

**UKCP's Complaints and Conduct Process**

**Complaint Hearing**

**October 2018**

**MSE**

**103 A Oxford Street**

**London W1D 2HG**

**Name of Registrant:** Martin Eldon  
**Heard by:** Adjudication Panel  
**Panel Members:** Sandra Marcantonio [Lay Chair]  
Gita Patel [CPJA]  
Hilary Brown [HIPC]  
**Legal Assessor:** John Donnelly [2 Bedford Row]  
**Panel Secretary:** Eloise Cadman  
**UKCP Presenting Officer:** Nick Bonehill [2 Bedford Row]  
**Registrant:** Martin Eldon in person and unrepresented.  
**Charges found proved:** Charges 1 and 2 proved by admission.  
**Charges found not proved:** None.  
**Panel decision:** Misconduct found proved, impairment found proved.  
**Sanction:** Removal from register

**Detail of allegations**

1. That whilst being a registered UKCP psychotherapist in February 2013 to December 2017:
  - a. You entered a personal relationship with Patient A when she was in receipt of counselling and therapy (2013 to March 2014);
  - b. In early 2013 gave patient A your personal mobile number and she helped you arrange therapy sessions with other staff members;
  - c. In the summer of 2013 to December 2013, your communications with Patient A became more personal and ended with kisses;
  - d. In December 2013, you kissed Patient A on the lips in Costa (coffee shop);
  - e. You engaged in a 3 hour text conversation on Christmas Day in 2013 with Patient A;

- f. At the end of January 2014, you and Patient A were dating, going out for meals and to the cinema;
- g. In or around February/March 2014, you told Patient A that the therapy sessions have to cease as you and her are in a relationship;
- h. You and Patient A got engaged in the summer of 2016
- i. In December 2017, following plea of guilty to the charge of domestic harassment of Patient A you received a restraining order for a period of 2 years; and
- j. In February 2018, you were dismissed from the London Borough of Tower Hamlets for gross professional misconduct following disclosure of your criminal conviction and relationship with Patient A.

2. The above behavior in 1. is in breach of the UKCP Ethical Principles and Code of Professional Conduct (Code of Ethics). In particular, you:

- a. Failed to respect the best interests of Patient A, thereby breaching clause 1.1 of UKCP's Code of Ethics;
- b. Failed to treat Patient A with respect, thereby breaching 1.2 of UKCP's Code of Ethics;
- c. Sexually exploited your relationship with Patient A, thereby breaching clause 1.3 of UKCP's Code of Ethics;
- d. Entered into a sexual relationship with Patient A, thereby breaching clause 1.4 of UKCP's Code of Ethics;
- e. Engaged in behavior that confused the boundaries of the therapeutic relationship with Patient A, thereby breaching clause 1.5 of UKCP's code of Ethics;
- f. Failed to take into account length of therapy and time lapsed since therapy before entering into any personal relationship therapy breaching clause 1.6 of UKCP's Code of Ethics;
- g. Failed to respect Patient A's autonomy, thereby breaching clause 1.7 of UKCP's Code of Ethics;
- h. Caused harm and distress to Patient A. thereby breaching clause 1.8 of UKCP's Code of Ethics;
- i. Failed to recognise that your behavior outside your professional life may have an effect on your relationship with Patient A and failed to take responsibility for working with these potential negative or positive effects to the benefit of Patient A thereby breaching clause 1.10 of UKCP's Code of Ethics; and
- j. Failed to recognise that your professional and personal conduct may have both positive and negative effects on the way they were experienced by Patient A; you did not critically examine the impact of these effects may have had on the psychotherapeutic relationship with Patient A; and you did not place a priority on preserving Patient A's psychotherapeutic best interests thereby breaching clause 1.11 of the Code of Ethics.

Mr Eldon made admissions to all of the allegations but submitted that he did challenge some of the detail contained within the allegations. Mr Eldon submitted that allegation 1a was not accurate in terms of the date quoted, he further submitted that the communications referenced in allegation 1c related to text messages. In respect of allegation 1f he submitted that the timeline in effect was February 2014 and that the events of 30 January 2014 was not in fact a 'date'. In respect of allegation 1g Mr Eldon said the timeline was again inaccurate and should have been "in the region of" January 2014.

Mr Bonehill on behalf of the UKCP submitted that the matters raised and challenged by Mr Eldon were not material particulars of the allegation and therefore did not impact materially upon his case.

The panel accepted the legal advice and determined that the basis of plea submitted by Mr Eldon did not impact upon any likely sanction or finding of impairment when considered in the context of all the information presented on behalf of the UKCP.

Accordingly the panel recorded that the entirety of these allegations were proved by way of admission and proceeded to the next stage of these proceedings.

## **Background**

Mr Eldon has been an accredited psychotherapist with Neuro Linguistic Programming since 1995.

Patient A was first referred to Mr Eldon in 2013. At some stage during 2013 during the course of sessions with Patient A, the professional relationship developed into a friendship and became personal and intimate, until he initiated a sexual relationship in December 2013. The registrant and Patient A became engaged in 2016. Thereafter there were difficulties in the relationship, which culminated in a notice of a restraining order against Mr Eldon by Willesden Magistrates' Court on 7 December 2017. In December 2017, the registrant was convicted of domestic harassment and was subject to a restraining order for 2 years. There was also a non-molestation order granted by Barnet Family Court on 9 October 2017. Mr Eldon did not seek to go behind the findings in respect of either court hearings, but did furnish his own personal account of those events, suggesting that he had been "set up".

On the 18th of December 2017 the UKCP received notification from the London Borough of Tower Hamlets (LBTH), informing them that they were investigating a complaint against Mr Eldon and had imposed a suspension on his practice for the duration of the investigation.

### **Preliminary Matters**

1. This matter was heard under the UKCP Complaints and Conduct Process September 2017, and the Panel considered the alleged breaches of the UKCP Ethical Principles and Code of Professional Conduct 2009.
2. The Panel considered the following preliminary matters:
  - a. The UKCP bundle amounted to 114 pages. In addition to the memorandum from Barnet Family Court and Willesden Magistrates' Court as referenced above. The bundle will herein be referred to as Bundle 1.
  - b. The Registrant provided an email dated 11 June 2014 from Patient A to him.

### **Determination on the facts**

Mr Eldon admitted each and every allegation and the panel found these proved by admission.

Mr Eldon gave evidence on oath before the panel, the panel found the evidence to be inconsistent in part, with his earlier submissions through his legal representatives. The panel found Mr Eldon to be somewhat evasive.

### **Determination on misconduct**

1. This determination should be read in accordance with the Panel's previous determinations.
2. 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 all of the relevant information before it.
3. The Panel heard further submissions from the Presenting Officer on behalf of UKCP.
4. The Presenting Officer on behalf of UKCP invited the Panel to conclude that the facts found proved, constitute misconduct and impairment, namely that this was sexual misconduct conduct. He further submitted that this behaviour fell far below the standards expected and

served to put patients at risk, it breached a fundamental tenet of the profession and would undermine public confidence in the profession.

5. 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 question of misconduct is a matter of independent judgment and is not a matter of proof for the parties.

6. In addressing whether the facts proved amounted to misconduct, the Panel had regards to the words of Lord Clyde in the case of *Roylance v. General Medical Council*. 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.”*

The Panel noted that sexual relationships between patient and therapist are explicitly prohibited within UKCP’s Code of Conduct (Para 1.4 of the General Ethical Principles).

7. In light of the above, the Panel determined that Mr Eldon’s behaviour represented a serious derogation of responsibilities over an extended period of time which colleagues would define as deplorable behaviour and reprehensible and accordingly amounted to misconduct.

### **Determination on impairment**

1. The Panel then went on to consider the question of impairment. This determination should be read in accordance with the Panel’s previous determinations.

2. The Panel applied the approach as set out in the 5<sup>th</sup> Shipman Enquiry and Dame Janet Smith’s approach to determine the question of impairment.

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

3. The Panel considered that Mr Eldon's relationship with Patient A demonstrated Mr Eldon's wilful failure to maintain appropriate professional boundaries in terms of relationships with clients and colleagues. Mr Eldon knew that Patient A was vulnerable and that his actions risked undermining her mental health but in the period leading up to the beginning of their sexual relationship, he did not open up his decisions to the scrutiny of his peer supervision group or seek additional consultation. When asked about these matters he showed no insight into the ways in which the therapeutic space can become sexualised or recognition that, as the therapist, it was his responsibility to contain and manage these dynamics. The Panel accepts that roles became blurred by Patient A's collegiate responsibilities in the work setting but it was definitively Mr Eldon's responsibility to maintain proper boundaries or refer Patient A onto another therapist. The Panel therefore considers him to present an ongoing risk in relation to sexual misconduct.

Such behaviour would additionally bring disrepute to the profession and the intimate nature of this relationship represented a protracted breach of a fundamental tenet of the profession.

The Panel further determined that in these circumstances, a failure to find impairment would undermine public confidence in the profession and the in the UKCP as a regulator.

The Panel considered that Mr Eldon as a mental health professional should have had an informed understanding of his professional responsibilities and he should have used his clinical judgment about Patient A's needs when considering the nature of the relationship between a psychotherapist and a patient. He has displayed little or no insight either at the time or since in that regard. The Panel further considered that he should not have entered into the relationship. The Panel particularly noted that this was not a single incident but a course of conduct over a considerable period of time, the Panel recognised that Mr Eldon had been distressed by this relationship but lacked essential judgment.

Furthermore he was unable to adequately access and use his supervision as he did not disclose his relationship with Patient A, which is the appropriate avenue through which he could have sought to further his understanding and to re-establish his proper professional conduct.

The Panel was particularly concerned that the reputation of the profession and the UKCP would be seriously affected by the allegations made in the Notice of restraining order (7 December 2017) 'conduct which amounts to harassment or will cause fear of violence'.

Mr Eldon sought to blame others, including professional colleagues and Patient A, and appeared to be unaware of Patient A's vulnerability suffering from PTSD, and not respecting this in any way. The Panel considered that these aspects of Mr Eldon's behaviour underline his lack of insight into the circumstances of these allegations.

The Panel recognised Mr Eldon has had a long career, previously unblemished, he had engaged fully with the process and has extended his apologies to the Panel and the Regulator.

The Panel considered that such behavior is capable of remediation but there is no evidence before it to suggest there has been any remediation. The Panel considered that there remains a risk of such misconduct.

### **Determination on Sanction**

1. 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.

2. The Panel heard further submissions from Presenting Officer on behalf of UKCP and the Registrant.

3. The Presenting Officer on behalf of UKCP submitted that the following were capable of being aggravating factors:

- The misconduct was not an isolated incident but a course of conduct that continued over a lengthy period of time
- There were issues of vulnerability in relation to Patient A
- That there were criminal proceedings which have been dealt with in a criminal court, and;
- Mr Eldon's lack of insight

With regard to the mitigating factors the presenting officer said the following:

- That Mr Eldon has engaged fully despite not having legal representation
- That Mr Eldon has been on the register for a long period of time

- That Mr Eldon no longer intends to practise

The Presenting Officer also advised the panel that the Interim Suspension Order is a factor that they can take into account.

4. The Registrant stated that he accepts the finding of misconduct but was disappointed by the finding of impairment. He mentioned that there has been lots of learning and has acknowledged that "key principles have been broken". Mr Eldon referred to his practice that commenced in 1994 and described working as a psychotherapist as 'fantastic work to help people transform' and commented he had often been "credited for his work".

Mr Eldon commented that he no longer intends to practice and acknowledged that he is not currently fit to practise and would have practical difficulties when returning to practice. Mr Eldon continued to acknowledge that these factors would impact his ability to meet the UKCP's registration process.

Mr Eldon said he would struggle to return to practice and said "a big piece of me has been cut off". He addressed the Panel as to his financial position, future employment, his family and his health.

He invited the panel to consider allowing him to leave the profession without the ultimate sanction of termination.

5. 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.

6. 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.

7. 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.



The Panel considered all the material submitted from both parties and determined the following:

1. Aggravating Factors

- a. Breach of fundamental tenet of profession
- b. Breach of trust / Abuse of power
- c. Inappropriate relationship - with vulnerable patient
- d. Sexual misconduct
- e. Course of conduct over an extended period of time
- f. Deflecting blame to others
- g. Failure to disclose his misconduct in his meeting with his peer supervisor group
- h. Failure to timeously inform the UKCP of the Investigation by LBTH and the criminal conviction

2. Mitigating Factors

- a. Fully engaged
- b. Full admission of the allegations as presented
- c. Previous unblemished career since 1995
- d. Apology to Regulator

8. The Panel considered the sanctions in ascending order and therefore considered the allegations too serious for disposal in the following manner:

- a. *Apology*
- b. *Warning*
- c. *Written report or oral statement*
- d. *Further training*
- e. *Further supervision or therapy*

The panel then went on to consider the remaining sanctions available to them, and also the possibility that a combination of sanctions could be imposed.

- f. *Conditions of Practice order*: The Panel considered whether the conditions of a practice order would be proportionate. The Registrant has indicated that he proposes to retire from

practice and such a disposal would not be workable. The Panel in any event considered such a disposal was not proportionate or appropriate in the circumstances of this case.

g. *Suspension Order / removal from register:* the Panel then went on to consider the sanction of suspension for a period of up to twelve months and particularly considered the guidance provided at 4.2 and 4.4. The Panel recognised that sexual misconduct undermines public confidence in the profession and represents a breach of a fundamental tenet of psychotherapy.

Mr Eldon's behaviour was a clear breach of the special position of trust and abuse of power. The Panel particularly considered paragraph 4.4.5 in deciding whether a suspension or a termination is the appropriate sanction. The Panel determined that Patient A was a vulnerable patient, that the Registrant had engineered and initiated the sexual contact and that this was behaviour which had occurred over a period of time and had been a deliberate course of action. The Panel had carefully considered the risk of this behaviour occurring again and found that there was a likelihood of repetition. In addition Mr Eldon had not adequately understood and addressed his failings in this regard, and that this could pose a danger to the public, if he was permitted to recommence practice.

The Panel took the view that Termination was the only appropriate sanction in relation to all the circumstances of this case. While mindful of the hardship experienced by Mr Eldon as a result of these matters, this sanction signals how seriously the UKCP takes the matter of sexual misconduct within a therapeutic relationship.

9. The Panel determined that the appropriate sanction is termination of registration, that this is the only commensurate sanction, given the facts and that there are no exceptional circumstances that dictate otherwise. Mr Eldon should be removed with immediate effect and his OM be notified.

### **Right of Appeal**

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

2. 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 28<sup>th</sup> day.

Signed,

S C Marcantonio

Sandra Marcantonio, Lay Chair

5 October 2018