

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

**2-4 December 2020  
Remote hearing**

**Name of Registrant:** Kevin Ball (Council for Psychoanalysis and Jungian Analysis College)

**Heard by:** Adjudication Panel

**Panel Members:** Claire Bonnet (Lay Chair)  
John Wren (Universities Training College)  
Serena Jenks (Council for Psychoanalysis and Jungian Analysis College)

**Legal Assessor:** Sean Hammond (2 Bedford Row)

**Panel Secretary:** Eloise Cadman

**UKCP Presenting Officer:** Emma Kutner (2 Bedford Row)

**Registrant:** Registrant present and represented by Farrah Mauladad (Crown Office Chambers)

**Charges found proved:** 1 and 2, proved by admission

**Charges found not proved:** None

**Panel decision:** Misconduct found proved;

## Detail of allegations

That being a UKCP registered psychotherapist you Kevin Ball, (the Registrant)

1. On 28 May 2020 whilst working as a parent and infant psychotherapist were dismissed by North East London Foundation Trust (NELFT) for gross misconduct. The decision which led to the dismissal at Schedule 1 is incongruent with what is expected of a UKCP registrant and related to your practice as a psychotherapist.
2. You failed to notify UKCP that you had been placed on restricted duties precluding you from client contact by NELFT on 8 January 2020 and by Tavistock and Portman NHS Foundation Trust on 11 March 2020.

For the reasons set out above your fitness to practice is thereby impaired by reason of misconduct and/or determination of another organisation.

### Extract from Schedule 1

*“Allegation 1:*

*It is alleged that the therapist did not maintain professional boundaries with the patient. These include personal disclosures to the patient as detailed below:*

#### *1.1 ...not upheld.*

*1.2 That you disclosed that you were* [REDACTED]

*You do not recall stating that you* [REDACTED] *to the patient* [REDACTED]

*The Transcript does include you describing an argument you’d had with* [REDACTED] *You described being ‘really pissed off’ with the questions* [REDACTED] *was asking. I would not myself consider this comment itself to be a description of* [REDACTED] *. However that disclosure is itself unprofessional and far too personal and should not have been made. It is also possible the SU interpreted this or other comments as being a description of* [REDACTED] *, especially in the context where you and she were discussing romantic feelings for each other. I have seen no evidence that you disclosed any actual* [REDACTED] *and to that extent the allegation is not upheld, but I consider that your otherwise unprofessional disclosures may have led to this perception. It is therefore* **partially upheld**.

*There is no way for the patient to know your* [REDACTED] *unless you had disclosed this, so on balance, my view is that this part of the allegation is upheld. However it is also my view that appropriate information can be shared with patients and in isolation, I did not view the disclosure of your* [REDACTED] *as serious. This allegation is* **partially upheld**.

[REDACTED]

[REDACTED]

However, there were discussions in the audio recording whereby you discuss where your interests in pornography stems from and that you had written literature that could be deemed as pornographic. You also explored with SU how you were interested in the mechanics of sexual fantasies and how you would like to study sexual perversion.

The panel were sufficiently concerned that this was another example of extremely inappropriate disclosure to a patient and this allegation is **partially upheld**.

1.4 That you hugged the patient.

I viewed messages you had exchanged with the patient where the patient asked you for a hug which you agreed to, and when asked by the patient, only if you want to, you replied 'I want to'. You explained at the hearing that you didn't want to make her feel rejected, you were traumatised and on red alert. In your written statement you stated that you should have replied 'okay fine then'.

My view is that 'okay fine then' would not have been a reasonable response. You explain that there was one hug exchanged where the patient hugged you and froze. You were asked about the professional boundaries policy and understood that you must never hug a patient. This allegation is **upheld**.

1.5 ...**not upheld**.

1.6 That you discussed other patients during your session with the patient.

Both you and the service user agree that other cases were discussed, but no other information was provided to this patient that would identify the other patients.

Whilst the allegation is **upheld**, I was clear that this would not be deemed a disciplinary offence unless confidentiality had been breached.

1.7 That you shared [REDACTED] within a therapy session.

This is evidenced in the audio recording and text messages exchanged. At your initial meeting you explain that you may have answered some questions and said it's all over the news to the patient so

*she may have read about it. However, you did bring this up at your therapy session as audio recorded and you did direct the service user to the newspaper as viewed on the text messages.*

*I am clear that there would be no circumstances where you should have disclosed such a personal matter to a patient, and what was more concerning is that this patient had a history of abuse, which you were aware of. You accepted that this was wrong and a mistake and that you would never do this again. I am clear under no circumstance would this have been deemed an appropriate personal disclosure.*

*1.8 That you offered to see the patient privately once therapy had ended within NELFT.*

*You denied this and this allegation was read as you offered to see the patient in private therapy. There is evidence contained in the audio recording where you are saying, I mean technically that doesn't have to happen, I mean, we could meet again. I mean, there's no reason why we couldn't. With the patient stating 'What outside of this context?' 'And you reply with Yeah, maybe it's an ongoing conversation'.*

*It is not clear whether the words quoted above meant that you were considering meeting with her in private therapy once therapy had ended with NELFT or whether you were considering meeting with her on a non-professional romantic basis. On balance the Transcript suggests the latter.*

*Either way though, the comment is grossly unacceptable and a very serious breach of your professional duties. However you said that you had [REDACTED] at the time which affected your judgement which I have considered below. This allegation is **upheld**.*

*1.9 That you exchanged Text messages with the service user that was inappropriate and not related to Therapy.*

*I viewed a number of messages exchanged between you and the patient which were inappropriate. I was clear that it was not just the contents of the messages that were inappropriate but the number of messages exchanged were inappropriate and point to a relationship which was not limited to a therapeutic one. You maintain that your exchanges related to books you refer the patient to, are from a therapeutic background. I was sufficiently concerned that there was little clinical notes as to the reasons for the sharing this information and to provide context. This allegation is **upheld**.*

*In conclusion on allegation 1 (putting aside any mitigation for the moment), I am satisfied that whilst some of the specific examples cited are not upheld, the allegation as a whole must be. This was an extremely serious case of failing to maintain professional boundaries.*

*Allegation 3:*

*That you failed to report your challenges with the patient to your supervisor or on Rio with regards to their feelings towards you and therefore failed to adequately risk assess the situation.*

*You accept that you had not addressed the concerns related to this in clinical supervision. You explain that you are aware clearly in retrospect that this would have helped you and you are remorseful and regret this deeply. You attribute this to a poor error of judgement and you were vulnerable at the time. You explain this as an acute stress reaction and you did not want the patient to feel sad or hurt, you accept that you were careless and clumsy and not thinking straight.*

*You supervisor ██████ explained to us that you did quite appropriately bring to supervision another case where a patient had declared they had a dream of a quite sensitive nature about you. This case was discussed in April of 2019 and I was sufficiently concerned that your lack of judgement seemed to be limited to this case and is not reciprocated in other cases. It was evident from your actions in respect of this other case in April 2019 that you were fully aware of the need to report concerns to your supervisor about boundaries being breached.*

*I can also see from your interview notes that you say you did mention the case to your supervisor but briefly and you are not surprised she did not remember that. This causes me some concern and had drawn me to the conclusion that on some level at least you were deliberately not raising the relevant issues with your supervisor and concealing the problem. If you raised the case with her, even briefly, you must have known at that point when discussing the case that there were serious issues with the case that should have been raised. I do not believe that you ever considered the SU case and its transgressions as normal or that the situation with SU was routine (you said to me in our meeting that the situation was not one you'd ever encountered before). Nor do I believe you could have omitted when raising the case to mention those issues through 'carelessness', even allowing for your stress at the time. I do think that at some level you made a choice at the time not to report the concerns. I am satisfied that allegation 3 should be **upheld**."*

## **Background**

1. The Registrant was employed by NELFT in the perinatal parent infant mental health service.
2. As part of his duties, he was allocated Client A, a ██████ year old mother who was having bonding and attachment difficulties with her ██████ month old child.
3. The Registrant had 15 therapy sessions with Client A between June and December 2019.
4. On 24 December 2019, the NELFT received a phone call followed by a letter on 10 January from external consultant psychologist, raising serious concerns about whether the therapy sessions with Client A and her child had been appropriate and within professional boundaries. The Trust commenced a formal disciplinary investigation.

5. On 8 January 2020, NELFT restricted the Registrant's practice to preclude him from having client contact.
6. As part of NELFT's investigation, text messages exchanged between the Registrant and Client A from September 2019 to December 2019 were obtained. In addition, a recording of a therapy session on 25 November 2019 was transcribed.
7. The Registrant attended a formal disciplinary hearing which resulted in his summary dismissal by NEFLT for gross misconduct on 28 May 2020.
8. In addition to his employment with NEFLT, the Registrant was also training at The Tavistock and Portman NHS Foundation Trust ("The Tavistock") in the Adult and Forensic Services.

### **Preliminary Matters**

9. The complaint was heard under the UKCP Complaints and Conduct Process 2017, and the Panel considered the alleged breaches of the UKCP Ethical Principles and Code of Professional Conduct 2009 and of the UKCP Code of Ethics and Professional Practice 2019.
10. The Panel had placed before it the following documents:
  - a. The UKCP bundle amounting to 248 pages. The bundle will herein be referred to as C1.
  - b. The Registrant's bundle amounting to 39 pages. The bundle will herein be referred to as R1.
  - c. A further document served on behalf of the Registrant amounting to 1 page. This document will be referred to herein as R2.

### **Preliminary Applications**

11. Ms Mauladad, on behalf of the Registrant, made an application for the parts of the hearing [REDACTED] to be held in private.
12. Ms Kutner, on behalf of UKCP, did not oppose this application.
13. The Panel considered and accepted the advice from the Legal Assessor who referred the Panel to the test set out in rule 7.8 of the UKCP's Complaints and Conduct Process.
14. The Panel noted that hearings should normally be held in public for reasons of openness and transparency, however, it was satisfied that in the particular circumstances of this case, the

Registrant's interests outweighed the public interest in relation to those parts of the evidence [REDACTED]. The panel therefore determined that those parts of the hearing should be held in private.

### **Determination on the facts**

15. The allegations were read into the record and the Registrant admitted allegations 1 and 2.
16. The Chair announced that allegations 1 and 2 were found proved by admission.
17. The Registrant further admitted that his behaviour in allegations 1 and 2 amounted to misconduct but denied that his fitness to practise was currently impaired.
18. The Panel noted the Registrant's admission in relation to the issue of misconduct but this remained a matter for the judgement of the Panel.

### **Determination on finding of another organisation**

19. The Panel noted that UKCP relied upon the determination of another organisation, namely, NELFT as grounds to support a finding of impairment in addition to misconduct. The Panel was satisfied from the evidence before it that NELFT made a determination in relation to the Registrant on 28 May 2020 that is capable of calling into question the Registrant's suitability to be on the register.

### **Determination on misconduct**

20. This determination should be read in accordance with the Panel's previous determinations.
21. In accordance with rule 7.23 of UKCP's Complaints and Conduct Process, the Panel then went on to consider whether the Registrant had breached the UKCP Ethical Principles and Code of Professional Conduct 2009 and UKCP Code of Ethics and Professional Practice 2019 and the question of misconduct. In addressing this question the Panel took into account all of the relevant information before it.
22. The Panel heard submissions from Ms Kutner on behalf of UKCP. Ms Kutner outlined the chronology and background to the allegations and referred the Panel to the evidence exhibited in C1. In particular, Ms Kutner referred the panel to the text messages exchanged between the Registrant and Client A and to the transcript of the recording of the therapy session on 25 November 2019.

23. Ms Kutner submitted that due to the dates of the allegations, the Panel must consider the provisions of both the UKCP Ethical Principles and Code of Professional Conduct 2009 and the UKCP Code of Ethics and Professional Practice 2019 which came into force on 1 October 2019. Ms Kutner submitted that the Registrant had breached the provisions of both codes. Ms Kutner invited the Panel to conclude that the allegations found proved constitute serious professional misconduct.
24. Ms Mauladad indicated to the Panel that she would not be making any representations in respect of misconduct as her client accepted this, but recognised that it was still a determination for the Panel to undertake.
25. The Panel accepted the advice of the Legal Assessor as to the approach it should adopt when considering the question of misconduct. The Panel acknowledged that the question of misconduct is a matter of independent judgement and is not a matter of proof for the parties.
26. In addressing whether the facts found proved amounted to misconduct, the Panel had regards to the words of Lord Clyde in the case of Roylance v. General Medical Council (No.2) (2000) 1AC 311. 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 in this case, those standards were contained in the UKCP Ethical Principles and Code of Professional Conduct 2009 and the UKCP Code of Ethics and Professional Practice 2019.
27. The Panel determined that the Registrant had breached 1.1, 1.2, 1.3, 1.5, 4.1, 4.2(c), 5.7, 8.1 and 9.2 of the UKCP Ethical Principles and Code of Professional Conduct 2009 for the reasons set out below.

*1.1 The psychotherapist takes responsibility for respecting their client's best interests when providing therapy.*

The Panel was satisfied that the Registrant's conduct fell far short of the standard expected in paragraph 1.1. In reaching this decision, the Panel had regard to the transcript of the recording of the therapy session on 25 November 2019. The Panel was of the view that this transcript demonstrated that the Registrant was not focused on the purpose of the therapy sessions and the interests of Client A.

*1.2 The psychotherapist undertakes to treat their clients with respect.*

The Panel was of the view that the content of the text messages and of the transcript of the recording of the therapy session on 25 November 2019 demonstrated that the Registrant did not treat Client A with respect in that he placed his own interests ahead of her interests.



*1.3 The psychotherapist undertakes not to abuse or exploit the relationship they have with their clients, current or past, for any purpose, including the psychotherapist's sexual, emotional or financial gain.*

The Panel was satisfied that the Registrant had breached professional boundaries and there was an element of flirtatiousness in the text messages and had abused his relationship with Client A for his emotional gain.

*1.5 Psychotherapists are required to carefully consider possible implications of entering into dual or multiple relationships and make every effort to avoid entering into relationships that risks confusing an existing relationship and may impact adversely on a client. For example, a dual or multiple relationships could be social or commercial relationship between the psychotherapist and client, or a supervisory relationship which runs alongside the therapeutic one. When dual or multiple relationships are unavoidable, for example in small communities, psychotherapists take responsibility to clarify and manage boundaries and confidentiality of the therapeutic relationship.*

The Panel was satisfied that the Registrant had entered into a dual relationship with Client A as evidenced by the text messages. The Panel noted that these were not administrative or related to the therapy but were about his feelings and needs. The Panel noted that the psychotherapist is always in a position of power in relation to the client and that therefore the Registrant's behavior was capable of confusing the relationship and may have had an adverse impact on client A.

*4.1 The psychotherapist acknowledges that their professional and personal conduct may have both positive and negative effects on the way they are experienced by a client. The psychotherapist undertakes, in a continuing process, to critically examine the impact these effects may have on the psychotherapeutic relationship with any client, placing a priority on preserving the client's psychotherapeutic best interests.*

The Panel was satisfied that the Registrant had failed to examine the impact of his increasingly dual relationship with Client A and the fact that it may have had a negative impact on her.

*4.2 The psychotherapist agrees to inform UKCP and the relevant member organisation if they are:*

*(c) Suspended or placed under a practice restriction by an employer or similar organisation because of concerns relating to practise of psychotherapy, competence or health.*

The Panel was satisfied that the Registrant had failed to inform UKCP that he had been restricted to duties precluding client contact by NELFT on 8 January 2020 and by Tavistock

and Portman NHS Foundation Trust on 11 March 2020 as required by this paragraph of the code.

*5.7 The psychotherapist accepts responsibility to ensure that they are competent and have sufficient supervisory arrangements and other necessary support to enable them to meet their psychotherapeutic obligations to any client. This includes the responsibility of ensuring the very careful consideration of how best to refer a client to another psychotherapist or professional should it become clear that this would be in the client's best interest.*

The Panel was satisfied that the Registrant failed to refer matters to his supervisor following the therapy sessions as was required in the best interests of Client A.

*8.1 The psychotherapist agrees to keep such records as are necessary to properly carry out the type of psychotherapy offered.*

The Panel was satisfied that the Registrant failed to keep adequate records of the therapy sessions and did not input the relevant information to Rio, the computerised record system used by NELFT.

[REDACTED]

[REDACTED]

28. The Panel next considered the provisions of UKCP Code of Ethics and Professional Practice 2019. The Panel noted that many of the provisions of the 2019 code were similar to those of the 2009 code. The Panel therefore found that the Registrant was in breach of paragraphs 1, 2, 5, 8, 20 and 26 on the basis of the same reasoning as set out in the preceding paragraph.

29. The Panel noted that the 2019 code introduced a new section under the heading "Trust and Confidence" that was not included in the 2009 code. The Panel determined that the Registrant had breached paragraphs 32, 33 and 39(d) under that heading for the reasons set out below:

*32. Act in a way which upholds the profession's reputation and promotes public confidence in the profession and its members, including outside of your professional life as a UKCP practitioner.*

The Panel was satisfied that by not respecting professional boundaries in his relationship with Client A, the Registrant's conduct was capable of diminishing public trust in the profession's reputation.

*33. Maintain an awareness of, and comply with, all legal and professional obligations and UKCP polices which apply to your practice.*

In the Registrant's statement dated 15 November 2020, he states: "I was (wrongly) unaware that I had to report matters to UKCP." The Panel was therefore satisfied that the Registrant had not maintained an awareness of his professional obligation to inform UKCP of the restrictions placed on his practice by his employers.

*39. Co-operate with any lawful investigation or inquiry relating to your psychotherapeutic practice. Inform UKCP and any relevant organisational member if you are:*

*(d). suspended or placed under a practice restriction by an employer or similar organisation because of concerns relating to your competence, health or practice of psychotherapy.*

The Panel was satisfied that the Registrant failed to inform UKCP that he had been restricted to duties precluding client contact by NELFT on 8 January 2020 and by Tavistock and Portman NHS Foundation Trust on 11 March 2020.

30. Taking into account the multiple breaches of the codes, the Panel was satisfied that the Registrant's conduct fell significantly short of the standard expected of a registered practitioner. The Panel therefore determined that the Registrant's failings amounted to serious professional misconduct that fellow practitioners would regard as deplorable.

### **Determination on impairment**

31. The Panel then went on to consider whether the Registrant's fitness to practise is impaired by reason of his misconduct and/or the determination of the NELFT disciplinary hearing on 28 May 2020. In reaching its decision, the Panel had regard to its previous determinations in relation to the facts and to misconduct.

32. The Panel heard further submissions from Ms Kutner. She submitted that the Registrant's insight into his failings is limited and that therefore there is a risk of repetition and a consequential risk to service users. She submitted that a finding of current impairment is therefore required. In addition, she submitted that having regard to the wide-ranging breaches of the UKCP Ethical Principles and Code of Professional Conduct 2009 and UKCP Code of Ethics and Professional Practice 2019 found by the Panel, a finding of impairment is required to maintain public confidence in the profession and to declare and uphold proper standards of behaviour.

33. The Registrant gave evidence at this stage of the hearing. The Panel found the Registrant to be a credible and reliable witness who was genuinely remorseful for his failings and the negative impact they may have had on Client A and the reputation of the profession. The Panel was of the view that the Registrant's answers to questions from Panel members

demonstrated his considerable insight into his failings and what he has done to remediate those failings.

34. The Panel also had regard to the documentation contained in bundles R1 and R2. This included a written statement from the Registrant, [REDACTED], statements from his current supervisor and therapist, a development plan, course attendance certificates and reflective pieces relating to attendance on those courses and finally a testimonial from a colleague.
35. Ms Mauladad submitted that having regard to the level of insight and remediation demonstrated by the Registrant, his fitness to practise is not currently impaired. She further submitted that a finding of impairment was not necessary on wider public interest grounds. She submitted that the Panel's finding of misconduct and the salutary experience of appearing before his regulator was sufficient to mark the public interest concerns. Ms Mauladad also provided the Panel with written submissions and a copy of the judgement in the case of the Professional Standards Authority for Health and Social Care v HCPC and Roberts (2020) EWHC 1906 (Admin).
36. The Panel accepted the advice of the Legal Assessor.
37. In reaching its decision, the Panel was mindful that the question of impairment is a matter for the Panel's professional judgement. The Panel was required to determine whether the Registrant's fitness to practise is currently impaired. The Panel has to assess the current position looking forward not back, however in order to form a view of the Registrant's fitness to practise today, the Panel will have to take account of the way in which the Registrant has acted or failed to act in the past. The Panel acknowledged that a finding of misconduct does not necessarily mean that there is impairment of fitness to practise. There must always be situations in which a panel can properly decide that the act of misconduct was, on the part of a Registrant, isolated and the chance of it being repeated in the future is so remote that his or her fitness to practise has not been impaired.
38. The Panel had regard to the decision in the case of Cohen v GMC (2008) EWHC 581 and considered whether the Registrant's misconduct is easily remedied; has already been remedied; and whether it is likely to be repeated.
39. The Panel applied the approach as set out in the 5th Shipman Enquiry and Dame Janet Smith's approach to determine the question of impairment that was 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 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. *...*

40. The Panel was satisfied that the Registrant's misconduct did put Client A at unwarranted risk of harm. Furthermore, the Registrant's multiple breaches of the UKCP Ethical Principles and Code of Professional Conduct 2009 and UKCP Code of Ethics and Professional Practice 2019 amounted to breaches of the fundamental tenets of the profession and that his actions were therefore capable of damaging the reputation of the profession. Accordingly, the Panel was satisfied that the Registrant had previously acted in such a way as to engage limbs 'a'-'c' of the above test. However, the Panel determined that the Registrant was not liable to do so in the future for the following reasons.

41. The Panel was satisfied that the Registrant's misconduct is capable of remediation and that he has demonstrated that he has already taken and is continuing to take steps to remediate his failings. The Panel noted that he has attended a four-day course on maintaining boundaries and professionalism. The Registrant stated that his attendance on this course has given him a different perspective and that he now realised he had previously been very self-reliant. He stated that the course had made him appreciate that there were "so many things in my practice I needed to expand on". The Panel considered the Registrant's Development Plan and was satisfied that this plan reinforces the notion of colleague support through supervision and therapy and of having his work monitored. The Panel had regard to the Registrant's evidence that "I feel very deeply ashamed about what I have done and it is very painful. I want to look at it and face it". The Panel was satisfied that this was compelling evidence of the depths of the Registrant's remorse and his willingness to make reparations. The Panel noted that the Registrant has expressed a desire to use his experience to enable others to learn from the position he got himself into. The Panel was therefore confident that the Registrant would adhere to the terms of his Development Plan.

42. The Panel was of the view that the Registrant has demonstrated significant insight into his failings. The Panel found the Registrant's answers to Panel questions to be very revealing of the progress he has made in this regard.

43. In answer to the question, how might you intervene earlier in relation to a client who was wanting a dual relationship with you? The Registrant focussed immediately on clarifying, 'in a non-retaliatory way', at the start of therapy that he could not engage in such a role, thereby establishing therapeutic boundaries. The Registrant went on to reinforce the need for supervision and it was reassuring for the Panel that he had devised a plan which incorporated substantial supervision, monitoring and feedback from colleagues. The Panel was also reassured that the Registrant was addressing transference and counter-transference issues in therapy around his wish to be 'generous' as a therapist, an issue which had been highlighted for him in a boundary workshop he had attended.
44. When asked what had gone wrong in his therapeutic relationship with Client A, the Registrant stated that from the beginning he did not have a detailed assessment of Client A and her needs. He acknowledged that he should have been more robust and taken the matter to his supervisor. He again stated that he 'hadn't got a proper grip' on the transference and counter-transference and with hindsight appreciated that he should have referred Client A to another therapist. The Panel was satisfied that this was genuine, practical insight into his failings.
45. The Panel also noted the Registrant's evidence that he would keep his practice more simple and would focus on his original modality. The Registrant stated that he would reduce his caseload and would bring all of his cases to his supervisor. The Panel was satisfied that the Registrant was demonstrating realism and that this was another example of practical insight into his failings.
46. In response to the question, what is the purpose of accurate record keeping for a therapist engaged in a therapeutic relationship? The Registrant answered confidently and with clarity that accurate record keeping was necessary for 'safe guarding' purposes; to monitor therapy progress; to have a record of the therapist's interventions and to ensure the safety of the organisation. The Panel was satisfied from the evidence before it that the Registrant had made considerable efforts to underpin his learning with reading and exploration of organisational policies. The Panel was therefore reassured that the Registrant's Development Plan included scrutiny by his supervisor to ensure that his therapy notes were 'accurate and sufficient'.
47. The Panel also had regard to the written statements provided by the Registrant's current supervisor and therapist.
48. The Registrant's supervisor, ■ first met the Registrant when he started his training at the Philadelphia Association in 1992 and has known him as a colleague since then. She has been his supervisor for several months. The Panel noted the following parts of her statement:

*"He sees clearly and painfully that it was solely his responsibility to keep safe boundaries and that in this case he failed to do this. He was not sufficiently alert to the*

*complexities of the transferential and counter-transferential issues alive in the therapeutic relationship.”*

*“I do think it is important to take account of the context under which this breach of professional standards took place. Not in any way to imply an excuse for what happened, but because I think it is relevant in considering whether or not, there would be any risk of anything like this happening again if he is allowed to return to practice as a therapist.”*

*“It has certainly been a terrible wake-up call. It is a call (the Registrant) has heard and has responded to. I believe he will continue to take heed of it. I am confident that he will not allow anything of this nature to happen again.”*

49. The Panel was satisfied that this statement provided further confirmation of the level of the Registrant’s insight. The Panel also noted the reference to the context under which the breach of professional standards took place. The Panel was satisfied that the [REDACTED] placed the Registrant under significant stress, which was a contributory factor to his misconduct.

50. The Registrant’s therapist, [REDACTED], was a member of [REDACTED] at the Philadelphia Association and first met the Registrant in 1993. She became his therapist in early 2020. The Panel noted the following paragraphs:

*“Grim as the consequences have already been for him, (the Registrant) has been committed to making more sense of his particular frailty which made for this response to undue stress.*

*He uses our work in therapy very seriously and I am confident that in the future, even under pressure, will respond appropriately and the prospect of (the Registrant) making a similar error is remote.”*

51. The Panel was satisfied that this provided further confirmation of the Registrant’s insight and remediation.

52. The Panel also noted the testimonial from JO, a senior psychotherapist and colleague of the Registrant at the Philadelphia Association as Chair of the Training Committee. He stated:

*“In a personal capacity, I would like to add that I was privileged to work with (the Registrant) when I had a clinical placement in the therapeutic community where he worked. I was able to view his therapeutic work up close and was very impressed by*

*his thoughtfulness and rigour. He was able to work with very difficult patients in a safe and boundaried way.”*

53. Having regard to all of the above, the Panel was satisfied that the degree of insight and remediation demonstrated by the Registrant was sufficient for the Panel to conclude that the risk of him repeating his misconduct was very low. The Panel was therefore further satisfied that the risk of future harm to service users was also very low and that a finding of current impairment is not required on grounds of public protection.
54. The Panel was also mindful that when considering impairment, it is entitled to 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 (supra):

*“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.”*

55. The Panel was satisfied that the consequences of the Registrant’s misconduct have been a salutary experience for him. He was dismissed by NELFT for gross misconduct and he has faced these proceedings before his regulator. The Panel noted that the Panel’s finding of misconduct would be published on the UKCP for a period of 12 months and was satisfied that this in itself would have adverse reputational consequences for the Registrant. In the Panel’s view, a well-informed member of the public, made aware of the full facts of this case including the Registrant’s admissions of the facts and misconduct in the context of a previously unblemished career, would not lose confidence in the profession if the Panel did not make a finding of impairment. The Panel determined that a finding of impairment on public interest grounds alone would not be fair or proportionate having regard to all of the circumstances of the case.
56. The Panel therefore concluded that the Registrant’s fitness to practise is not currently impaired and that confidence in the profession and UKCP as a regulator would be maintained by the finding of misconduct alone which would remain on the UKCP Register for a period of 12 months.

### **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,



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Claire Bonnet, Lay Chair

04/12/2020