

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

**Friday 11 February 2022
Via Zoom**

Name of Registrant: Kathryn Finkel

Heard by: Substantive Sanctions Review Panel

Lay Chair: Catherine Hinton

Panel Members: Hilary Brown (HIPC)
Serena Jenks (CPJAC)

Legal Assessor: Nigel Mitchell (Independent Legal Assessors)

Panel Secretary: Lizzy Millar

UKCP Presenting Officer: Nirosha Thilagarajan [UKCP]

Registrant: Kathryn Finkel not present nor represented

Panel decision: Terminate UKCP membership

Documentation

1. UKCP's application for variation of sanction to terminate Registrant's membership including a document entitled "Submission to extend and vary sanctions due to failure to comply with sanctions previously imposed", and a final bundle comprising 103 pages.
2. The Substantive Sanctions Review Panel was also provided with a service bundle marked S1 containing notice of today's hearing and instructions to the Registrant as to how to join the hearing. There was further recent correspondence with the Registrant and in particular an email from her dated 9 February 2022 stating that she will not be attending the hearing.

Preliminary Matters

3. The UKCP asked that the Substantive Sanctions Review Panel consider, as set out in paragraph 7.35 of the CCP that the sanction be varied to a direction that the Registrant's membership of UKCP be terminated and a direction to any organisational member to terminate the Registrant's membership as set out a paragraph 7.25.8 of the CCP.
4. The Application is made under provisions 7.34, 7.35, and 7.25 of UKCP Complaints and Conduct Process.
5. The Substantive Sanctions Review Panel considered the written submissions dated 27 January 2022 and the oral submissions made today in support of the application by Nirosha Thilagarajan, UKCP Case Presenter.
6. The Substantive Sanctions Review Panel took into account that notice of this hearing was first sent to the Registrant on 18 January 2022. On the 28 January 2022 by email and by recorded postal delivery, the notice and the documents for today's hearing had been sent to the Registrant.

7. The Substantive Sanctions Review Panel determined that the notice period was reasonable, and the service provisions had been complied with.

Proceeding in Absence

8. The Registrant was not in attendance at the hearing. The Substantive Sanctions Review Panel took note of an email from the Registrant dated 9 February 2022 where she states: "I have made it clear that I will not be attending the hearing".
9. Ms Thilagarajan, on behalf of UKCP made an application to proceed in the absence of the Registrant. She submitted that the Registrant had made it clear that she would not attend, that there was a public interest in this hearing taking place today and were the case to be adjourned it was unlikely that the Registrant would attend on another date.
10. The Substantive Sanctions Review Panel considered whether it would be fair and in the public interest to proceed in the Registrant's absence.
11. The Substantive Sanctions Review Panel accepted the advice of the Legal Adviser who referred the Substantive Sanctions Review Panel to the decision of the Court of Appeal in *General Medical Council v Adeogba* [2016] EWCA Civ 162 and the case of *R v Jones* [2003] 1 AC 1, HL.
12. The Substantive Sanctions Review Panel was mindful that this was a discretion that must be exercised with the utmost care and caution. In deciding whether to proceed in the absence of the Registrant, the Substantive Sanctions Review Panel weighed its responsibilities for public protection and the expeditious disposal of the case with the Registrant's right to a fair hearing.
13. The Substantive Sanctions Review Panel had regard to the UKCP's various attempts to contact the Registrant by letter and email. The Substantive Sanctions Review Panel decided to proceed in the absence of the Registrant. In reaching this decision, the Substantive Sanctions Review Panel considered the submissions of the UKCP and the

advice of the Legal Adviser. It had regard to the factors set out in the decisions of Jones and Adeogba. It had regard to the overall interests of justice and fairness to all parties. The Substantive Sanctions Review Panel took into account that the Registrant had clearly expressed an intention not to attend and also that there was a public interest that this hearing takes place within a reasonable time. There was no reason to believe that were the hearing to be adjourned, the Registrant would attend on another occasion.

14. The Substantive Sanctions Review Panel decided to proceed in the absence of the Registrant.

Background

15. On 9 and 10 November 2021 an Adjudication Panel found 8 breaches of UKCP's Code of Ethics and Professional Practice.

16. The Adjudication Panel on 9 and 10 November 2021 determined that the appropriate sanction was one of a Suspension Order for 12 months together with the following:

- a) Weekly therapy for 12 months with particular focus on the personal issues, the Registrant's lack of honesty and impulsivity that manifested themselves in this case. The Registrant is to propose a suitable therapist to the UKCP for approval. A report is to be submitted to the Case Manager by the therapist every six months.
- b) In-person training during the 12 months provided by a UKCP accredited body with particular focus on working with couples and families and the issues of boundaries, contracts, and confidentiality. The Registrant is to propose the training she wishes to attend to the UKCP for approval.
- c) The Registrant is to produce a certificate (or certificates) of completion of the above training to the Case Manager.
- d) Twelve sessions of supervision during the 12 months suspension period to focus upon her failings, the outcome of this hearing and how she may address these in order to return to private practice. The Registrant is to propose a suitable supervisor to the UKCP for approval. A report is to be submitted to the Case Manager by the supervisor after six sessions and again after twelve sessions.

e) The Registrant is to provide a reflective report to the Case Manager setting out the knowledge she has acquired from the above training and the insight she has gained into her personal failings as set out in this determination and how these issues impacted upon her professional practice.

17. The Sanction Review Panel met via Zoom on 15 December 2021 to respond to the Registrant's request to vary the frequency of her therapy from weekly to fortnightly and for the therapist to report only on attendance and level of engagement, rather than to comment on the content of the sessions or the process itself.

18. The Sanction Review Panel noted the written advice from the Legal Assessor Jon Whitfield QC (Doughty Street Chambers) who did not attend the meeting.

19. It was the determination of the Sanction Review Panel that fortnightly therapy sessions were insufficient in frequency to address the concerns brought before UKCP that related to the Registrant's breaches of boundaries and her unconscious processes. The Sanction Review Panel considered it unrealistic to expect to work through unconscious processes sufficiently in fortnightly therapy. A weekly one-hour therapy session fosters a greater depth of process than a fortnightly double session. Therapy requires continuity and regularity. Therapy is a process that continues between each session: not simply a series of meetings.

20. The Sanction Review Panel agreed that the content of the therapy session should not be reported. However, the therapist needs to confirm to UKCP the date and length of weekly sessions. The therapy should be a minimum of one-hour weekly therapy sessions. The UKCP does require a reflective report from the Registrant, confirming that the issues brought to the Sanction Review Panel have been fully addressed.

21. The Sanction Review Panel sought assurance that the Registrant can demonstrate that she can be rigorous, self-aware, boundaried and accountable, meaning that the public are fully protected.
22. The Sanction Review Panel determined that the sanctions outlined in the published decision of the 9 and 10 November 2021 Adjudication Panel should remain unchanged.

Determination

23. The Substantive Sanctions Review Panel today heard and accepted advice from the Legal Advisor.
24. The Substantive Sanctions Review Panel noted that following its determination refusing the Registrant's request to vary the conditions, the Registrant in her email to UKCP dated 20 December 2021 made it clear that she would not comply with the sanction: "... I will not be complying with the Panel's restrictions on my practice and any requirements place [sic] upon me and I do this in the knowledge that I will be removed from the register". Following this, the Registrant was informed that the UKCP would convene a hearing to seek the termination of her registration.
25. Despite being given opportunities to comply, the Registrant has made it abundantly clear that she will not comply with the sanction imposed. The Substantive Sanctions Review Panel noted that as of today's date over two months have elapsed since the sanction was imposed at the substantive hearing.
26. The Substantive Sanctions Review Panel noted that the Registrant had not appealed the decision of the Adjudication Panel on 9 and 10 November 2021, she had not complied with the sanctions and has indicated in correspondence that she is unwilling to comply.

27. UKCP therefore applies under rules 7.26, 7.34, 7.35 and 7.25 for her membership to be terminated.

28. Ms Thilagarajan drew the Substantive Sanctions Review Panel's attention to her detailed submissions in support of the application. She told the Substantive Sanctions Review Panel that the Registrant has not appealed the original decision made in November 2021, nor the decision made in December 2021. The Registrant has stated that she will not comply with the conditions despite being encouraged to do so. The Registrant is fully aware that removal from the register is a distinct possibility. There is no reason to believe that she would comply with any other sanction made and that any lesser sanction than the one already imposed would not be appropriate or proportionate. The Registrant has failed to provide comprehensive reasons for her failure to comply. In the circumstances, the only sanction that will protect both clients and the public interest is that of removal from the register.

29. The Substantive Sanctions Review Panel determined to direct that the Registrant's name be removed from the register.

30. The Substantive Sanctions Review Panel noted that the Registrant has clearly stated that she has no intention of complying with the previous sanction. The Registrant has not utilised the formal process of appeal in respect of the original complaint hearing on 9 and 10 November 2021 nor the sanction review hearing on 15 December 2021.

31. The Substantive Sanctions Review Panel determined that the allegations found proved in this case are serious, they involved the committing of a criminal offence by impersonating a social worker and thereby deceiving a vulnerable person. When interviewed by the police, the Registrant denied this offence and only made admissions when confronted with an audio recording, proving that it was her voice. Her actions caused considerable distress. Further, the Registrant failed to report the caution she received for this behaviour to UKCP in clear breach of the Code.

32. The allegations in respect of the breach of confidentiality are also very serious. The maintenance of confidentiality is a fundamental tenet of the profession, including in couples therapy.

33. The Registrant has shown no insight into the consequences of her behaviour and her refusal to comply with the sanction imposed suggests attitudinal issues. The Substantive Sanctions Review Panel took into account the Registrant's email dated 9 February 2022 in which she repeated her request to reduce the frequency of the therapy that had been imposed as part of the sanction: "...I have also made it clear that one of the issues that I would like the panel to consider is why the requirement for therapy cannot be varied to two hours every two weeks rather than one hour every week...". The previous panel carefully considered the frequency of therapy and this Substantive Sanctions Review Panel determined that the sanction was appropriate and measured and designed to allow the Registrant to return to safe practice when first imposed.
34. The sanction and its conditions were designed to allow the Registrant to return to safe and effective practice. She has refused to avail herself of this opportunity. In the circumstances, the Substantive Sanctions Review Panel determined that there is a real risk of repetition. The Registrant remains impaired and has taken no action as specified by both previous panels to remediate her impairment. The Registrant was offered a pathway to return to safe practice with which she has refused to comply.
35. The regulatory concerns in this case and the subsequent refusal by the Registrant to comply with the sanction previously imposed raises fundamental questions about her professionalism. The Substantive Sanctions Review Panel considered whether further sanctions, rather than termination could be imposed under rule 7.26 but having considered all the circumstances of this case and the deliberate decision of the Registrant not to comply, concluded that the only proportionate sanction was termination of membership.
36. The Substantive Sanctions Review Panel also directed that any UKCP organisational member should terminate the Registrant's membership.
37. Both these directions were made in accordance with 7.25.8 of the CCP, to protect the public and to maintain public confidence in the profession and the regulatory process.

Interim Suspension Order

38. Removal from the register will not take place until 28 days following today's decision.

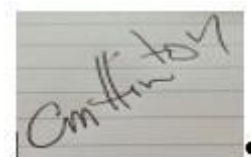
Ms Thilagarajan requested that the Substantive Sanctions Review Panel should consider an interim suspension order was it minded to agree to her submission that the Registrant's name should be removed from the register. The Substantive Sanctions Review Panel considered that not to impose an interim suspension order would be inconsistent with its previous decision. An interim conditions of practice order would not be appropriate as there are no conditions which could be formulated which would address the circumstances of this case. The Substantive Sanctions Review Panel determined that there is a real risk to the public were an interim suspension order not made. An interim suspension order is also required to uphold public confidence in the profession and in UKCP as a regulator. The Substantive Sanctions Review Panel determined to impose an interim suspension order for 18 months.

39. If no appeal is made within 28 days this interim suspension order will fall away and be replaced by the order that the Registrant's name be removed from the UKCP register.

Right of Appeal

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

Signed,

A rectangular box containing a handwritten signature in black ink on a light-colored background. The signature appears to be 'Catherine Hinton'.

Catherine Hinton

11 February 2022