

# **UK Council for Psychotherapy Complaints and Conduct Process**

## General Introductory Note

This document sets out UKCP's process for dealing with complaints against those psychotherapists and psychotherapeutic counsellors who are (or in some cases have been) on its register. (For the sake of convenience, this note refers to members of both professions as psychotherapists.)

It identifies three primary decision-makers within UKCP, namely the Professional Conduct Officer, Preliminary Enquiry Committees and Adjudication Panels, and sets out the process which begins when a client wants to complain about a psychotherapist. However, it identifies not only a formal process but also an informal option by way of Alternative Dispute Resolution (or ADR), which many organisational members of UKCP have found can be a very effective way of resolving disputes. ADR is offered not as a substitute for the full and more formal process but as a means of offering the possibility of resolving disputes at an early stage, before positions have become entrenched and the emotional temperature may have risen to uncomfortable heights.

As well as dealing with complaints by clients, the process set out here also provides for the possibility of other people raising concerns about psychotherapists. For example, one psychotherapist may be unhappy with the content of another psychotherapist's website, because he or she thinks it contains inappropriate claims. Here again, the informal option of ADR is available but if this fails to achieve a resolution of the dispute, there remains the possibility of the full process if the circumstances require it.

The document itself is set out in a fairly formal style (simply because it is practically impossible to present a set of rules in any other way) but every effort has been made to make the language user-friendly and throughout the text you will find explanatory notes which do not themselves contain rules but do explain how the rules may work in a variety of practical situations.

There are procedures to support this process, including timescales.

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## 1. Interpretation

**1.1.** This document must be interpreted and applied in good faith and in accordance with the principles set out in the rest of this part.

**1.2.** Words and phrases indicating the singular include the plural and vice versa.

**1.3.** Words indicating one gender are not limited to that gender.

**1.4.** Any word or phrase indicating a person who holds office or performs a role without specifying the organisation in respect of which the office is held or the role is performed, is to be interpreted and applied as referring to that office or that role in UKCP.

**1.5.** The general explanatory note to this document and the individual explanatory notes which appear after some of its paragraphs:

1.5.1. Are included on the basis that they may be helpful to readers; and,

1.5.2. Can be used to resolve uncertainties of meaning in the text but must not be used to create them.

**1.6.** The words and phrases listed below have the meanings given to them there, unless they could reasonably bear some other meaning which would better promote the purposes of this document in the circumstances in which they are being interpreted and may be applied:

1.6.1. 'Concern' means a question or an expression of dissatisfaction about a registrant's conduct, or a desire for change in a registrant's conduct which is not at the level of a complaint but which, none the less, may offer useful feedback for the registrant, or otherwise needs to be addressed. Explanatory note: The use of the term 'concern' is to ensure that issues as described can be addressed but is not intended to open the door to an abuse of the process by the submission of vexatious concerns. Many concerns will be resolved effectively and efficiently by ADR. See paragraph 7.1 for an explanation of how screening will exclude cases which are fanciful.

1.6.2 'Complaint' means a formal declaration of dissatisfaction with an implied request for action to be taken.

1.6.3 'Conduct' includes:

1.6.3.1 things done and words said; and

1.6.3.2 things not done and words not said when it would be appropriate for them to have been done or said;

Explanatory Note: UKCP has a document entitled 'Ethical Principles and Code of Professional Conduct' by which the ethical quality of conduct is decided.

1.6.4 'Conditions of practice order' means a requirement for a registrant to undertake to practice under specific conditions defined by the relevant panel.

1.6.5 'Document' refers to anything in writing, or a copy;

1.6.6 'Fitness to practise' means having the knowledge and skills, and acting in ways, that lead to safe and effective practice, which commands public confidence. This includes avoiding conduct that may affect the protection of the public or bring the profession of psychotherapy into disrepute, whether such conduct relates directly to professional practice or not; Explanatory note: UKCP has a document entitled 'Professional Occupational Standards' by which fitness to practice is judged.

1.6.7 'Practice' and 'Practise' include supervision;

1.6.8 'Presenting Officer' is the person who presents a case at an Adjudication Panel;

1.6.9 'Professional Conduct Committee' includes any other proper person or people to whom the Chair of the PCC delegates tasks normally fulfilled by the PCC;

1.6.10 'Professional Conduct Officer' includes another proper person;

1.6.11 'Proper person' means the person designated by the Chief Executive or anyone to whom he has delegated the task of designation;

1.6.12 'Psychotherapist' includes psychotherapeutic counsellor and 'Psychotherapy' includes psychotherapeutic counselling;

1.6.13 'Registrant' means an individual member of the UKCP;

1.6.14 'Restriction of Practice order' means a requirement for a registrant to restrict his practice in specific ways defined by the relevant Panel;

1.6.15 'The Office' is the headquarters of UKCP; Explanatory note: The office address is 2 Wakley Street, London, EC1V 7LT, telephone: 020 7014 9955, email: [complaints@ukcp.org.uk](mailto:complaints@ukcp.org.uk)

## **1.7 Abbreviations used in this document:**

1.7.1 'ADR' means Alternative Dispute Resolution

1.7.2 'AP' means Adjudication Panel

1.7.3 'CPO' means Conditions of Practice Order

1.7.4 'PCC' means Professional Conduct Committee

1.7.5 'PCO' means Professional Conduct Officer

1.7.6 'PEC' means Preliminary Enquiry Committee

1.7.7 'PO' means Presenting Officer

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1.7.8 'UKCP' means the United Kingdom Council for Psychotherapy

**1.8** Situations which fall within the scope of the process established by this document without falling within any of its express provisions must be dealt with on the basis of good faith, and in accordance with the tenor of the process as a whole.

## 2. Purpose

**2.1** The purpose of this document is to protect both individual clients and the public interest by creating and regulating processes which govern UKCP's handling of

2.1.1 Complaints made by a client against their psychotherapist; and

2.1.2 Concerns raised by someone else about psychotherapists; but only if the complaint or concern relates to

2.1.3 The psychotherapist's fitness to practise; or

2.1.4 The impact of the ethical quality of the psychotherapist's conduct.

**2.2** This includes:

2.2.1 Maintaining the values of, and public confidence in, the profession of psychotherapy;  
Explanatory note: Values are defined in the UKCP constitutional documents.

2.2.2 Providing processes which are fair and, in the absence of good reason to the contrary in any particular case, transparent;

2.2.3 Having an educative function;

2.2.4 Supporting the ethical practice of psychotherapy.

## 3. Aspects of the Process

**3.1** The process includes different pathways dependent on the type of concern or complaint that has been raised and at all points of the process the Alternative Dispute Resolution process (ADR) (see appendix A) is available.

**3.2** UKCP may consider any allegations relating to any of the following to be evidence that a member's fitness to practise is impaired or that his conduct has been unethical:

3.2.1 Misconduct;

3.2.2 Deficient professional performance;

3.2.3 Conviction or caution in the UK for a criminal offence (including court martial) or conviction elsewhere for an offence which if committed in the UK would constitute a criminal offence;

3.2.4 Physical or mental ill-health; or

3.2.5 Decision by a body in the UK responsible for the regulation of a health, social care or other relevant profession to the effect that his fitness to practise is impaired, or an equivalent decision elsewhere.

Explanatory note: If fitness to practise is impaired or conduct has been unethical this may mean that a registrant should not be seeing clients at all, or it may mean that there should be restrictions put on their practice. It may also be that incidents (e.g. of mistakes or inappropriate conduct) may be isolated and not part of a pattern. These processes will take this into consideration.

**3.3** A committee or panel must decide on (a) the registrant's fitness to practise or b) his conduct or both. If it decides that there is (a) a fitness to practise issue or b) unprofessional conduct or both, it must decide on the appropriate level of sanction required, if any.

**3.4** The civil standard of proof will apply. The burden will be on the UKCP presenting officer to establish any underlying facts to this standard to the Adjudication Panel.

**3.5** The interim suspension process and medical assessment process are available at any point in the process.

**3.6** The admissibility of evidence is decided on the basis of relevance and fairness.

**3.7** The PCC may delegate any of its functions under the CCP to its Chair or to sub-committees. Delegation to the Chair will be on such terms as the PCC thinks fit, except that the Chair may refuse to accept any instance of delegation. A sub-committee may be created to deal with a particular matter or with a specific category of matters. The composition of a sub-committee is a matter for the PCC to decide as it thinks fit, except that a member of the PCC may refuse to accept an appointment to a sub-committee.

**3.8** A sub-committee must normally be given full power to decide on matters within its remit but it may be given power only to make provisional decisions which will not become effective unless and until they are ratified by the PCC.

**3.9** Where a function has been delegated to the Chair or a sub-committee on the basis of full power to deal with matters within the scope of the delegation, all exercises of that function must be notified to all the members of the PCC as soon as is reasonably practical.

**3.10** Where a function has been delegated to the Chair or a sub-committee on the basis that any exercise of the function is subject to ratification by the PCC, all exercises of that function must be reported to all the members of the PCC as soon as is reasonably practical.

**3.11** Risk assessment procedures will be used at appropriate points in the process and audit points will be built in to monitor the effectiveness of the process. See Appendix E for more information.

## 4. Who Can Raise a Concern or Complaint Against Whom?

**4.1** Anyone can raise a concern or make a complaint against a registrant if:

4.1.1 The registrant was a registrant at the time of the conduct that is the basis of the concern or complaint, and the registrant is still a registrant at the time of the concern or complaint being lodged with UKCP. If the registrant was not a registrant at the time of the conduct, the concern or complaint may still be considered at the discretion of the PCO, if it is perceived to be reasonable and in the public interest;

4.1.2 The therapy or practice which is the basis of the concern or complaint was located in the UK or, if not, the registrant's insurance provision is from the UK.

**4.2** Committees and panels that are created to consider concerns or complaints must not decide to proceed with a complaint or concern unless they are satisfied that either;

4.2.1 A full and genuine attempt has been made to resolve the matter informally and that it has not been possible to agree a practical solution which would satisfy the parties; or

4.2.2 Such an attempt would be inappropriate. Explanatory note: For example, an informal process would be inappropriate if the allegation indicated that there was a public safety issue.

## 5. Consideration of Non-UKCP Organisations

**5.1** Where a registrant is subject to complaints/disciplinary proceedings related to their practise by another organisation/regulator/employer or subject to legal action, consideration of a concern or complaint under this CCP may be suspended until those other proceedings have been completed by the relevant organisation, regulator, employer, or the courts. Explanatory note: When deciding whether to suspend consideration of the concern or complaint, UKCP must weigh the interests of any complainant, the registrant and the wider public before deciding whether it is appropriate to do so. The relevant committee or panel must give reasons for its decision.



## 6. Raising a Concern or Complaint

**6.1** The following provisions of this paragraph deal with the procedure for notifying concerns and making complaints.

**6.2** UKCP must only begin to process a complaint or notification of a concern from anyone who has either sought information from a Professional Conduct Officer (PCO) as to other options, or given their reasons for failing to do so. Explanatory note: Other options may include, but are not limited to, ADR and referral to another body.

**6.3** A PCO who provides information must emphasise that any information he provides does not preclude the option of moving to the formal complaints process later; but must not express any opinion as to how he thinks the person to whom he is providing information should proceed, nor make any decision on behalf of that person.

**6.4** Following the process as in 6.2, to submit a concern or complaint and to begin the CCP, the concern or complaint must be submitted to the office, in writing, normally using the template available from the office. Assistance may be given by the PCO. Email correspondence is acceptable only if it is used to send signed written correspondence as an attachment.

**6.5** Where UKCP receives an anonymous notification of a concern or complaint, a PCO may act as the complainant if he thinks there is sufficient information to enable him to proceed and he thinks it is in the public interest that he should do so. Explanatory note: Situations to which this sub-paragraph can be applied will be very rare and, in general terms, anyone acting anonymously can have no serious expectation that anything can be done about it. Additionally, anyone who raises a matter anonymously must realise that, in a case in which UKCP is able to take action, it may well be impossible to preserve their anonymity. For example, the content of an anonymous complaint or notification of a concern may well make it possible for a registrant to identify the person submitting it.

**6.6** UKCP will not normally process a notification of a concern or a complaint where the person notifying the concern (PNC) or person making the complaint (PMC) does so on the basis that their anonymity will be preserved, unless the PNC or PMC confirms in writing his acceptance that he may be identified, or become identifiable, during any action which UKCP may decide to take.

**6.7** Concerns should normally be notified, and complaints should normally be made within three years of the conduct which forms the subject-matter of the concern or complaint (or three years from the date on which the PNC or PMC became aware of the conduct, whichever is later). If this time limit is not observed, the PCO must decide whether, in all the circumstances of the case it would be fair and reasonable to both parties and in the public interest to allow the matter to proceed.

**6.8** A person is not protected from having their concern or complaint heard under the CCP simply because the alleged conduct occurred before the CCP came into force if the PCO is satisfied that the public interest requires that the concern or complaint should be considered.

**6.9** UKCP will not normally accept a registrant's resignation from the register during the period between him being informed that either a complaint has been received or a concern has been notified and either the final decision of the matter or the expiry of the time allowed for appeal, whichever is the later. The PCO will make this determination. Explanatory note: Perhaps the most obvious example of a situation in which an exception may be made is where the registrant has retired from practice and is suffering from a terminal illness.

**6.10** Where a complaint or a concern has been considered and not upheld by another person or organisation (including UKCP's organisational members), UKCP may decide not to consider a complaint or a concern based substantially on the same conduct. Explanatory note: Organisational members are the arbiters of complaints against their members until the date they joined the centralised system.

**6.11** When deciding whether to progress complaints and notifications of concerns that are being or have been heard elsewhere, UKCP must weigh the interests of any complainant, the registrant and the wider public before deciding whether it is appropriate to do so. The relevant committee or panel must give reasons for its decision.

**6.12** Where a registrant is the subject of other procedures by virtue of his status either as an employee or a registrant of another organisation or as being subject to another regulator, UKCP will consider whether to advise the PMC or the PNC to consult the relevant employer, organisation or regulator. Explanatory note: This provision would apply, for example, in cases where the conduct is alleged in the context of therapy provided under the NHS.

**6.13** The PCO will send a formal response to the complainant and enclose a document which gives full details of the procedures that will be followed. Explanatory note: Complainants need to be fully informed as to what is likely to happen and the consequences, such as the possibility of the loss of confidentiality if information is shared in therapy is relevant to the complaint.

## 7. Screening

**7.1** The screening process is concerned with deciding, in a transparent and professional manner, whether there is a realistic prospect that the UKCP will be able to establish that the registrant's fitness to practise is impaired or that conduct has been unethical. Explanatory Note: The term 'realistic prospect' is used widely in a variety of settings. It differentiates 'real' from 'fanciful', 'credible' from 'not credible' and 'substantial' from 'insubstantial' and is included to avoid the emotional distress and financial cost that may result if proceedings continue.

**7.2** In considering the allegations the PCO must apply any relevant codes of practice, conduct, or ethics or any standards of competence or equivalent documents, issued by UKCP to which the registrant was subject at the

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time the alleged complained of conduct occurred or those applicable at the date of the process being enacted (as appropriate). Explanatory note: UKCP has a document entitled 'Professional Occupational Standards' by which competence (an indicator of fitness to practise) is judged.

**7.3** The PCO will provide the registrant with details of the allegations which are subject to investigation, if not already provided during ADR.

**7.4** The PCO will request information including (a) documents or (b) witness statements or both, in relation to the allegation. A copy of any statement of evidence or relevant information provided by the complainant must be sent to the registrant by the PCO, and vice versa. Explanatory note: Items of a sensitive nature may be redacted.

**7.5** The PCO may at any time give the person raising the complaint or the registrant notice to produce any document relevant to the allegation which is alleged to be in their possession and on receipt of such notice they must do their best to produce the document. They may only refuse to produce a document if they can satisfy the PCO/PCC that there were reasonable grounds for their refusal.

**7.6** The registrant will be encouraged to provide any documents or information requested by the PCO/PCC, but is not compelled to do so.

**7.7** When all required documentation has been received the PCO will decide whether:

- a) The allegation is in relation to fitness to practise; or
- b) The allegation is in relation to unethical conduct; or
- c) No, or insufficient, evidence of a or b has been presented.

If the PCO feels unable to make this decision, he must refer the matter to the PCC which must make the decision.

**7.8** If either of the decisions specified by paragraph 7.6 (a) or (b) is made, the PCO or the PCC, as the case may be, must assess the likely sanctions if the allegation is upheld. If they think the likely sanctions do not include a Restriction of Practice Order, or it is unclear what the likely sanction would be, the matter must be referred to a Preliminary Enquiry Committee (PEC); but, if they think the likely sanction does include such an order, the matter must be referred to an Adjudication Panel (AP).

**7.9** If the decision specified by paragraph 7.6 (b) is made and the whole of the conduct is such that the registrant can clearly avoid continuing it in the future, the PCC may require the registrant to discontinue the conduct on or before a specified date and not to resume it at any future time. Explanatory note: An example of such conduct would be a false claim on the registrant's website

**7.10** If the decision specified by paragraph 7.6 (c) is made, the PCO must provide a statement of the reasons why the complaint or concern has not been accepted and possible avenues of exploration given. The complainant must be informed that they may re-submit the concern or complaint, addressing the reasons given, once only. ~~This possibility of resubmission does not apply to screening of appeals/reviews.~~ Explanatory Note: For example, the complainant may have referred to, but not provided emails that support their complaint.

**7.11** When a concern is referred to a PEC or AP, it becomes a complaint and is processed accordingly. Explanatory note: By the time a concern is referred to a PEC it will either have been through an ADR process (and therefore ADR will have failed to reach a satisfactory solution) or the complainant or registrant will have refused ADR. Therefore, it will be a matter that is, at this point, considered serious enough to require a formal process to begin.

## 8. Preliminary Enquiry Committee

**8.1** A PEC consists of three members and will normally be assisted by a secretary.

**8.2** A PEC must be selected from a list held by the PCO and the Chair must be lay. One member of a PEC must normally be from the same modality as the registrant and one member must normally be from a different modality. Registrants may object to a member of the committee only if they can satisfy the PCO that a fair-minded and informed observer would consider there to be a real possibility of bias. Explanatory note: It is not necessary to establish actual bias provided there is the appearance, or reasonable possibility, of bias. The classic formulation of the test is that 'justice must not only be done but must manifestly and undoubtedly be seen to be done'. In other words, if it looks wrong, it is wrong.

**8.3** All committees should be constituted with an awareness of diversity and the need for impartiality.

**8.4** UKCP may appoint an expert on diversity to advise the committee. If the registrant or complainant requests this, UKCP must comply.

**8.5** UKCP may appoint a legal assessor whose role is to advise the PEC, and a stenographer.

**8.6** No committee member must have been involved in any way with the concern or complaint before the committee begins its work.

**8.7** The PEC may, with the assistance of the PCO, make such inquiry, receive such statements and procure the production of reports including expert reports as it thinks fit.

**8.8** Having reviewed the material collected by the PCO the PEC must decide whether:

8.8.1 To refer the case to an AP; or

8.8.2 To uphold the complaint and decide what sanctions, if any, to impose, as in paragraph 8.9; or

8.8.3 To dismiss the complaint. A statement of the reasons why the complaint has not been upheld must be provided to the complainant and registrant.

**8.9** The PEC can impose the following sanctions for complaints upheld:

8.9.1 Apology to the complainant where the registrant has acknowledged mistake(s); or

8.9.2 Letter of warning in relation to specific conduct or misjudgement; or

8.9.3 Removal from office if the therapist is a member of a committee or provides services such as training with the agreement of (a) the College or (b) the Organisational Member or both; or Explanatory note: Most, but not all registrants belong to one or more organisational members. All registrants belong to a college. When there is a requirement to notify, this will include all such bodies. If there is a requirement to provide a report this will be from the primary organisational member (as defined by the registrant) if he is a member of one, or the college if not.

8.9.4 A requirement that the registrant is to write a report to show what they have learned from the experience, by a given date. The report is to be submitted to The PCO who must circulate to the PEC who must decide whether learning has been achieved, and either decide to impose further sanctions, to refer to an AP or to close the case; or

8.9.5 Further training in a specified area of practice which is monitored by the college or the organisational member. A deadline for completion is set and a report required from the college or organisational member. The report is to be sent to the PCO who must circulate it to The PEC who must decide on whether learning has been achieved, and either decide to impose further sanctions, to refer to an AP or to close the case; or

8.9.6 Further (a) supervision or (b) therapy or both for a minimum length of time, to be specified by the PEC who must identify the goals to be achieved. The supervisor is to be selected by the college or the organisational member and the supervision must be monitored every six months by the college or the organisational member. At the end of the time period a report is required from the college or organisational member. The report is to be sent to the PCO who must circulate it to the PEC who must decide whether learning has been achieved, and either decide to impose further sanctions, to refer to an AP or to close the case; or

8.9.7 A consensual Conditions of Practice Order (CPO) for a stipulated time period. At the end of the time period, a report is required from the college or organisational member. The report is to be sent to the PCO who must circulate it to The PEC who must decide whether learning has been achieved, and either decide to impose further sanctions, to refer to an AP or to close the case; or

8.9.8 A consensual Suspension Order for a maximum of two years. Additional therapy or training or both will usually accompany a period of suspension. At the end of the time period, a report is required from the college or organisational member. The report is to be sent to the PCO who must circulate it to The PEC who must decide on whether learning has been achieved, and either decide to impose further sanctions, to refer to an AP or to close the case; or

8.9.9 Consensual termination of the registrant's registration from UKCP and any organisational member. To re-register, the registrant must re-apply through the restoration of membership process. Explanatory note: In options 8.6.7-8.6.9 it is clear that the registrant must agree with the sanction. I.e. to voluntarily be

restricted/suspended/terminated. If the registrant does not agree, and the PEC feels that one or other is a necessary sanction, the case must, necessarily be referred to the AP.

**8.10** The PEC must keep the registrant's college and organisational member (if he belongs to one) apprised of all outcomes.

**8.11** Where an interim suspension or any other interim sanction is already in place, it will remain in place until the period allowed for lodging an appeal has passed. If an appeal is lodged, any interim order will remain in place until the appeal has been heard. If no appeal is lodged within 28 days of the decision, any sanctions imposed by the panel will come into effect automatically.

**8.12** Failure to comply with the sanctions could be unethical conduct and raises questions about a registrant's fitness to practise which must result in the PEC referring the case to the AP which will have the power to suspend or terminate the registrant's registration among its full range of sanctions.

**8.13** The PEC must provide a written statement of the reasons for the decisions made to the registrant, complainant and the PCO.

## 9. Adjudication Panel

**9.1** The parties in proceedings before an AP are UKCP and the registrant. Normally the case against the registrant will be presented by a Presenting Officer (PO) who will be a PCO. The complainant, if present, is a witness.

**9.2** A panel normally consists of three members and will normally be assisted by a secretary.  
Explanatory note: A panel of two might sit in exceptional circumstances if agreed by all parties, for example, if a member of the panel was unable to attend at the last minute.

**9.3** An AP must be selected from a list held by the PCO and the Chair must be lay. One member of an AP must normally be from the same modality as the registrant and one member must normally be from a different modality. Registrants may object to a member of the committee only if they can satisfy the PCO that a fair minded and informed observer would consider there to be a real possibility of bias.  
Explanatory note: It is not necessary to establish actual bias provide there is the appearance, or reasonable possibility, of bias. The classic formulation of the test is that 'justice must not only be done but must manifestly and undoubtedly be seen to be done'. In other words, if it looks wrong, it is wrong.

**9.4** All panels should be constituted with an awareness of diversity and the need for impartiality.

**9.5** The complainant and registrant may be accompanied by another person for support but not for representation.

**9.6** UKCP may appoint an expert on diversity to advise the panel. If the registrant or complainant requests this, UKCP must comply.

**9.7** No panel member must have been involved in any way with the concern or complaint before the panel begins its work.

**9.8** The AP may, with the assistance of the PCO, make such inquiry, receive such statements and procure the production of reports including expert reports as it thinks fit.

**9.9** The registrant is entitled to be legally represented at his own expense.

**9.10** Cases will normally be decided after oral hearings at which the parties have the opportunity to make submissions, to give evidence and to call witnesses; but, if the AP and the parties agree, cases may also be decided:

9.10.1 After hearings at which the evidence is presented in the form of written statements; the parties' oral contributions are limited to making submissions and answering questions from the panel on those submissions; or

9.10.2 Without an oral hearing, with all submissions, as well as the evidence, being presented in the form of written statements. Explanatory note: The kind of hearings specified at 10.2 may be particularly appropriate where the registrant accepts the factual basis of the complaint and wishes to make representations only in relation to the sanction.

**9.11** In all cases an AP's decisions must be published in accordance with the relevant UKCP policy.

**9.12** Explanatory note: The relevant UKCP policy may be found at [www.UKCP.org.uk](http://www.UKCP.org.uk) or a copy may be obtained from the UKP Office.

**9.13** UKCP may appoint a legal assessor whose role is to advise the AP, and a stenographer

**9.14** The secretary will fix a date on which the AP is to hear the case and notify the parties of the day, time and venue for the hearing. The venue must not normally be the UKCP office. Explanatory note: Ideally the date will be agreed by all but the secretary is entitled to fix a date if there are exceptional circumstances.

**9.15** The hearing must normally be in public but a panel may decide to hold all or part of it in private only in exceptional circumstances where the public interest in openness and transparency is outweighed by the interest in having the hearing for part of it in private. This will be decided on a case by case basis.

**9.16** A panel must have regard to all relevant UKCP codes of practice, conduct, or ethics or any standards of competence or equivalent documents which were in force at the time of the conduct to which the complaint relates and any other relevant documents and must be provided with copies of those documents ('the bundle').

**9.17** A panel must not take into account any documents which were not in force when the conduct forming the basis of the complaint occurred unless it is satisfied that the public interest requires it should do so (in which case the bundle must include copies of those documents).

**9.18** The secretary must provide the members of the panel, any legal assessor or other expert advisor, the registrant and the presenting officer with copies of the bundle.

**9.19** The complainant, the registrant and witnesses for both parties are entitled to claim reasonable reimbursement from UKCP (in accordance with its relevant policy) of expenses they incur in attending a hearing but are not entitled to claim legal or other professional costs or the costs of preparing for a hearing.

**9.20** The parties are required to provide the secretary with a list of the names of the persons they propose to call to give evidence and a list and copy of any documents/statement of evidence they propose to present.

**9.21** The PO may at any time give the registrant notice to produce any document relevant to the allegation which is alleged to be in the possession of the registrant. The registrant will be encouraged to provide any documents or information requested, but is not compelled to do so.

**9.22** The chair of the AP must explain to the parties the order of proceedings which it proposes to adopt and unless it decides otherwise, the order will be:

9.22.1 The presenting officer to read out the allegations and for the registrant to indicate whether any of the facts alleged are admitted.

9.22.2 The presenting officer to present the case against the registrant and to present the evidence in support of that case. Any witnesses shall be examined by the presenting officer, may be cross-examined by the registrant or his representative, may be re-examined by the presenting officer and may be questioned by the AP and the legal advisor;

9.22.3 When appropriate, the AP may withdraw to consider whether sufficient evidence has been produced. If it believes that insufficient evidence was produced it must dismiss the allegation without hearing evidence from the registrant;

9.22.4 The registrant may respond to the allegation. Any witnesses shall be examined by the registrant or his representative, may be cross-examined by the presenting officer, may be re-examined by the registrant or his legal representative and may be questioned by the AP and the legal advisor. Where all material facts of the allegation are admitted the AP must hear any submissions from the registrant as to the circumstances surrounding the case;

9.22.5 The AP will rule on such of the following matters as are not admitted, and will do so in the following order, namely the facts, any issue of impairment of fitness to practise, any other unethical conduct and the sanction to be imposed. Before the AP rules on each of these matters, it must invite submissions from both the UKCP PO and the registrant. The AP must announce its decision and the reasons for them at each stage.



**9.23** The AP may exclude from the proceedings any person whose conduct, in its opinion, is likely to disrupt the orderly conduct of the proceedings. Their reasons must be given to the hearing.

**9.24** The AP will normally exclude witnesses from the proceedings until it is their turn to give evidence. Expert witnesses may be allowed to sit in the hearing throughout.

**9.25** The AP will deliberate in the absence of the parties and their representatives and may go into camera to do so at any time during the hearing.

**9.26** In proceedings before the AP the following people may, where the quality of their evidence is likely to be adversely affected, be treated as vulnerable witnesses:

9.26.1 Any witness under the age of 18 at the time of the hearing; or

9.26.2 The witness suffers from mental disorder or otherwise has significant impairment of intelligence and social functioning; or

9.26.3 The witness has a physical disability or is suffering from a physical disorder.

**9.27** In addition, a witness is eligible for assistance if the AP is satisfied that the quality of the evidence given by the witness is likely to be diminished by reason of fear or distress in connection with testifying in the proceedings.

**9.28** Subject to any representations from the parties or the advice of a legal assessor, the AP may adopt such measures as it considers desirable to enable it to receive evidence from a vulnerable witness. Measures adopted may include, but are not be limited to:

9.28.1 Use of video links;

9.28.2 Use of pre-recorded evidence of a witness, provided that the witness is available at the hearing for examination;

9.28.3 Use of interpreters, signers, translators or intermediaries;

**9.29** Where the allegation against the registrant involves matters which are sexual in nature, the witness is an alleged victim and the registrant is acting in person or is not legally represented, legal advisor will cross-examine the witness on behalf of the registrant.

**9.30** When the AP has made its decision whether or not that decision was announced at the conclusion of a hearing, both parties and any complainant must be notified of the decision and the reasons for reaching it and where applicable any right of appeal or review.

**9.31** Where the AP is satisfied that the facts of the allegation are proved they must decide on which sanctions to impose on the concerns or complaints which are upheld. The AP can impose one or a combination of sanctions listed below. They are:

9.31.1 Requirement for an apology to the complainant where the registrant has acknowledged mistake(s); or

9.31.2 Letter of warning in relation to specific conduct or misjudgement, copied to the College and the Organisational Member, if applicable; or

9.31.3 Removal from office if the therapist is a registrant of a committee or provides services such as training with the agreement of the college or organisational member; or

9.31.4 Require the registrant to write a report to show what they have learned from the experience, by a given date. The report is to be submitted to The PCO who must circulate to the PEC who must decide whether learning has been achieved, and either decide on further sanctions or close the case; or

9.31.5 Further training in a specified area of practice which is monitored by the college or the organisational member. A deadline for completion is set and a report required from the college or organisational member. The report is to be sent to the PCO who must circulate it to the AP who must decide whether learning has been achieved, and either decide on further sanctions or close the case; or

9.31.6 Further (a) supervision or (b) therapy or both for a minimum length of time, to be specified by the AP who must identify the goals to be achieved. The supervisor is to be selected by the college or the organisational member and the supervision must be monitored every six months by the college or the organisational member. At the end of the time period a report is required from the college or organisational member. The report is to be sent to the PCO who must circulate it to AP who must decide whether learning has been achieved, and either decide to impose further sanctions or close the case; or

9.31.7 Conditions of Practice Order for a stipulated time period. Make a Suspension Order for a maximum of two years. Additional therapy or training or both will usually accompany a period of suspension, with change being monitored by the college or organisational member; or

9.31.8 Termination of registration from UKCP and any organisational member.

**9.32** Failure to comply with the sanctions could be unethical conduct and raises questions about a registrant's fitness to practice which must result in the complaint being referred back to the AP.

**9.33** The AP must state, in writing, the reasons for its decisions and its statements of reasons must be published according to the relevant UKCP policy.

**9.34** In deciding the sanctions, the AP must affirmatively find that any sanction imposed on the registrant is the minimum which it considers proportionate.

**9.35** Where an interim suspension or any other interim sanction is already in place, it will remain in place until the period allowed for lodging an appeal has passed. If an appeal is lodged, any interim order will remain in place until the appeal has been heard. If no appeal is lodged within 28 days of the decision, any sanctions imposed by the panel will come into effect automatically.

**9.36** The AP must monitor the sanctions imposed and upon completion of the sanctions must send a report to the UKCP registrar. This will be administered by the secretary.

**9.37** Where sanctions are not complied with and the registrant has failed to submit a reasonable written statement of their failure to comply with sanctions to the AP, this must result in automatic termination of registration from UKCP and Organisational Member.

**9.38** In the event of suspension or termination of registration the registrant may only be readmitted following successful completion of the Restoration of Registration Process.

## 10. Appeal and Review

**10.1** Either party may appeal against a decision imposing a sanction on the ground that it is either unduly lenient or unduly severe. Appeals must normally be lodged within 28 days of the decision.

**10.2** Either party may apply for a review of the decision-making process on the ground that there has been a procedural error as a result of which the decision would cause significant injustice if it were allowed to stand. Reviews must normally be requested within 28 days of the decision.

**10.3** Documentation to support a request for an appeal or review must be accompanied by a brief statement as to its relevance to the grounds for appeal/review.

**10.4** The screening process (see Part 7) applies to appeals and applications for review in the same way as it applies to concerns and complaints in order to decide whether an appeal or an application for review will be entertained.

**10.5** For the purposes of para 10.2, a procedural error has occurred if:

10.5.1 The PEC or AP has had regard to irrelevant considerations or has failed to have regard to relevant ones; or

10.5.2 One or more members of the PEC or AP were biased; or

10.5.3 The PEC or the AP has dealt with matters which do not arise directly from the notice of appeal or application for review; or

10.5.4 The PEC or the AP has not provided an adequate statement of the reasons for their decisions; or

10.5.5 There has been a breach of the procedural rules governing the CCP process.

**10.6** An appeal or an application for review must be decided by a PEC if the original decision was made by a PEC and by an AP if the original decision was made by an AP but, in either case, there must be no overlapping membership between the first and second PECs and APs.

**10.7** The PEC or the AP which hears an appeal or application for review must accept the facts as they were found to be by the initial PEC or AP except that they may refer the matter back to that PEC or AP if they need to be aware of a fact which was not the subject of a finding by the other PEC or AP, in order that an appropriate finding can be made so that the appeal or application for review can be decided.

**10.8** A party who is aggrieved by the outcome of the screening process in relation to an appeal or an application for review cannot appeal further under the CCP.

**10.9** The PEC or AP which decides an appeal must either dismiss the appeal; or allow the appeal and either increase or decrease the severity of the sanction.

**10.10** The PEC or AP which decides an application for review must normally either:

10.10.1 Decide that there were no procedural errors, or that any procedural errors which did occur had caused no significant injustice, and dismiss the application; or

10.10.2 Grant the application and quash the decision and (unless the parties agree it is not necessary to do so) remit the case to another PEC or AP for reconsideration and decision on a proper basis;

**10.11** If a case is not remitted to another PEC or AP for reconsideration and decision on a proper basis because a registrant has given an undertaking, that undertaking is enforceable as if it were a requirement contained in an order made against the registrant.

**10.12** If the PEC or AP which is considering a conditional decision decides there has been a procedural error in relation to the imposition of a condition but not in relation to the main decision, it must normally presume that the condition is fundamental to the decision and quash the decision as a whole; but if, exceptionally, it is satisfied that the condition is not fundamental to the decision, it may quash the condition and leave the main decision standing on an unconditional basis.

## 11. Publication of Decisions

**11.1** Publication of decisions must be in accordance with UKCP's policy "Publication of Decisions".

## Appendix A: Alternative Dispute Resolution

**1.** This process is a process within the Complaints and Conduct Process (CCP) and therefore the provisions and definitions within the CCP apply here.

**2.** What is Alternative Dispute Resolution (ADR)?

**2.1.** Alternative Dispute Resolution services include but are not limited to:

- 2.1.1. Facilitated resolution;
- 2.1.2. Telephone mediation;
- 2.1.3. Face to face mediation;
- 2.1.4. Formal external professional mediation

**2.2.** ADR allows anyone with a concern or complaint about practice to have confidence that this will be properly heard. It is designed to help reduce anxiety in a context of fairness and transparency. It assists the complainant and registrant, in an independent and impartial manner attempt to reach a satisfactory conclusion of their dispute, to which both parties agree. All involved in ADR are guided by the principles of objectivity, fairness and giving due consideration to the rights and obligations of the complainant and the registrant, the usages of the form of psychotherapy in question and the circumstances surrounding the allegation.

**2.3.** The complainant and the registrant are required to co-operate in good faith with the ADR provider and endeavour to comply with requests by him and the professional conduct officer to submit written materials, provide evidence and attend meetings, as appropriate.

**2.4.** ADR will not be pursued in cases where the allegation suggests a public safety issue.

### **2.5. Who is involved?**

- 2.5.1. Complainant
- 2.5.2. Registrant (of UKCP providing therapeutic services)
- 2.5.3. Referrer: UKCP appointed professional conduct officer or Chair of the committee or panel that is, at that point, holding a complaint.
- 2.5.4. UKCP complaints staff
- 2.5.5. Providers: may include in-house mediators, external providers or suitably trained UKCP staff or registrants who meet the Civil Mediation Council criteria.

### 3. When and to whom is the ADR Process available?

**3.1.** UKCP will provide ADR services with respect to concerns and complaints raised under CCP Fitness to Practise and Ethical Practice criteria in various scenarios. The exception is for complaints/concerns which the referrer deems to be likely to result (if upheld) in a restriction of practice order. The scenarios are:

**3.2.** Scenario A will provide all those who have raised specific concerns the option of ADR prior to any formal complaint being made. ADR will, if feasible, deal amicably with concerns, and thereby remove the requirement to take the issue into the next stage of making a formal complaint. In this scenario the referrer is the professional conduct officer or professional conduct co-ordinator;

**3.3.** Scenario B will provide those who have made a formal complaint, and the registrant, the option to of ADR prior to Screening of the complaint (paragraph 6 in the CCP). In this scenario the referrer is the professional conduct officer or professional conduct co-ordinator;

**3.4.** Scenario C will, when screening of the complaint (paragraph 7 in the CCP) has resulted in the complaint not being dismissed, offer the complainant and the registrant, the option of ADR. In this scenario the referrer is the professional conduct officer or professional conduct co-ordinator;

**3.5.** Scenario D will, at any other point in the CCP and subject to agreement by both the complainant and the registrant, allow the option of ADR. In such cases the formal complaints process, will be 'put on hold' until the outcome of the ADR is determined. In this scenario the referrer is the Chair of the committee or panel that is, at that point, holding the complaint.

### 4. Who provides ADR?

**4.1.** The process of introducing ADR will be carried out by either the professional conduct officer/professional conduct coordinator or suitably trained UKCP staff.

**4.2.** UKCP will determine the providers of the various forms of the ADR services, which may include in-house mediators, external providers or suitably trained UKCP staff or registrants who meet the Civil Mediation Council criteria.

**4.3.** The UKCP central complaints staff will:

4.3.1. Determine the most appropriate method of ADR, taking into consideration the wishes of the complainant and the registrant;

4.3.2. If appropriate, instruct external mediation services and appoint professional mediators;

4.3.3. Notify the complainant and the registrant of the ADR provider appointed.

## 5. What happens if ADR is successful?

**5.1.** Where the complainant and the registrant reach an agreement, the ADR Provider shall draw up a conclusion agreement for the complainant and the registrant to sign.

**5.2.** In drafting any conclusion agreement, the ADR Provider may seek the advice of UKCP.

**5.3.** Any conclusion agreement is subject to the formal approval of the referrer. Where the professional conduct officer or the professional conduct co-ordinator is the referrer, the formal approval will be by the Chair of the Professional Conduct Committee.

**5.4.** Where the referrer or Chair (as appropriate) is not satisfied that the proposed conclusion agreement adequately protects the public, he may

5.4.1. Recommend amendments to be made to the proposed conclusion agreement; or

5.4.2. Refer the matter for consideration by his committee or panel.

**5.5.** A committee or panel considering a conclusion agreement may

5.5.1. Recommend amendments to be made to the proposed conclusion agreement; or

5.5.2. Reject the conclusion agreement and (re)start the CCP.

**5.6.** Subject to the formal approval as in paragraphs 5.3-5.5, by signing the conclusion agreement, the complainant and registrant will put an end to the dispute and be bound by the terms of the conclusion agreement.

**5.7.** Any conclusion agreement may be subject at any time to review and monitoring by UKCP and the referrer.

**5.8.** Failure by the registrant to comply with the terms of the conclusion agreement may result in the CCP being (re)started.

**5.9.** Where the original allegations involved the conduct, competence or health of a registrant, a conclusion agreement may contain a consensual conditions of practice order (CPO) by the registrant to take appropriate steps to address any issues of conduct, competence or health that may have arisen and to accept conditions on his practice until such steps have been undertaken satisfactorily.

## 6. What happens if ADR is unsuccessful?

6.1. If ADR fails to bring about resolution, the CCP will continue from the point that was previously reached. Failure is defined as when:

6.1.1. Either the complainant or registrant, or both, are not progressing to a solution; or

6.1.2. Either the complainant or registrant request to move into the CCP; or

6.1.3. Advised by the ADR provider.

**6.2.** In the event of failure, the ADR provider must report back to the referrer giving an explanation of the failure and, if appropriate, making a recommendation as to whether further ADR should be offered.

## 7. What is a Conditions of Practice Order?

**7.1.** A CPO is a means by which UKCP ensures that the quality of its registrants is sustained. It is a consensual agreement with the registrant, made with the agreement of the Chair of the committee or panel that is, at that point, holding a complaint.

**7.2.** A CPO may include but is not limited to one or more of the following:

7.2.1. An undertaking to cease practising in a certain manner; or

7.2.2. An undertaking to practise under a specified supervision regime; or

7.2.3. An undertaking to be subject to audit or inspection; or

7.2.4. An undertaking to be subject to additional training or assessment; or

7.2.5. An undertaking to undergo assessment and/or treatment by an appropriate registered health practitioner; or

7.2.6. An undertaking to provide independent reports on physical or mental health to the referrer.

**7.3.** A CPO is for a stipulated period of time.

**7.4.** At the end of the time period, a report is required from the college or organisational member. The report is to be sent to the PCO who must circulate it to the referrer who must decide whether the conditions have been met, and either decide to refer back to the CCP or to close the case.

## Appendix B: Medical Assessment Process

- 1) This process is a process within the CCP and therefore the provisions and definitions within the CCP apply here.
- 2) This process is available at any stage of the CCP.
- 3) Where an allegation appears to raise an issue regarding a registrant's physical or mental health the PCO, or the PEC or the AP (as appropriate), may invite the registrant to attend an assessment with a medical practitioner appointed by UKCP at its own expense.
- 4) The medical practitioner will examine the registrant and report on (a) his physical health or (b) his mental health or both.
- 5) The registrant is entitled to nominate other medical practitioners, at his own expense to submit a report to the PCO or the PEC or the AP (as appropriate) on his fitness to practise which will be considered in addition to the medical assessor's report.



## Appendix C: Interim Suspension Process

- 1) This process is a process within the CCP and therefore the provisions and definitions within the CCP apply here.
- 2) This process is available to be run at any stage of the complaints and conduct process.
- 3) If a complaint or concern suggests to the PCC, the PEC or the AP that it may be necessary for public safety, or be otherwise in the interests of the public or be in the interests of the registrant if a registrant's registration was maintained while the concern or complaint is progressed, they may make an interim suspension order.
- 4) The following criteria must be met before the Order is issued:
  - a. The potential sanction if the concern or complaint is upheld is reasonably likely to result in restriction, suspension or termination of registration;
  - b. If it is practical to do so, the registrant must be notified, and invited to respond to the prospective Order, and the response must be considered before the Order is issued.
- 5) Orders must be reviewed at regular intervals, defined at the time of implementation
- 6) Details of interim suspension orders will be published in accordance with paragraph 9 of UKCP's Publication of Decision s Policy.

## Appendix D: Restoration of Registration Process

- 1.** This process is a process within the CCP and therefore the provisions and definitions within the CCP apply here.
- 2.** This process applies if a person whose registration has been terminated by a decision under the CCP wishes to re-register. It will apply when:
  - 2.1. Not less than three years has elapsed since the termination; and
  - 2.2. The former registrant submits a report to show what they have learned from the experience; and
  - 2.3. The former registrant submits a report from a UKCP registered supervisor in favour of the re-registration.
- 3.** The reports must be submitted to the PCO at the UKCP office.
- 4.** The PCC must decide on whether the former registrant is re-registered and state its reasons in writing.

## Appendix E: Risk Assessment and Audits

Explanatory Note: Risk Management is used to establish a system to capture, connect and manage risks at project, programme or organisational level. It identifies risks, manages stakeholders, and generates actions to pre-empt or contain risks before they manifest themselves as events. It aims at the continuous effective forecasting and containment of risk events, rather than repairing the damage from risks that have already caused failures. Placing points for assessing the risk within the project or process allows a dynamic that ensures that decisions show due consideration and minimise the probability of a failure or untoward event.

Explanatory Note: An audit point is a place in the process or project at which there is mandatory data collection that is identified in the operational documents. Data can include any target that has been set in the processes, procedures or outcomes. It can include both qualitative and quantified measures. This can provide an assessment on a case by case or functional basis. It is useful in assessing the overall operation of a system and can be used as evidence in the questions raised about performance targets.

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