

Handling complaints about therapists

Report of the UKCP

Professional Conduct Committee

1 January 2018–31 December 2018



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Foreword

Welcome to the 2018 Professional Conduct Committee's annual report. I hope you find the report informative and that it reassures members of the public and registrants that the Complaints and Conduct Process continues to be robust, fit for purpose and works well.

It has been a busy year with a record-breaking increase in the number of complaints received, the consultation on the new UKCP code of ethics and the successful learning from complaints event we held in Birmingham.

Even though the number of complaints received has increased, the number of complaints being referred to a panel has remained stable. We believe the reason for the increase in the number of complaints is due to the growing public profile that UKCP has achieved in the past 12 months. Of course, the more visible a regulator is the higher the contact, and we welcome this increase as it shows the public are aware of where to go should they have a concern regarding one of our registrants.

We are sad to announce that our long-standing lay member Carmel Bamford has left the Professional Conduct Committee and we wish her the best for the future.

The Professional Conduct Committee and the Complaints and Conduct Team are now in the process of carrying out a major root cause analysis of all complaints received since the Complaints and Conduct Process was introduced in 2013, we hope to disseminate the learning points to registrants and the public in the near future.

Brian Linfield MBE

Chair, Professional Conduct Committee

About UKCP

UKCP is the UK's leading professional body for the education, training and accreditation of psychotherapists and psychotherapeutic counsellors. Our membership includes over 10,000 individual members and more than 70 training and accrediting organisations.

Our register of over 8,000 individual therapists is accredited by the government's Professional Standards Authority for Health and Social Care. It includes the following healthcare professionals:¹

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

The Complaints and Conduct Process

Our Complaints and Conduct Process (CCP)² has been in place since December 2012. It provides a centralised, transparent process for considering complaints or concerns raised by members of the public and clients about therapists on the UKCP register (also known as registrants).

The CCP has streamlined the way complaints are made and handled, resulting in a process that is much easier for the public to understand and engage with.

The CCP aims to:

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

1. Defined by the Health and Social Care Act 2012
2. For more information about the CCP visit www.psychotherapy.org.uk/complaints

The Professional Conduct Committee

The Professional Conduct Committee (PCC) plays a key part in enabling UKCP to meet its responsibility to maintain professional standards of excellence.

The remit of the PCC is to oversee the successful functioning of the CCP. The PCC provide advice and guidance to the Complaints and Conduct team and have oversight of each individual complaint that progresses through the CCP. The PCC may also be asked at times to make the screening decision for an individual case if the Case Manager feels unable to do so.

A key function of the PCC is to enable learning from complaints. The PCC undertakes root cause analysis work at the conclusion of each case in order to determine the driving points for complaints and identify key areas of concern. This information is then used to shape PCC training day programmes and helps UKCP with policymaking decisions.

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

During the period covered by this report, the PCC membership was as follows:

Lay members

Brian Linfield MBE, Lay Chair

Brian sits as a specialist member of the Mental Health Tribunal in the Health, Education and Social Care Chamber and as a disability-qualified panel member in the Social Entitlement Chamber of Tribunals. Brian is a specialist presiding lay magistrate sitting in the family court. He is a retired civil servant and has a 15-year background of statutory regulation within the water industry for which he was honoured with his MBE and was a regional lay chair for complaints within the NHS.

Graham Briscoe

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

He is a board non-executive director with CXK (a young people's careers guidance company) in Kent and he chairs their board's audit, risk and governance committee. He also provides pro-bono change and facilitates management support to charity, voluntary and not-for-profit organisations in the south-west and Wales. Last year, he was elected for a second term as a member of the Governors' Council at Bristol University Hospital, representing North Somerset.

Emi Gutwenger

Emi is a senior associate solicitor with Clifford Chance LLP and focuses on financial regulation. He has degrees in Austrian Law and Economics from Leopold-Franzens University in Innsbruck, Austria and a graduate diploma in law from BPP Law School in London. Having previously worked as a judicial assistant in Austria and as a regular volunteer with various legal advice centres in London, he has considerable experience with judicial and quasi-judicial processes and complaints procedures.

Carmel Bamford

Carmel is a solicitor with over 25 years' experience of working in private practice and commercial organisations in the UK and Asia. She was a chair and a member of the Panel of Adjudicators of the Solicitors' Regulation Authority for five years and is a trustee of Age UK for the London Borough of Richmond.

Professional members

Sheila Foxgold

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

Kedzie Penfield

Kedzie trained at the Scottish Institute of Human Relations. For the last 15 years, she has worked as a psychoanalytic psychotherapist with adults at a private practice in Edinburgh. She has served on various committees in voluntary organisations and is particularly interested in questions around complaints procedures and their relationship to ethics. As well as being a member of our PCC, she co-chairs the Ethics Committee for the Scottish Association of Psychoanalytic Psychotherapy. She is UKCP and BPC registered.

Henry Adeane

Henry is a psychotherapist, trainer and clinical supervisor. He currently works at the Counselling Foundation in St Albans, the Bedford Prison Counselling Service, Matrix College of Counselling and Psychotherapy in Norwich and Ipswich, and in a number of other organisations in various capacities. He specialises in complex cases, forensic psychotherapy and the ethical treatment of addiction and personality disorder.

Ethics Committee representative

Barry Christie

Barry has been registered with UKCP since 2006. He trained at the Bowlby Centre and has held various positions within the psychotherapy profession. Barry has been a member of the Ethics Committee since 2016 and served as their PCC representative during 2018. Barry has a keen interest in psychoanalysis, politics, and health; he previously held roles in local government and has been involved in developing housing, social and urban regeneration projects.

The Complaints and Conduct Team

The PCC works very closely with the Complaints and Conduct Team, from the receipt of a complaint or allegation through to its resolution. The Team currently comprises a Complaints and Conduct Manager, two Case Managers and a Panel Secretary. The Team are lay staff who have extensive experience in handling complaints and regulations in various fields.

The Team receives all enquiries relating to complaints against registrants. It also addresses questions about best practice and provides information about the complaints process.

All complaints and allegations are received by the Case Managers, who are responsible for gathering information from the complainant and the registrant. The information is put before the PCC along with the Case Manager's recommendation regarding the way the complaint should be dealt with, considering UKCP's procedural requirements. The PCC offers advice to the Case Manager, who then makes the final decision.

Neither the Case Managers nor the PCC make findings on the facts of the complaint. The Adjudication Panel makes findings of fact and it alone decides if an allegation is found proven and, if so, whether any sanction should be imposed.

Learning from Complaints events

Centralising complaints about our registrants has allowed us to collate information and statistics to identify some common themes and trends.

In November 2018, we held a Learning from Complaints Workshop in Birmingham for our registrants to share some of what we had learned from handling complaints.

This workshop aimed to:

- provide an overview of how UKCP's complaints process works
- highlight areas of good practice
- enable attendees to gain a greater understanding of how we deal with complaints – from the moment we receive a concern or complaint, to if and when it reaches an Adjudication Panel for a hearing
- provide an opportunity to ask questions and alleviate concerns through dialogue and discussion groups.

Feedback from the event was overwhelmingly positive. Although there was a lot of information to take in, attendees actively participated in lively discussions and debates throughout. Participants told us that the day was excellent and valuable as it increased their knowledge and understanding of the process.

We are pleased that those who attended the event felt engaged, informed and more aware of causes for complaints. Meeting members of our Complaints and Conduct Team also assured them that should a complaint or concern be raised about them, it will be handled professionally and in accordance with the CCP.

Complaints and complaint enquiries handled during 2018

While we take all complaints very seriously and are committed to safeguarding the public, it is important to remember that the vast majority of members practice every day and never have a complaint made against them. In fact, in 2018, less than one percent (0.9%) of UKCP registrants had a formal complaint made against them.

Whatever the cause or severity, each complaint is an opportunity for learning. By highlighting the causes of complaints in this report, we hope that members will review their current practices and procedures in order to avoid circumstances in which such trigger points may arise.

General enquiries

The Complaints and Conduct Team receive enquiries every day from registrants, organisational members, members of the public or representatives from other professional organisations. Not all conversations are about complaints or are related to the CCP. For example, a registrant might contact the Team to ask for advice about safely storing their client records.

Complaint enquiries

Before making a formal complaint, most people get in touch with the Complaints and Conduct Team to seek advice or discuss their concerns. They speak and listen to members of the public who might want to make a complaint and therapists who might be concerned about a client making a complaint. They also receive calls from people wanting to understand more about the CCP. This process helps provide realistic expectations of the process, informing them what the CCP can and cannot look at and exploring what channels the person has taken so far. For example, has the registrant spoken to their indemnity provider or has the client discussed concerns with their therapist?

Complaints received and accepted

Once we receive a written and signed complaint, we consider this to be a formal complaint. All complaints are screened by a Case Manager to see whether they are within the scope of the CCP (ie does the complaint indicate a potential breach of UKCP's code of ethics?), and a decision about whether to refer the matter to an Adjudication Panel is made after the registrant has been provided with an opportunity to respond to the complaint.

Complaints activity 2018

	Jan-Mar	Apr-Jun	Jul-Sep	Oct-Dec
CCP complaints received	14	19	20	21
Complaints accepted	2	1	0	2
General enquiries received	44	39	32	77
Complaint enquiries received	69	89	75	65
Adjudication Panels held	0	0	0	2
Appeals lodged	0	0	0	0
Interim suspension hearings	0	1	1	0

The decision to refer a case to an Adjudication Panel is based on the realistic prospect test: is there a realistic prospect that UKCP will be able to establish before an Adjudication Panel that the registrant may not be suitable to be on UKCP register without any restrictions or conditions of practice? For example, a case referred in 2018 was because of a serious breach of boundaries.

Complaint outcomes

An Adjudication Panel must follow a four-step process when making a decision. First it must determine whether the allegations are found proven (or admitted); secondly, whether the allegations constitute misconduct; thirdly, is the therapist's current ability to practice unrestricted impaired; and finally, what sanction, if any, needs to be applied to remedy any identified training need or protection for the public.

There are several possible outcomes:

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

Of the 74 formal complaints received in 2018, five were referred to an Adjudication Panel. Two of the five complaints were heard by an Adjudication Panel in 2018, the other three will be determined in 2019.

The first case heard resulted in the registrant being removed from the UKCP register for allegations of serious sexual misconduct and bringing the profession into disrepute.

The second case resulted in a conditions of practice order (12 months' supervision and personal therapy with the requirement to submit two progress reports) and was in relation to failure to maintain professional boundaries with a client.

Both cases resulted in allegations found proved, misconduct and impairment found.

Cases	No. of registrants
Sanctions issued	2

Sanction issued	No. of registrants
Conditions of practice order	1
Removal from register	1

When the realistic prospect test has not been met, but professional development and reflection may be beneficial, letters of warning or recommendations are sent to registrants. These cases include technical breaches of the code of ethics but are not serious enough to warrant a referral to an Adjudication Panel.

For example, a registrant may not have clearly explained their modality or contract, resulting in confusion. The registrant would be advised to review their contracts and terms so that clients fully understand from the outset the obligations and expectations of both parties. Other cases were rejected as having insufficient evidence or not falling within the scope of the CCP.

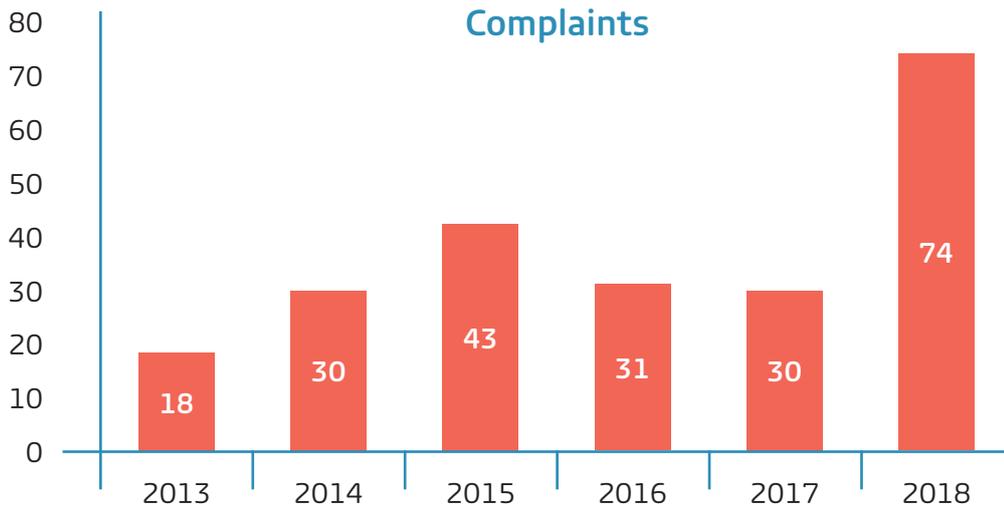
Examples of rejected complaints include:

- Employment disputes between colleagues
- Perceived insensitivity regarding culture
- Financial (fee) disagreements between therapists and clients
- Complaints about the quality of notes
- Misleading advertisement.

Year on year analysis

We have been collecting complaints data since 2013, and the average number of formal complaints received per year stands at 37.6. As seen in the chart below, there was a significant increase in complaints in 2018 in comparison to previous years. Interestingly, the number of referred cases have remained the same, on average two to three per year. This demonstrates that the screening process is robust and only the cases which present a potential threat to public safety are referred to an Adjudication Panel. The rise in enquiries and complaints is likely to be the result of UKCP's growing public profile.

Of the 74 complaints, five cases were referred to an Adjudication Panel. These matters concerned allegations of sexual misconduct, financial exploitation, dual relationships and breaches of professional boundaries.



Who makes complaints?

The chart below shows a comparison of who made formal complaints received in 2017 and 2018.



Complaints from members of the public reveal a significant rise from 2017 to 2018. The 'public' consists of anyone who is not a formal client or colleague, for example a family member or a student. It is important to emphasise this chart does not represent misconduct, it represents formal complaints submitted to UKCP, including out-of-scope complaints.

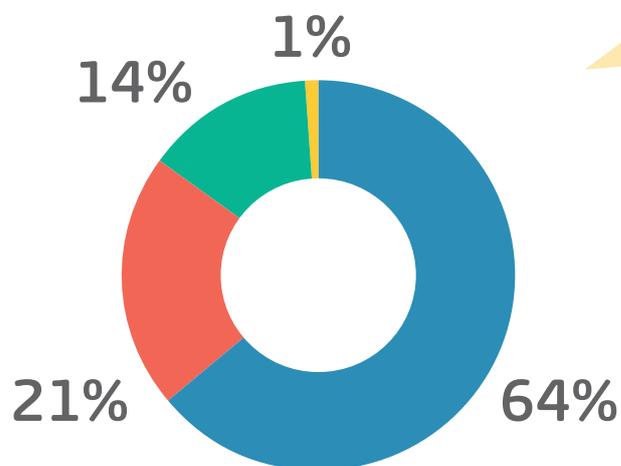
Root cause analysis

At the conclusion of each case, the PCC undertakes a detailed root cause analysis. This involves identifying the behaviours or situations that triggered the complaint being made, so that if removed, the complaint may not have occurred. The methodology is simple. For each complaint, we review the allegations and then categorise them into one or more broadly defined groups.

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

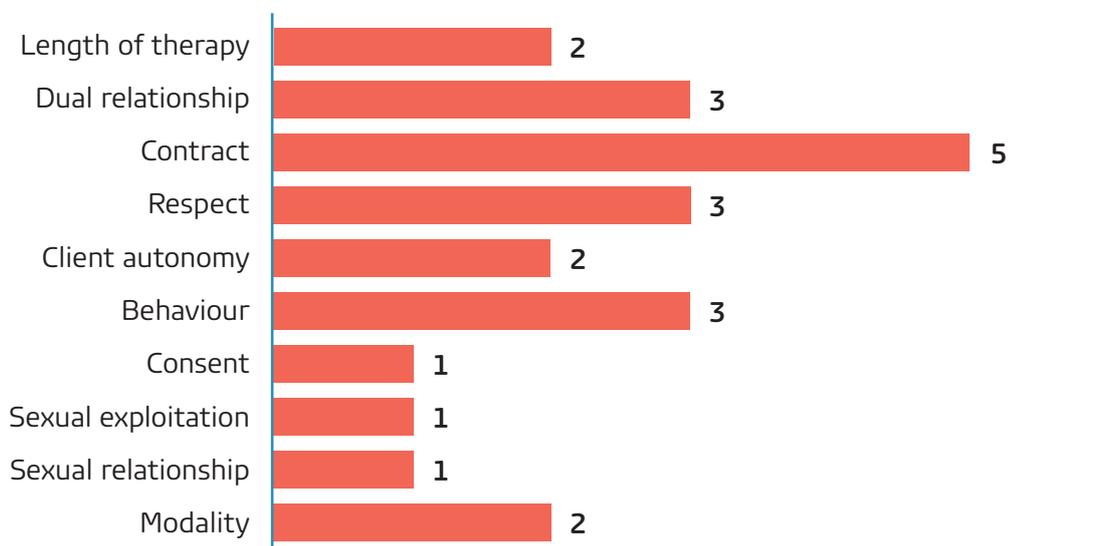
2018 root cause

- Best interest
- Confidentiality
- Knowledge and experience
- Diversity and equality



Best interest

The 'best interest' category has multiple sub-categories, which have been presented in the bar chart below. 'Contractual issues' is the most frequent allegation in this category. Therefore, we have explored these areas further, using examples to help identify how these complaints have occurred.



Have you got a contract?

Another recurring factor in complaints forms received in 2018 was contractual agreements. Complaints regarding contractual agreements are often a result of miscommunication, issues around ending therapy, disappointment and financial disputes.

For example, contractual agreements are essential in couples' therapy to cover issues such as disclosure of topics discussed in individual and joint sessions.

Even if you do not issue a written contract, you will have some form of contract in place with your clients because a verbal agreement is a contract. UKCP does not make it a requirement for our registrants to have a written contract. Our code provides that they agree at the outset to explain to a client, or prospective client, their terms, fees and conditions and, on request, clarify other related questions such as likely length of therapy, methods of practice to be utilised, referral or termination processes.

A written contract is recommended so that there is clarity in what is expected of both sides. It gives you a level of certainty, reducing the likelihood of complaints. And, in certain circumstances, a contract can 'save' a therapeutic relationship.

Confidentiality toolkit

Confidentiality is a fundamental tenet of the profession; however, breaches have become more prominent in 2018, with 21% of complaints involving concerns about confidentiality. These ranged from poor report-writing and inappropriate therapeutic settings to sharing information among family members.

A growing number of complaints in this area arise from registrants trying to be helpful and writing a report for use in legal proceedings. Inevitably the legally untrained registrant, will inadvertently breach confidentiality.

An essential part of the therapeutic relationship is the confidence that is shared between therapist and client. That confidence and trust is essential in creating a safe space where therapy can take place and breakthroughs can be made. However, there are occasions where a registrant may be asked to break that confidentiality. This can pose a significant dilemma for a registrant juggling pressure from different people and agencies.

If you are writing a report, useful tips therapists may wish to take into account are:

- Don't make judgements or evaluations about someone you haven't met.
- Relate facts clearly in a chronological order.
- Don't elaborate, exaggerate or speculate.
- Be aware of your own personal biases.
- You are not an advocate of your client.
- Review the report for accuracy, succinctness and clarity.
- Contact your professional indemnity insurers, supervisor or college for assistance.

The Complaints and Conduct Team wrote about this issue on the 'Learning from complaints' page on the UKCP website³, which discusses confidentiality in greater depth. The PCC recommends that all members read the confidentiality article.

The next 12 months

The Complaints and Conduct Team are undertaking a large research project exploring trends and statistics in complaints. This is to share learning from complaints with UKCP members and colleges to assist in training and development in the profession. We wish to thank Eloise Cadman, Panel Secretary, who is leading this project. We hope to be able to share the results of this research in 2020 with further updates from future complaints.

In terms of recruitment, 2019 is an exciting year. UKCP is expanding the pool of professional members to sit on Adjudication Panels, and contribute their expertise to in the decision-making process.

Sharing good practice

UKCP is keen to celebrate good practice and the work our members do. If you have any examples of good practice relating to the way you run your work as a therapist, and would like to share them with others, please get in touch with the Complaints and Conduct Team at complaints@ukcp.org.uk. Your involvement is valued, we are working to strengthen communication between members and UKCP.

3. www.psychotherapy.org.uk/registers-standards/complaints/learning-from-complaints/learning-from-complaints-confidentiality/

