



# The UKCP Complaints and Conduct Process

Guidance for psychotherapists

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## About the Complaints and Conduct Process (CCP)

Launched in December 2012, UKCP's CCP is designed to process complaints about psychotherapists and psychotherapeutic counsellors who are – or have recently been – on UKCP's register. Since 1 October 2013, any complaints which raise issues about your suitability to be on the register are dealt with under the CCP.

UKCP also offers an informal process for raising a concern about a therapist. The informal process is alternative dispute resolution (ADR).

## Alternative dispute resolution

ADR is an informal process for resolving concerns or complaints. It offers the opportunity to resolve disputes in a fair and transparent way while avoiding the stress and emotional toll of a formal complaints process (where the Complaints and Conduct Process is not appropriate).

Please see our document on 'Alternative Dispute Resolution' for further information.

## What does the CCP look at?

UKCP can consider behaviour that falls into the following categories under the CCP:

- a) Misconduct
- b) Professional incompetence
- c) Conviction or caution for a criminal offence
- d) Physical or mental health
- e) A decision by another body, regulator or employer (eg the British Association for Psychotherapists and Counsellors, General Medical Council, and British Psychoanalytic Council).

These categories are expanded and outlined in more detail in UKCP's Ethical Principles and Code of Professional Conduct (Code of Ethics).

Although UKCP's Code of Ethics is the principal document that is used during the CCP, on occasions, it may be necessary to also consider an organisational member's Code of Ethics for behaviours that are specific to the type of therapy you practise – for example, body psychotherapists may have guidelines on the use of "touch" in therapy.

Where a complaint is about behaviour alleged to have occurred before 26 September 2009, and the Case Manager is satisfied that it would be reasonable and in the public interest for the complaint to still be considered, the Case Manager will apply the Code of Ethics that was in place at the time the behaviour occurred. This may include a UKCP organisational member's Code of Ethics (that is the organisational member that trained or accredited you and put you forward for UKCP registration).

## Who can make a complaint against me?

Anyone can make a complaint against you, if you:

- (a)** Are still a Registrant at the time the complaint was lodged with UKCP; and
- (b)** Were a Registrant at the time the complained of behaviour occurred; and
- (c)** The therapy or practice which is the basis of the complaint was located in the UK, or if not, the current insurance provision is from the UK.

If you were not a Registrant at the time the complained of behaviour occurred, the Case Manager will determine whether it would be reasonable and in the public interest to consider the complaint. For example, allegations of gross professional misconduct such as a sexual relationship with a client, is likely to be in the public interest to progress with the complaint.

Complaints should normally be made within three years of the behaviours complained of or the end of the therapeutic relationship. If a complaint is received after this, the complaint will only be investigated if the Case Manager determines it is in the public interest to do so.

If you resign from the UKCP register or fail to renew your UKCP membership after a complaint has been lodged with UKCP, the complaint will still proceed. Even if you resign from the UKCP register, UKCP reserves the right to notify and share information with other organisations such as the British Association for Counsellors and Psychotherapists and British Psychoanalytic Council.

## When will I be informed if there is a complaint made against me?

You will only be notified that we have received a formal written complaint which identifies you if the Case Manager or the Professional Conduct Committee is of the opinion that it raises a potential breach of the Code of Ethics. The Complainant must also have given their consent for UKCP to disclose the complaint to you.

If the complaint does not come under the scope of UKCP's CCP or we are not given consent to disclose it to you, we will notify the Complainant and close the case. It is not our practice to notify you of written complaints which do not come within the scope of the CCP.

We will, where possible, inform you over the phone before sending you formal notification of the complaint. However, if we do not have your correct or up-to-date contact details we may not be able to call you.

It is our normal practice to notify you formally of the complaint by email. If we do not have your email address we will send you the complaint by recorded delivery to your home address as held on our database.

## What is UKCP's position in relation to anonymous complaints?

On rare occasions, UKCP may receive an anonymous complaint. It is not the practise of UKCP to investigate anonymous complaints unless the issues raised within are of such a serious nature that it is in the public interest to do so. Even in those cases, the information provided must be independently verifiable for UKCP to proceed.

UKCP will not consider a complaint where the Complainant insists that their anonymity be preserved.

## What happens when I receive a copy of the complaint?

You will be invited to respond to the complaint usually within 21 days of your receiving it. Being subject to a complaint can be unsettling and nerve-racking. It is important that you get support through this process. We suggest that you contact your supervisor, organisational member and your professional indemnity insurers for any support and advice they can give. Some insurers may be able provide legal advice or representation from a solicitor at an early stage. Some insurers may also be able to review your response to the complaint. You may also find that there are other organisations offering support such as the Psychotherapy and Counselling Union.

Although there is no obligation on you to respond to the complaint (as the burden remains on UKCP to prove the allegations), it is helpful as part of the screening process for you to put forward your account. The screening process is carried out by the Case Manager. Their task is to establish whether there is a 'realistic prospect' to establish that

a member may not be suitable to remain on the UKCP register without any restrictions or conditions of practice.

## What happens if I am subject to other proceedings or complaints procedures elsewhere?

If you are facing complaints or disciplinary proceedings by another organisation, regulator, employer or are subject to legal action, the Case Manager may suspend consideration of a complaint under the CCP until those other proceedings have been completed.

Generally speaking, where the police or a court is involved, proceedings under the CCP are likely to be put on hold until the police/ court outcome is known. When deciding whether to put the CCP on hold, the Case Manager will weigh the interests of the Complainant, you the Registrant and the wider public before making a decision. This decision will be under review and you will be provided with reasonable notice before the complaint is considered or resumed under the CCP.

Where a complaint has been considered and not upheld by another organisation, regulator or court, the Case Manager may decide not to consider a complaint under the CCP if it is based substantially on the same behaviour that was complained about elsewhere. Again, the Case Manager will weigh the interests of any Complainant, you and the public before making a decision.

There are some matters which may be considered under the CCP where there is no Complainant or UKCP has received information directly from you.

You should always declare to UKCP and your organisational member or UKCP College the following:

- a) A criminal conviction
- b) A conditional discharge for an offence

- c) A police caution
- d) Disciplinary action by any professional body or other organisation which is responsible for regulating or licensing a health or social care profession; or
- e) Suspension or a practice restriction by an employer or similar organisation because of concerns relating to a Registrant's practise of psychotherapy, competence or health.

The Case Manager will decide whether there is sufficient information to proceed with the complaint, and whether it is reasonable and in the public interest for the complaint to proceed without a Complainant.

## Confidentiality

The duty of confidentiality exists even when a therapeutic relationship comes to an end. However, if you are subject to a complaint, you will need to share information with relevant parties such as your supervisor, your organisational member and your professional indemnity insurers about the therapy, the Complainant and the allegations. We would advise that when you speak to your organisational member and your supervisor you do not use the full name of the Complainant. If you are calling on other support, you will need to ensure that the appropriate confidentiality arrangements have been made.

You will not be in breach of confidentiality when responding to UKCP about the complaint. This is because the Complainant waived their right to confidentiality when they lodged the complaint. We understand that you may be apprehensive about including information which may seem critical of the Complainant or give a view on the Complainant's mental state, especially since the Complainant will be provided with a copy of your response. If you decide to comment on these aspects please do so in a respectful manner. You should only disclose information that is necessary and relevant to the complaint.

You are at liberty to submit any documentation which you feel will help the Case Manager. For example, you may wish to submit a statement from your supervisor or you may wish to disclose any notes you hold. If you decide not to submit these documents at this stage you may decide to submit them later on (if the complaint progresses).

## How does UKCP take the case forward?

### The 'realistic prospect' test

The 'realistic prospect' test is an objective screening process during which the Case Manager aims to establish whether the allegations are more likely than not to be true. He or she must consider whether the Complainant's evidence can be used and is reliable. They must also consider what your defence case may be and how that is likely to affect the case against you. If the case does not pass the realistic prospect test, it cannot go ahead.

After you have provided your response to the allegations, the Case Manager carries out a screening process to determine whether there is sufficient evidence to refer the case to an Adjudication Panel. Throughout the process UKCP hold the burden of proof, so the Case Manager will consider whether the allegations are more likely than not to be true and will assess the weight of the evidence that has been provided by you and the Complainant.

The Case Manager must always seek the advice of the Professional Conduct Committee (the PCC) before announcing their decision to refer a case to an Adjudication Panel. The PCC is made up of both lay and professional members who have been appointed for their experience. If the

Case Manager is unable to make the decision on whether to refer the complaint or not, they will defer the decision to the PCC.

It is important to emphasise that the decision to refer to an Adjudication Panel does not indicate a final decision of guilt or wrong-doing. Rather the Case Manager has decided that the matter requires further investigation and needs to be adjudicated upon by an independent panel.

If the Case Manager decides that the realistic prospect test has not been met, the Complainant has the opportunity to resubmit the complaint once more with any additional evidence that they feel may satisfy the realistic prospect test. For example, the Complainant may have emails and text messages that they did not supply on the first occasion which they feel are likely to prove that the complained of behaviour occurred.

Where the Case Manager feels that the realistic prospect test has been met and the matter has been referred to an Adjudication Panel, you will be notified in writing and provided with details of the allegations and relevant documents. This will usually be provided within four weeks of the decision to refer the matter to an Adjudication Panel.

There is no appeal against a decision of the outcome of the screening process.

The Adjudication Panel will be convened by another officer of UKCP not connected with the case. You or your representative will be provided with at least six weeks' notice of the hearing date.

## Interim Suspension Order

There may be occasions when UKCP receives a complaint or information which suggests that an Interim Suspension Order may be necessary. That may be for public protection, or because it is otherwise in the interests of the public or you the Registrant. In these circumstances, the UKCP will make an application for an Interim Suspension Order.

Such cases usually involve allegations of gross professional misconduct and we would seek an order to stop you from practising while the allegations and information are investigated.

In such circumstances, you will be provided with an opportunity to appear before an Interim Order Panel and submit representations before any order is made. An Interim Suspension Order is only imposed in the most serious circumstances and is not an indication of guilt or wrong-doing and will not normally impact the decision of an Adjudication Panel if the matter is referred before it.

## What happens at an Adjudication Panel hearing?

Where possible we will try to make sure that the Adjudication Panel hearing is held on a date that is convenient for you. However, the hearing will be scheduled depending on the availability of the panel members, witnesses and legal professionals. We will notify you or your representative of the hearing date – usually set at least six weeks in advance. Our hearings take place in central London.

The Adjudication Panel comprises three panel members, a Lay Chair, a psychotherapist from your modality and a psychotherapist from a different modality. The Adjudication Panel will be supported by a Legal Assessor (a legally qualified person) to assist them on the CCP. The Legal Assessor does not play an active role in the decision making process, but is there to assist the Adjudication Panel with any procedural questions and to ensure that the hearing is run in accordance with UKCP policy and complies with relevant laws.

UKCP cannot compel you to attend the hearing, but we do encourage you to attend. Provided the Adjudication Panel is satisfied that you or your representative received

notification of the hearing, the Adjudication Panel is likely to proceed in your absence.

UKCP hearings are in public which means that anyone can attend provided they have given UKCP sufficient notice that they wish to do so. If you feel that this may affect how you give evidence, you or your representative may ask the Adjudication Panel to hold the hearing in private.

During the hearing, UKCP's Presenting Officer will put UKCP's case and evidence before the panel. As a part of this process, UKCP may ask the Complainant or other witnesses to talk about the Complaint against you. Any witnesses called by UKCP's Presenting Officer may be cross-examined by your representative, if you have one. (We recommend that you appoint someone with a legal background to represent you. Your insurance company will be able to help you with this.)

Your representative will respond to UKCP's case. They may decide that they would like to call you and/or any witness(es) on your behalf to give your account on the matter. It is likely that UKCP's Presenting Officer will cross-examine you and/or your witness(es).

When you give evidence, it is important that you speak clearly and slowly so that everyone can hear you, and that you answer the question that you have been asked. Be sure to ask for clarification if there is anything that you do not understand. The amount of time you will be questioned will

depend on how complicated the matter is. The questions can sometimes be difficult; if you need a break at any time, please notify the Chair.

The Adjudication Panel is in the process of making a decision, it asks everyone except the Legal Assessor to leave the hearing room. It will then ask the parties to return and announce its decision.

The Adjudication Panel will decide on the following matters (which are not admitted):

- a) If the allegations set out by UKCP have been proven or admitted;
- b) Whether the proven or admitted allegations amount to a breach of UKCP's Ethical Principles and Code of Professional Conduct (or any other equivalent document);
- c) Whether any breaches are such that the Registrant should not remain on the UKCP register without any restrictions or conditions;
- d) What sanctions (if any) are to be applied.

We always try to ensure that hearings run to schedule. However, sometimes there are delays which cannot be avoided. If more time is needed, we will organise a new hearing date on the earliest possible opportunity that is convenient for everyone involved.

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## Equality and diversity statement

UKCP is committed to promoting equality, inclusion and diversity, and works to ensure that its processes are fair, transparent, objective and free from discrimination. UKCP expects that everyone who is acting for the UKCP uphold these values.

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