

# Handling complaints about therapists

Report of the UKCP  
Professional Conduct Committee

1 January 2019–31 December 2019

# At a glance

Complaints activity in 2019



The Complaints and Conduct Team handled **179 general enquiries** and **444 complaint-related enquiries**.

**73 complaints were received.**

10 complaints were referred to an Adjudication Panel.

**2 registrants** were subject to suspension orders.

Root cause analysis of **39 resolved cases** took place.



**0.83%** of all UKCP registrants were the subject of a complaint.

**3 interim suspension order hearings** were held.



## Top 3 causes of complaints:

- 1** Not acting in the client's best interests
- 2** Breaching client confidentiality
- 3** Concerns over a registrant's knowledge/experience.

**8 Adjudication Panels** were convened, concerning 5 cases.

**Conditions of practice** were issued to 3 registrants.

Guidance was published on **confidentiality** and the **code of ethics**.

## Foreword

Welcome to the Professional Conduct Committee (PCC) 2019 annual report. Once again, I hope you find it informative and that it reassures our members and the public that UKCP has a complaints procedure that is fit for purpose and operating well.

The public can be reassured that serious complaints are rare – the vast majority of our registrants never have a complaint made against them – but when things do go wrong our complaints process is robust and enables us to step in and take action. Registrants will be able to see that we take a fair, proportionate approach that ensures serious complaints are taken forward to a hearing, and that focuses on learning and development to support registrants to practise safely.

The complaints process is underpinned by UKCP's code of ethics, and we welcomed an updated version of the code, which came into effect in October 2019. It was produced by the Ethics Committee and we look forward to working closely with them on producing advice and detailed guidance for members on how to avoid complaints arising in the future.

We also welcomed lay member Kellie Green on her appointment to the PCC and Karen Rowe as the newly appointed Ethics Committee representative.

I would like to thank the members of the PCC for all their hard work during 2019. They are all volunteers who give their time freely to help protect the public and improve members' services.

**Brian Linfield MBE JP**

Chair, Professional Conduct Committee



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## 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 membership includes over 10,000 individual members and more than 70 training and accrediting organisations.

Our register of over 8,000 full clinical members is accredited by the government's Professional Standards Authority for Health and Social Care. It includes the following healthcare professionals:<sup>1</sup>

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



1. Defined by the Health and Social Care Act 2012

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# The Professional Conduct Committee

The Professional Conduct Committee (PCC) is responsible for overseeing the successful functioning of UKCP's Complaints and Conduct Process. By doing so, it plays a key part in enabling UKCP to meet its responsibility for maintaining professional standards of excellence.

The PCC has oversight of each individual case that progresses through the complaints process and provides advice and guidance to UKCP's Complaints and Conduct Team, which manages complaints on a day-to-day basis (see page 7).

Occasionally, the PCC may also be asked to make the decision about whether to take an individual case forward if the case manager feels unable to do so.

Another key function of the PCC is to enable learning from complaints. It undertakes a root cause analysis at the conclusion of each case in order to determine the issues that are driving complaints and identify key areas of concern. This information is then used to shape training programmes and helps UKCP with policy decisions.

## Membership of the PCC

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

During 2019, the PCC's membership was as follows:

### Lay members

#### **Brian Linfield MBE JP, Chair**

Brian sits as a specialist member of the Mental Health Tribunal in the Health, Education and Social Care Chamber and as a disability-qualified panel member in the Social Entitlement Chamber of Tribunals. He is a specialist presiding lay magistrate sitting in the family court.

He is a retired civil servant and has a 15-year background of statutory regulation within the water industry, for which he was honoured with his MBE, and was a regional lay chair for complaints within the NHS.

#### **Graham Briscoe**

Graham is a chartered engineer, chartered IT professional, certified management consultant and a fellow of the Institute of Workplace and Facilities Management. Following his retirement from Royal Sun Alliance – where he had responsibility for transformational change management – he has built up a portfolio of community investment involvement, including further education college governance, multi-academy trust board support and visiting fellowships and lectureships at several universities.

He is a board non-executive director with CXK (a young people's careers guidance company) in Kent and he chairs its board's audit, risk and governance committee. He also provides pro bono change and facilitates management support to charity, voluntary and not-for-

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profit organisations in the south-west and Wales. In 2019 he was re-elected for a second term as a member of the Governors' Council of the University Hospital Bristol and Weston, representing North Somerset.

### **Kellie Green**

Kellie has many years' experience of regulating a range of health and care professionals. Previous roles include senior positions within fitness to practise teams at the Health and Care Professions Council (HCPC) and General Pharmaceutical Council.

She is committed to fair and proportionate regulation that achieves public protection. Kellie is currently leading on the development of upstream regulation at the HCPC.

### **Emi Gutwenger**

Emi is a senior 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 of judicial and quasi-judicial processes and complaints procedures.

## **Professional members**

### **Henry Adeane**

Henry is a psychotherapist, trainer and clinical supervisor. He currently works at the Counselling Foundation in St Albans, the Bedford Prison Counselling Service, Matrix College of Counselling and Psychotherapy in Norwich and Ipswich, and in a number of other organisations in various capacities.

He specialises in complex cases, forensic psychotherapy and the ethical treatment of addiction and personality disorder.

### **Sheila Foxgold**

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

### **Kedzie Penfield**

Kedzie trained at the Scottish Institute of Human Relations. For the past 20 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 the PCC, she co-chairs the Ethics Committee for the Scottish Association of Psychoanalytic Psychotherapy. She is UKCP and British Psychoanalytic Council registered.

## **Ethics Committee representative**

### **Karen Rowe**

Karen has worked as a psychotherapist for nearly 30 years in different contexts including the NHS, voluntary sector and HM Prison Service. Currently she is in private practice in Islington, London. She also undertakes supervision and consultancy work for various organisations such as the NHS and forensic services, and in the media sector.

She previously worked as an academic and senior manager in psychotherapy training organisations and continues to participate as a conference presenter and through publication. She was chair of a national mental health service and is currently undertaking research into organisations from a psychoanalytic-systems perspective.





## The Complaints and Conduct Team

The PCC works closely with UKCP's Complaints and Conduct Team, from the receipt of a complaint or allegation through to its resolution. The team currently comprises a complaints and conduct manager, two case managers and a panel secretary. These are lay staff who have extensive experience in handling complaints and regulation in various fields.

As well as working with the PCC to implement the complaints process, the team responds to enquiries, which fall into two categories:

### General enquiries

These can be from psychotherapists and psychotherapeutic counsellors on the UKCP register (referred to as registrants), UKCP organisational members, members of the public or representatives from other professional organisations. For example, a registrant might contact the team to ask for advice about safely storing their client records.

### Complaints enquiries

These are enquiries from people who are considering making a complaint, and from registrants who might be concerned about a client making a complaint. Before making a formal complaint, most people get in touch with the team to seek advice or discuss their concerns.

The team also receives enquiries from people wanting to understand more about the Complaints and Conduct Process (CCP).

By responding to these queries the team helps to provide realistic expectations of the process, informing people of what the CCP can and cannot look at and exploring what channels the enquirer has taken so far. For example, has the registrant spoken to their indemnity provider or has the client discussed concerns with their practitioner?

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# The Complaints and Conduct Process

The CCP<sup>2</sup> provides a centralised, transparent process for considering complaints or concerns raised by members of the public and clients about UKCP registrants.

Originally adopted in December 2012, the CCP was revised in 2017 to streamline the way complaints are made and handled, resulting in a process that is much easier for the public to understand and engage with.

The CCP aims to:

- provide an objective and transparent way of dealing with concerns or complaints about UKCP registrants
- meet the Professional Standards Authority's accreditation requirements for voluntary registers.



## The complaints process in summary

When a complaint or allegation is received, it goes through the following process:

- The complaint is allocated to a case manager in the Complaints and Conduct Team, who is responsible for gathering information from the complainant and the registrant.
- The information is put before the PCC along with the case manager's recommendation regarding the way the complaint should be dealt with, bearing in mind UKCP's procedural requirements. The PCC offers advice to the case manager, who then makes the final decision.
- If a decision is made to take a case forward, it will be referred to an Adjudication Panel hearing. The decision to refer a case to an Adjudication Panel is based on the realistic prospect test: is there a realistic prospect that UKCP will be able to establish before an Adjudication Panel that the registrant may not be suitable to be on UKCP's register without any restrictions or conditions of practice?
- Neither the case managers nor the PCC 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.

If a case does not meet the realistic prospect test, but professional development and reflection may be beneficial, constructive feedback or recommendations are provided to the registrant. For example, a registrant may not have clearly explained their therapeutic methods or their contract, resulting in confusion. The registrant would be advised to review their contracts and terms so that clients fully understand from the outset the obligations and expectations of both parties.





## Adjudication Panel decision-making process and outcomes

An Adjudication Panel follows a four-step process to determine:

- 1 Whether the allegations are found proven (or admitted).
- 2 Whether the allegations constitute misconduct.
- 3 Whether the registrant's current ability to practise unrestricted is impaired.
- 4 What sanction, if any, needs to be applied to remedy any identified training need or protect the public.

There are several possible outcomes:

- **Allegations not found proved or admitted** – where the Adjudication Panel finds that the complained-of behaviour did not occur and therefore there has been no breach of UKCP's code of ethics.
- **Allegations found proved or admitted, but no misconduct** – where the Adjudication Panel finds that the alleged behaviour did occur, but that the behaviour does not constitute misconduct.
- **Allegations proved or admitted, and misconduct found, but no impairment** – where the Adjudication Panel finds that the alleged behaviour occurred and constitutes misconduct, but that the registrant's ability to practise unrestricted is not currently impaired.
- **Allegations proved or admitted, misconduct and impairment found** – where the Adjudication Panel finds that the alleged behaviour occurred, that it constitutes misconduct, and that the registrant's ability to practise unrestricted is impaired. The Panel can only consider imposing a sanction if the registrant's fitness to practise is found to be currently impaired.

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# Revised code of ethics

UKCP's complaints process and code of ethics are closely interlinked. The code of ethics sets out the standards of ethics, practice and conduct that we expect of all our registrants. These are the standards against which complaints about registrants are judged under the CCP.

On 1 October 2019 UKCP adopted a revised code of ethics, entitled the UKCP Code of Ethics and Professional Practice. This followed a substantial project undertaken by UKCP's Ethics Committee<sup>3</sup> to review and update the existing code, which was adopted in 2009. The Ethics Committee worked with key stakeholders, including the Complaints and Conduct Team and the Regulation and Quality Assurance Team, and carried out three consultations with members to finalise the new code.

## Who does the new code apply to?

- The code applies to UKCP full clinical members.
- UKCP colleges and organisational members are required to update their own codes to reflect the new code.

## How is it applied?

- Any complained-of behaviour which occurred on or after 1 October 2019 will be considered under the new code.
- Any complained-of behaviour which took place before 1 October 2019 will be considered under the 2009 code.

## What does this mean for registrants?

UKCP full clinical members are responsible for understanding and adhering to the new code. Supervisors should ensure that their supervisees are also adhering to the new code. Registrants with a query about the content of the new code can contact:

- UKCP, by emailing [ethics@ukcp.org.uk](mailto:ethics@ukcp.org.uk)
- their supervisor
- their professional indemnity insurer
- their UKCP college or organisational member.

## What's changed?

### Tone and language

The new code has a revised structure and is written in more accessible language to make it clearer and easier to understand. The terminology has also been updated to reflect developments in the health and care landscape; for example, it now uses the term 'safeguarding' in relation to children and vulnerable clients.

### New provisions

The following provisions have been introduced and registrants must:

- Decline any gifts, favours, money or hospitality that might be interpreted as exploitative.
- Act in a way which upholds the profession's reputation and promotes public confidence in the profession and its members, including outside of their professional life as a practitioner.
- Inform UKCP and any relevant organisational member if they are charged with a criminal offence.

# Complaints and related activity during 2019

We take all complaints very seriously and are committed to safeguarding the public. However, it is important to remember that the vast majority of members practise every day and are never complained about. In 2019, 0.83 per cent of UKCP registrants had a formal complaint made against them.

Every 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.

## Overview of complaints activity

The following table shows complaints activity during 2019.

	Jan-Mar	Apr-Jun	Jul-Sep	Oct-Dec	Total
Complaints received	13	25	20	15	73
Complaints referred to an Adjudication Panel	2	0	6	2	10
General enquiries received	42	53	42	42	179
Complaint enquiries received	114	125	98	107	444
Adjudication Panel hearings held	1	1	2	4	8
Applications to appeal received	0	0	0	1	1
Interim suspension order hearings held	0	2	1	0	3

### Terms explained

**General enquiries** Enquiries received by the Complaints and Conduct Team that do not directly relate to the CCP.

**Complaint enquiries** Enquiries about making a complaint and aspects of the complaints process.

**Complaints received** Written and signed complaints received by the Complaints and Conduct Team.

**Complaints referred to an Adjudication Panel** Complaints that have been screened by a case

manager and found to be within the scope of the CCP (that is, the complaint indicates a potential breach of UKCP's code of ethics), and where, having given the registrant an opportunity to respond to the complaint, a decision has been made to refer the matter to an Adjudication Panel.

### Interim suspension order hearings

Hearings that are convened if the content of a complaint suggests that an interim suspension order (to temporarily stop the registrant from practising) is necessary in the interests of the public and/or the registrant. This can happen at any time during the complaints process.

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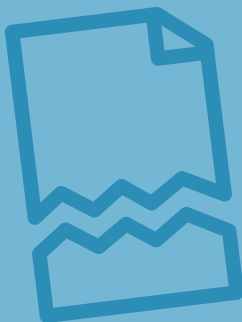
# Of the 73 complaints received in 2019:

**5** were about therapists who were not UKCP members.



**14** were outside the scope of the CCP – that is, they did not indicate a breach of the code of ethics or meet the criteria of the CCP.

**1** complaint about a registrant was incorporated into an existing complaint.



**48** were in scope – that is, they included matters that indicated a breach of the code and may be referred to an Adjudication Panel.

**5** are on hold – that is, where we are awaiting the outcome of decisions from, for example, another regulator or employer.



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## Adjudication Panel hearings and referrals

Of the eight Adjudication Panel hearings held in 2019, seven related to complaints received in previous years:

- four hearings were for complaints received in 2017 (one referred in April 2017, three referred in 2018)
- one hearing was for a complaint received in 2018 (referred to an Adjudication Panel in January 2019)
- three hearings were reconvened matters (where cases had previously been heard but not resolved, so a further hearing was scheduled). Hearings may be reconvened due to factors beyond the control of all parties, such as time running out or unforeseen circumstances. If this happens, the hearing is re-scheduled for the earliest available date to ensure the matter is concluded in a timely manner.

Of the 73 complaints received in 2019, ten were referred to an Adjudication Panel. These referrals were made towards the end of 2019, so we anticipate they will be heard by the Adjudication Panel in 2020 and the outcomes included in the next PCC annual report.

## Outcomes of hearings

While there were eight Adjudication Panel hearings in 2019, these only concerned five cases (that is, some cases were reconvened and were therefore heard at more than one Adjudication Panel meeting). Four cases were heard and concluded. One is ongoing.

For more information about how Adjudication Panel decisions are made and the possible outcomes, see page 9.

### Hearings concluded

In three of the four cases that were concluded, sanctions were issued to the registrant. Two cases resulted in a suspension order ceasing the registrants' psychotherapeutic practice for a period of time, coupled with conditions to be fulfilled during the suspension period. One case resulted in a conditions of practice order. In the remaining case, misconduct was found but no current impairment and therefore no sanction was issued.

All the complaints heard related to allegations of serious failures to maintain professional boundaries.

### Application to appeal

One registrant submitted an application to appeal which was considered by a lay chair (who had no prior involvement with the complaint). The test for granting permission was not met and therefore permission to appeal was not granted.

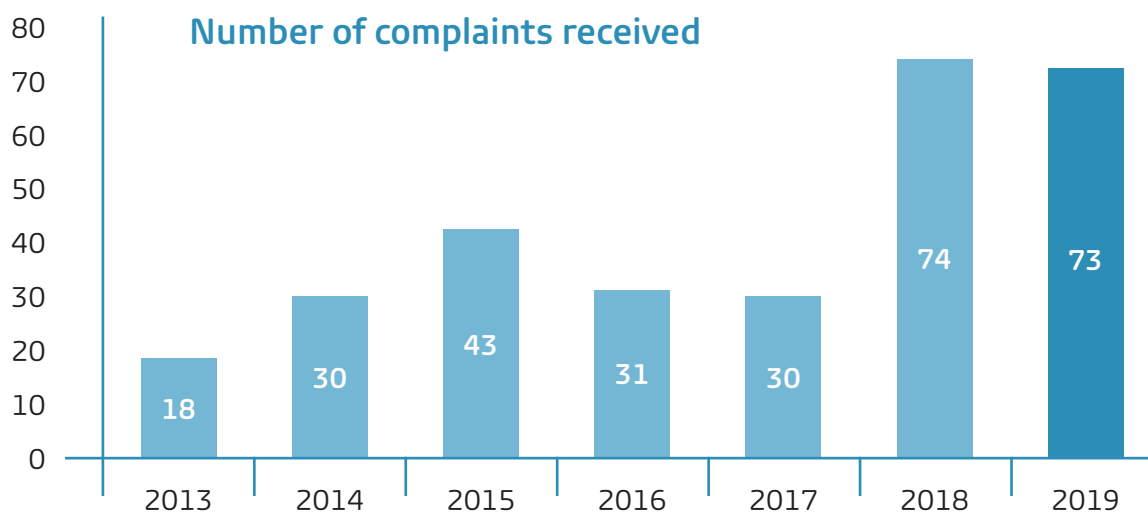
## Summary of Adjudication Panel hearing outcomes in 2019

Findings/actions arising from Adjudication Panel hearings concluded in 2019	Number of registrants
Misconduct found but no current impairment of the registrant's fitness to practise	1
Conditions of practice order (CPO) issued (requiring the registrant to undertake specific conditions)	1
Suspension (an order requiring the registrant to stop practising for a specific time period) coupled with a CPO	2



## Year-on-year analysis

We have been collecting complaints data since 2013. As the chart below shows, the number of complaints we received in 2019 is similar to the number received in 2018 (74 in 2018 compared to 73 in 2019).



## Understanding the root causes of complaints



At the conclusion of each formal complaint, the PCC undertakes a detailed root cause analysis to identify the behaviours or situations that triggered the complaint. The methodology is simple. For each complaint, we review the allegations and then categorise them into one or more broadly defined groups.

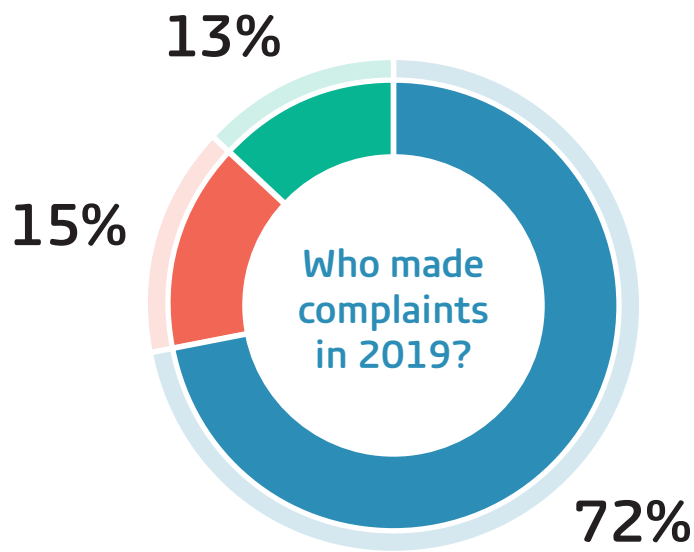
This classification gives us broad oversight of the issues that are driving complaints and throws up a red flag when certain issues recur. Once we have this information, we can begin to analyse and understand the circumstances that are causing the complaints within each category.

The information on the next page relates to 39 cases deemed within scope of the CCP. Some of the complaints were made in previous years.

We also looked at the source of complaints and who made complaints against registrants.



## Who made the complaints?



- Client
- Third party
- Self-declaration

### Terms explained

#### Client

A complaint made about a registrant by a client.

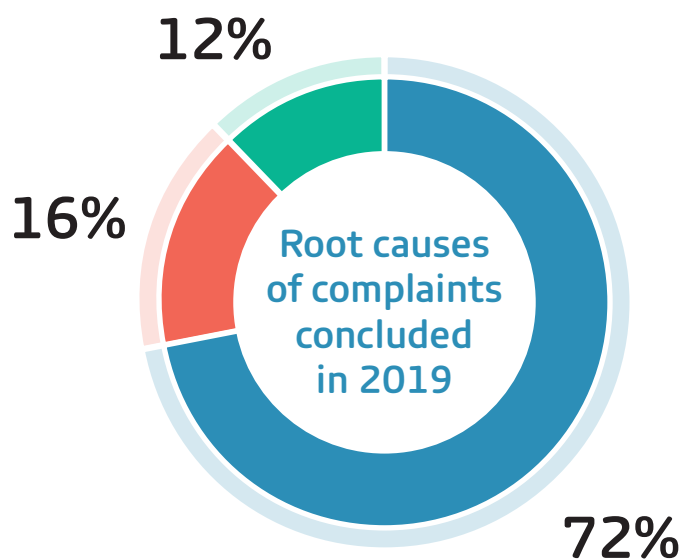
#### Self-declaration

Where a registrant comes forward with an issue, for example a criminal charge against them or being dismissed by their employer.

#### Third party

A complaint made by anyone else outside the client therapeutic relationship, for example, an employer or another regulator.

## What were the root causes?



- Best interest
- Confidentiality
- Knowledge and experience

### Terms explained

#### Best interest

Where it is alleged that the registrant has not acted in the best interests of the client.

#### Confidentiality

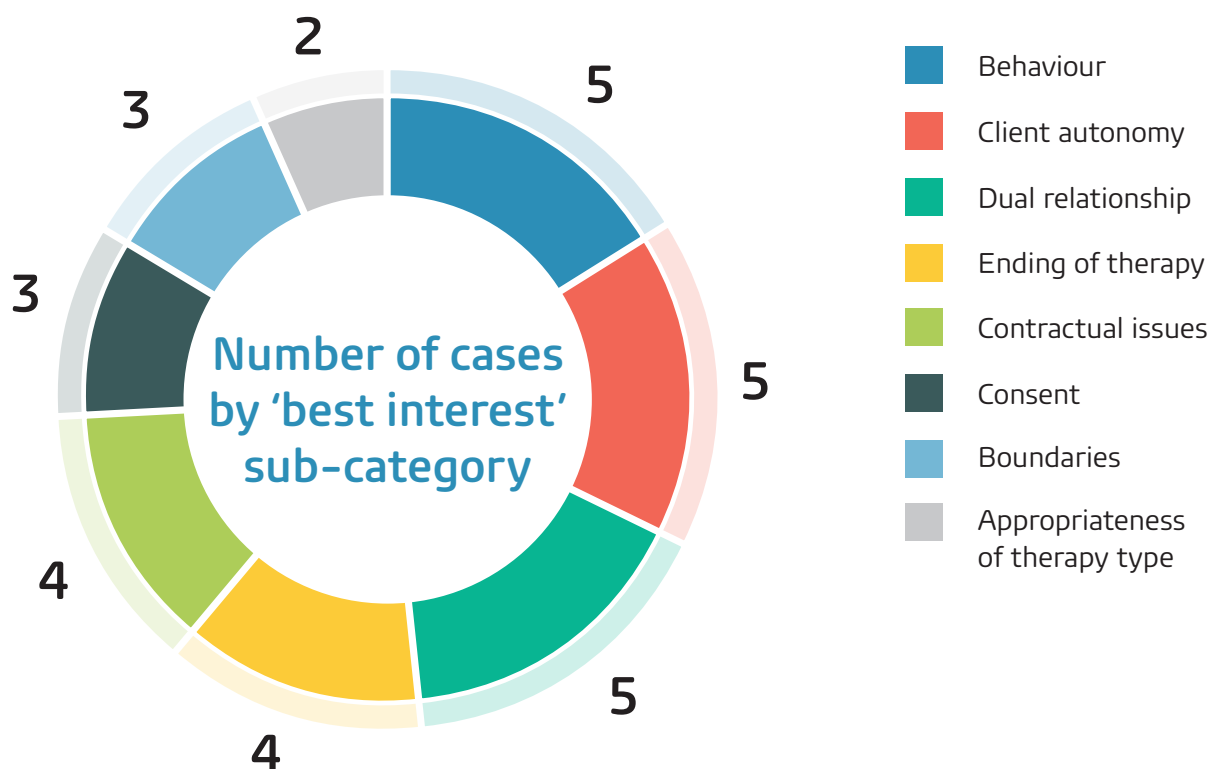
Where there has been an alleged breach of confidentiality.

#### Knowledge and experience

Where a concern is raised about a registrant's level of knowledge and experience and therefore their ability to practise safely/effectively.

## Best interest

To gain a more detailed understanding of the causes of failing to act in the client's best interests complaints, we allocate them to sub-categories as shown in the graph below.



### Terms explained

#### Behaviour

Alleged inappropriate behaviour or comments by the registrant.

#### Client autonomy

Where the client feels they have not been empowered to make their own choices, or that the registrant doesn't respect their choices.

#### Dual relationship

Issues arising where the parties involved have a relationship outside of the therapeutic relationship – for example if the client and registrant enter into a business relationship.

#### Ending of therapy

Issues relating to the ending of the therapeutic relationship.

#### Contractual issues

Issues relating to the contract between registrant and client, for example disputes arising because there is no formal contract in place or a client feels the terms of the contract have been broken.

#### Consent

Where information is shared without the consent of the client, for example between family members.

#### Boundaries

Where a registrant has acted in a manner that confuses the psychotherapeutic relationship and failed to manage professional boundaries.

#### Appropriateness of therapy type

Issues relating to the type of therapy provided, for example, when a client feels that the registrant hasn't made their methods clear and is therefore dissatisfied with what is provided.

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# Learning from complaints: confidentiality

Confidentiality is one of the issues that comes up most often in the complaints we receive, and over the past year the Complaints and Conduct Team has dealt with numerous queries on this topic.

Confidence and trust are essential to the therapeutic relationship, but there are occasions where registrants may be asked to break that confidentiality. For example, they might be asked to provide information or client records to the police, the courts or to clients themselves. This can pose a significant dilemma for practitioners who find themselves juggling pressure from different people and agencies.

Such requests require a considered response, taking into account factors such as client consent and best interest, legal rights and requirements, and the effect of breaking confidentiality on the ongoing therapeutic relationship.

To help registrants navigate their way through these complex considerations, and hopefully avoid situations that could lead to a complaint, we have produced guidance and practical tips which are available at [www.psychotherapy.org.uk/learning-from-complaints-confidentiality](http://www.psychotherapy.org.uk/learning-from-complaints-confidentiality)

We also published an article in the autumn 2019 issue of our *New Psychotherapist* magazine offering guidance to therapists who may be asked to break confidentiality.<sup>4</sup>

## Complaints related activity during 2020

In response to the COVID-19 pandemic, UKCP moved to remote, online working in early 2020. Adjudication Panel hearings were temporarily put on hold and registrants were given the option to take part in hearings via video conferencing. Interim suspension order hearings, open cases and adjourned matters are now being heard in this way.

During 2020 we conducted extensive analysis of the root causes of complaints received over the past five years to identify trends and recurring themes. The Ethics Committee has set up working groups to examine the issues identified and develop further guidance to help prevent them arising in the future.



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4. Complaints Team (2019). 'Points to consider: sharing confidential notes', *New Psychotherapist*, 72.

# Sharing good practice

We are keen to promote good practice and the work of our members.

If you have an example of good practice relating to the way you run your work as a practitioner, and would like to share it with others, we would be pleased to hear from you.

To get in touch, email the Complaints and Conduct Team at [complaints@ukcp.org.uk](mailto:complaints@ukcp.org.uk) – we welcome your input and your help in disseminating effective ways of working.





