recognised the need to be careful of what we publish due to the sensitive and confidential information contained within certain responses. Although not all responses can be published, we will however mention all redacted or unpublished responses in the final statistical count. In order to ensure transparency, two members of the review group will review the responses that have not been included in the publication to ensure that no feedback has been missed. <b>AP: SL to prepare bundle of responses for SE and SF to review.</b> <b>AP: SL to update the report to reflect the unpublished figures.</b> <b>AP: SL/ST to follow up with SK regarding the publication of responses next week.</b></p>
<p>3.1</p> <p>3.1.1</p>	<p><b>Question 12: Do you have any comments about the composition of our panels?</b> The group returned to finalise the work done on 28 May 2014 on question 12 of the consultation. The group agreed that it appeared that most of the group were happy with the way that the panels were composed and the way in which they functioned once it had been explained correctly. It was agreed that explanatory notes are necessary for each of the roles, but the two psychotherapists (with one of the same modality as the Registrant) and the Lay Chair seem agreeable and fit for purpose.</p> <p>The group also considered the following points raised in the consultation: <i>The inclusion of an ex-service user on the Panel.</i> The question of whether an ex-service user should be included on the Panel was contentious. Whilst many members would usually advocate for service user involvement, the group found it difficult to determine whether their presence would be beneficial in determining whether a therapist's fitness to practise was impaired. It was noted that service users can offer a particular point of view, however it was also suggested that as most (but not all) therapists are also service users, they too can consider that viewpoint. The group also considered the difficulties that may arise in recruiting and vetting service users for inclusion on panels. The group agreed</p>

	<p>that it should not be mandatory to include service users on the panel, but that they should also not be excluded. The group agreed that service user involvement may be better placed to be with the Lay members of the Professional Conduct Committee or the Ethics Committee, rather than sitting on a Panel.</p> <p><b>Recommendation: Review Group to put forward the idea of Service User involvement on either the PCC or the Ethics Committee for consideration.</b></p> <p>3.1.2 <i>The level of transparency about the selection process for Panel Members.</i>  The group were aware that during the consultation there were a lot of questions raised about how the Panel members are chosen and trained. The existing rules are not clear where the pool of Panel members has come from and it is important that we have some guidance notes to explain this. The group were of the opinion that UKCP need to ensure that our members and the public understand that this is a list of trained and prepared people who have been selected based on their capabilities and experience.</p> <p><b>Recommendation: Guidance notes to sit alongside the CCP rules should be produced that explain the roles of the Panel members clearly.</b></p> <p>3.1.3 <i>Potential involvement (either on the Panel or in the selection of the Panel members) of the Organisational Member or College to which the therapist concerned belongs.</i>  The group considered the importance of ensuring that there is a presence on the Panel of someone who has relative experience to the modality of the therapist concerned. The group deemed it inappropriate for the College or Organisational Member to be involved with this due to the potential for bias, however noted that the therapist is able to call an expert witness to support them on the day if they feel that they need further representation of their modality. The group felt that the ability of the Registrant to object to Panel Members due to bias and their ability to use modality specific witnesses was sufficient to ensure there was fair representation.</p> <p><b>Decision: The composition of the Panel as in CCP12 (two professional members, one normally of the same modality as the Registrant, and a Lay Chair) is fit for purpose.</b></p> <p>3.2 <b>Question 1: Is our explanation of the different terms and expressions used in the current CCP clear? Is the purpose of the CCP clear?</b>  <b>Question 2: Are the five categories used to describe possible impairment of fitness to practise the right ones?</b>  <b>Question 3: How might we make the criteria for assessing impairment of fitness to practise clear?</b></p> <p>The group then moved to consider questions 1, 2, and 3. The decision was taken to consider these questions concurrently as they are all concerned with the manner in which a complaint enters the CCP.</p> <p>The group considered that these questions encapsulated the philosophy of the manner in which we handle complaints, rather than being rule-specific, and as such a different approach was necessary. The CPP review day appeared to have a general consensus about the way in which we want to be handling complaints, and the key question that requires thought is whether the CCP should be a reparative process, or a punitive one? The group were mindful of the principle of fairness and about the need to get it right the first time. The group considered the following issues raised during the consultation process:</p>
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<p>3.2.1</p>	<p><i>Reparative or punitive?</i></p> <p>The group agreed that whilst in principle the CCP should not be punitive, it does also depend on the seriousness of the allegation – for example, sanctions imposed for gross professional misconduct may seem punitive, but those for less severe allegations may not. The group agreed that it was important to deny any notion of ‘punishment’ in the CCP, and although the person on the end of the complaint may believe that something is punishing, its intention should be educative, which is a very difficult thing to make clear. The group considered the advice currently given to Panel’s by the Legal Assessor when they are considering whether a sanction is necessary, namely that:</p> <p style="text-align: center;"><i>When applying a sanction, the principles of fairness, reasonableness and proportionality must be considered. The interests of the public must be weighed against the interests of the Registrant, taking into account any mitigating and aggravating factors in the case.</i></p> <p style="text-align: center;"><i>The public interest includes the protection of members of the public, maintenance of public confidence in the profession, and upholding the standards of behaviour within the profession.</i></p> <p style="text-align: center;"><i>The purpose of a sanction is not to be punitive, though it is recognised that a legitimate sanction may have punitive effect.</i></p> <p>The group considered this indicative of our overarching aim for the process and recognised that whatever we do must be supported by case law. The importance of transparency and managing expectations of all parties was also discussed.</p> <p><b>Recommendation: Indicative Sanctions guidance should be produced to sit alongside the CCP which will provide an idea of what people should expect from the process.</b></p> <p><b>Recommendation: Where possible and practical, the CCP should use the same language as other regulators in the profession to avoid confusion.</b></p>
<p>3.6</p>	<p><i>Use of the term ‘sanction’.</i></p> <p>The group considered whether the word ‘sanction’ was too strongly linked to the idea of a punitive system. The group considered the different definitions of the word sanction, noting that it can be defined as either: a threatened penalty for disobeying a law or rule, or to give official approval for an action to be taken. The group agreed that it is not necessarily negative and we could employ it in the second context. The group considered other terms that may be substituted in its stead, such as ‘disciplinary process’, but were unable to reach consensus. Concerns were raised about how it would look to the public if there was no mention of sanction in the process, and the possibility of confusion if sanction was not mentioned but then a ‘sanction-like’ action was imposed.</p>
<p>3.8</p>	<p><i>Is Fitness to Practise the right term to be using in the CCP?</i></p> <p>The group recognised that Fitness to Practise was something of great concern to all who responded to the consultation and proceeded with this in mind. The group considered how the term Fitness to Practise came to be associated with regulatory work, recognising that FtP is a medical term that emerged after the Shipman enquiry. The group discussed the difficulties in applying this to a profession that does not have one uniform manner of practise, unlike Doctors and Nurses, etc.</p>

3.9	<p>The group were unanimous that the term Fitness to Practise should not be employed at the beginning of the CCP; however it is appropriate at the conclusion of the process when considering whether there is a need to impose a sanction. The beginning of the process should instead focus on ‘professional conduct’ and whether there is a breach of the Ethical Principles and Code of Professional Conduct. If this breach is one that could put the public at risk, then that is something that should be advanced through the process. The group noted the importance of employing safeguards against the process being used in a vengeful manner and agreed that the CCP should have as its predominant concern the effect of a Registrant’s professional conduct on the users of psychotherapy, rather than focusing on the Registrant or the Complainant themselves. The group agreed that the CCP should not take vengeance on those who have brought alleged shame on the profession, and unless there is a concern that may end up at the FtP/sanction stage the CCP is not the correct avenue to consider it. The group were also mindful of the legal definition of misconduct, and the need to ensure that we are using it correctly if we want to utilise this term within the CCP. As per <i>Roylance v GMC (No.2) [2000] 1 AC 311</i>:</p> <p style="padding-left: 40px;"><i>Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. Any misconduct must embrace an act or omission that falls short of what would be proper in the circumstances and equally must be both serious and professional in its nature.</i></p> <p><b>Recommendation: Fitness to Practise should be replaced with the term ‘Professional Conduct’ (or similar) throughout the CCP, except at the point of sanction.</b></p>
3.11	<p><i>The necessity of separating the rules of the CCP from the process.</i></p> <p>The group discussed the suggestion that the CCP be simplified by separating the legalistic rules of the CCP from the user-friendly process. The group considered that there could perhaps be three documents – the official rules, which will contain formal or legal terminology; procedural guidance documentation; and pop documents for people that are not actively involved in the process / FAQs.</p> <p><b>Recommendation: A ‘user friendly’ set of guidance documentation should be produced to sit alongside the CCP that describe the process that will be followed. The CCP rules should only be as legalistic as necessary.</b></p> <p><i>The role of the CCP and fair representation of the interests of clients, therapists, and the profession equally.</i></p> <p>The group agreed that the CCP should be about fairness to all parties involved which should be made clear. The group noted that all parties are not equal and we cannot treat them as such. Fairness is relative to each of the parties and the expectations of each are different. Despite this, the group agreed that the process should be equally fair to everyone, with the concepts of reasonableness and proportionality kept at the forefront.</p>
3.11	<p><i>Are the five categories used to describe Fitness to Practise the right ones?</i></p> <p>The group were of the opinion that there was not sufficient information to make a sound decision on this. The group noted that it is difficult, for example, to prove what incompetency is. How can you prove someone is not competent if there are no clear guidelines about what is expected? The group agreed it was necessary to determine whether the five categories are covered sufficiently in the Ethical Principles and Code of Professional Conduct. All in agreement that</p>

<p>3.12</p>	<p>Fitness to Practise is not the right term to be used as an overarching aim of the CCP.  <b>AP: SL/ST to cross-check the Ethical Principles and Code of Professional Conduct to ensure that if the five categories in the CCP were to be removed from the process, that the EPCOPC would still cover the categories.</b></p> <p><i>Should the CCP be linked directly to breaches of the Ethical Principles and Code of Professional Conduct or do we need other categories?</i></p> <p>The group agreed that the admission of complaints into the process should consider the proportionality of the alleged breaches of the Ethical Principles and Code of Professional Conduct and whether they suggested serious professional misconduct. Despite this, the group agreed that we cannot discount misdemeanours and it is important that we also make allowances for these.</p> <p>The group considered the difference between good practise and what you should and should not do. These are often confused in the existing CCP and we need to separate these from each other. The group agreed that the Code of Professional Conduct is what breaches should be measured against, whereas the Ethical Principles should act as guiding principles for behaviour.  <b>Recommendation: The CCP should be linked directly to breaches of the Ethical Principles and Code of Professional Conduct; however this document should be separated so it is clear what is REQUIRED behaviour and what is guidance.</b></p> <p><i>Is there scope to include Fitness to Practise at the end of the process, rather than the beginning?</i></p> <p>The team agreed that it was their recommendation that the term FtP be removed as a dominant and overarching goal for the CCP until the final sanction stage. All agreed that FtP should only be considered after allegations are found proved at a Panel hearing; however noted that if we abolish FtP at the start of the process it would be useful to have a statement of principal about the types of things that will be entertained. We should not open up CCP to things other than breaches of the EPCOPC, but when we begin to discuss local resolution we can expand on this.  <b>Recommendation: Fitness to Practise should be replaced by another term at the beginning of the process and should only be considered once allegations are found proved at a hearing.</b>  <b>Decision (Q1): The purpose of the CCP is not currently clear. We need to have a statement of principal about what the CCP is for and make it clear what will and will not be considered.</b>  <b>Decision (Q3): Fitness to Practise is not the correct term to measure entrance to the CCP. It should only be considered at the final stage once allegations are found proved.</b></p>
<p>4. DP SL</p>	<p><b>Finalise Actions / AOB</b></p> <p>We should consider whether we should do some 'sense testing' on what we are coming up with in the meetings. We need to ensure that we have not missed anything.</p> <p>This could perhaps be done once the final recommendations are prepared for the board.</p> <p><b>AP: ST to amend minutes as required</b>  <b>AP: DP to send a follow-up e-mail asking that responses are sent within the next two weeks (14 days).</b>  <b>AP: SL to prepare bundle of responses for SE and SF to review.</b></p>

	<p>AP: SL to update the report to reflect the unpublished figures.</p> <p>AP: SL/ST to follow up with SK regarding the publication of responses next week.</p> <p>AP: SL/ST to cross-check the Ethical Principles and Code of Professional Conduct to ensure that if the five categories in the CCP were to be removed from the process, that the EPCOPC would still cover the categories.</p> <p>AP: SL to enter recommendations into the report, along with reasons for the decision.</p> <p>AP:SL/ST to review the remaining questions and formulate a timetable for the group.</p>
5.	<p><b>Next Meeting – Wednesday 25 June</b></p> <p><b>12: 30 to 15: 30</b></p>