



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

**4 – 5 December 2023  
Online**

|                                  |   |
|----------------------------------|---|
| <b>Name of Registrant:</b>       | Marcus West   |
| <b>Heard by:</b>                 | Adjudication Panel  |
| <b>Panel Members:</b>            | Heather Moulder (Lay Chair)<br>Diane Cunningham (CPJAC)<br>Rita Glover (CSRP) |
| <b>Legal Assessor:</b>           | Jon Whitfield KC, Doughty Street Chambers                                     |
| <b>Panel Secretary:</b>          | Kat Zhou  |
| <b>UKCP Presenting Officer:</b>  | Charlotte Ferson, UKCP  |
| <b>Registrant:</b>               | Present and unrepresented   |
| <b>Charges found proved:</b>     | <b>Allegation 1, 2, 3d, 4a, 4b, 4d, 4e, 4f, 4g</b>                            |
| <b>Charges found not proved:</b> | <b>Allegations 3a, 3b, 3c, 4c (allegations withdrawn by UKCP)</b>             |
| <b>Panel decision:</b>           | <b>Misconduct and Current Impairment found proved</b>                         |
| <b>Sanction:</b>                 | <b>Removal from the Register</b>  |
| <b>Interim Suspension:</b>       | <b>ISO extended to cover the appeal period</b>                                |

## Detail of allegations

That being a UKCP registered psychotherapist since at least 2003, you Marcus West (the Registrant):

1. Failed **within a reasonable time** to inform UKCP that on 9 March 2022 your British Psychoanalytic Council (BPC) registration had been suspended for a period of 18 months by an Interim Orders Committee.  
**Admitted and found proved**
2. On 15 May 2023 a Fitness to Practise Panel of the BPC directed that your name be removed from the register of the BPC.  
**Admitted and found proved**
3. The allegations found proved which led to your removal from the register at 2 above were:
  - a. **Inappropriate and/or**  
**Denied – Allegation withdrawn by UKCP**
  - b. **Unprofessional and/or**  
**Denied – Allegation withdrawn by UKCP**
  - c. **Sexually motivated and/or**  
**Denied – Allegation withdrawn by UKCP**
  - d. **Incongruent with what is expected of a UKCP registrant and related to your practice as a psychotherapist.**  
**Denied. Found proved**
4. The behaviours set out at 1 – 3 above are in breach of UKCP’s Code of Ethics and Professional Practice 2019 (“the Code”), in particular:
  - a. You failed to act in your client’s best interests, thereby breaching clause 1 of the Code;  
**Denied. Found proved**
  - b. You failed to treat your client with respect, thereby breaching clause 2 of the Code;  
**Denied. Found proved**
  - c. **You had sexual contact and/or a sexual relationship with your client, thereby breaching clause 4 of the Code;**  
**Denied – Allegation withdrawn by UKCP.**
  - d. You exploited or abused your relationship with a client for your sexual gain, thereby breaching clause 5 of the Code;  
**Denied. Found proved**
  - e. You failed to avoid a dual relationship with a client, thereby breaching clause 8 of the Code;  
**Denied. Found proved**
  - f. You failed to act in a way which upholds the profession’s reputation and promotes public confidence in the profession and its members, thereby breaching clause 32 of the Code;  
**Denied. Found proved**
  - g. You failed to inform UKCP that you were suspended or placed under a practise restriction by an employer or similar organisation because of concerns relating to your competence, health or practice of psychotherapy thereby breaching clause 39d of the Code.  
**Admitted. Found proved**

For the reasons set out above, your fitness to practise is impaired by reason of misconduct and/or decision of another body.

## **Documents**

The Panel had placed before it the following documents:

- UKCP bundle amounting to 96 pages, hereafter referred to as C1;
- Index for C1 amounting to 1 page;
- UKCP evidence bundle amounting to 3 pages, hereafter referred to as C2;
- Written submissions on behalf of UKCP, amounting to 11 pages;
- Registrant's bundle amounting to 8 pages, hereafter referred to as R1.

## **Hearing**

1. The complaint was heard under the UKCP Complaints and Conduct Process 2022, and the Panel considered the alleged breaches of the UKCP Code of Ethics and Professional Conduct 2019 (the Code).

## **Preliminary Matters**

2. The Panel considered the following preliminary matters:

### Form of Evidence

3. Ms Ferson submitted that a hearsay application was not necessary since pursuant to Rule 2.1.5 of the UKCP Complaints and Conduct Process (CCP), the UKCP relied on the decision of the British Psychological Society (BPS) as evidence concerning the Registrant's suitability to be on the UKCP register. The documentary evidence was provided as background to that finding.
4. The Registrant made no contrary submission.
5. The Panel accepted the advice of the Legal Assessor that the Panel were entitled to rely upon the decision of the Fitness to Practice Panel (FPP) of BPC provided they were satisfied that it was safe and fair to do so.
6. The Panel determined that no hearsay application was required and that it was safe and fair to rely upon the decision and findings of the BPC. In coming to this conclusion the Panel took into account the fact that the BPC is a professional regulatory body. It had conducted an enquiry and held disciplinary proceedings similar to the proceedings before this Panel. The Registrant had been given the opportunity to address the allegations he faced and he was represented by a barrister.

### Amending the Allegation

7. Ms Ferson applied to amend Allegation 1 by adding the words “within a reasonable time” after the term ‘failed’. The Registrant agreed that the amendment should be made.
8. The Panel determined that the amendment caused no unfairness to the Registrant or the UKCP. It enabled the Registrant to make a factual admission. The amendment thus narrowed the issues between the parties and enabled the Panel to focus on those matters in dispute.
9. Following inquiry from the Panel Ms Ferson withdrew Allegation 4c. She did so on the basis that any sexual relationship between the Registrant and AT1 commenced after she had ceased to be his client.
10. Following further inquiry from the Panel Ms Ferson withdrew Allegation 3a, b and c. She did so on the basis that the UKCP relied upon the findings of the FPP and Allegation 3d. Allegations 3a, b and c were unnecessary and may cause the Panel to reopen those matters found proved during the BPC proceedings.
11. The Registrant consented and the Panel agreed that Allegations 3a, b, c and 4d should be withdrawn for the reasons set out by Ms Ferson.
12. The above-mentioned amendments are shown in red for ease of identification.

### **Determination of Facts**

13. The Panel considered all of the documentary evidence before it including written submissions by Ms Ferson and the Registrant. It heard additional oral submissions from Ms Ferson and the Registrant. The Registrant also gave evidence under oath.
14. Ms Ferson relied upon her written submissions and confined her oral submissions to addressing the Human Rights Act as raised by the Registrant. She submitted that the right to a private and family life was qualified and it was affected by the UKCP’s mandate to protect the public. She said that as part of being on the UKCP Register, registrants agree to adhere to a set of rules which included not having relationships with clients. She said the Registrant had done so and it was not a case where, for example, many years had passed. Rather his actions directly related to his work in the profession.
15. Ms Ferson on behalf of UKCP provided the following submissions in writing.
16. In regard to Allegation 1, Ms Ferson submitted that there was direct documentary evidence to support this. She submitted that the Registrant could not delegate his reporting obligations under

the Code to a third party and it was evidence that he had failed to notify UKCP of the sanction. As to Allegation 2, Ms Ferson submitted that the Panel had received a copy of the decision which remains published on BPC's website.

17. Turning to Allegation 3 Ms Ferson withdrew Allegations 3a, b and c. In her written and oral submission she said that the Registrant's conduct as found proved by the BPC was in certain respects inappropriate and sexually motivated. Ms Ferson submitted that such conduct was unprofessional. She further submitted that the FPP's determination made it clear the Registrant was providing psychotherapy to a client at the time of such conduct. The BPC decision recorded that sections 1, 3, 12, 13, 14 and 16 of BPC's Code of Ethics were breached in addition to paragraphs 1a, b, d, 3a, b, 12a, d, e, 13a, b, c, d, f, g, h, 12c, 16a, c, d of BPC Ethical Guidelines. She stated that they had clear equivalence in UKCP's Code. As a result of these findings the Registrant was removed from the BPC Register. She submitted that these findings and this decision was incongruent with what is expected of a UKCP registrant as set out in Allegation 3d.
18. Dealing next with Allegation 4a (that the Registrant failed to act in the client's best interest), Ms Ferson directed the Panel to paragraphs 1 and 2 of the BPC Code and paragraphs 1 and 13h of the BPC Guidelines. She further submitted that as the Registrant's conduct was found to be inappropriate and sexually motivated it must be that he had failed to act in the client's best interests.
19. In respect of Allegation 4b (that the Registrant failed to treat the client with respect), Ms Ferson directed the Panel to paragraph 14 of the BPC Code and BPC Guidelines. She submitted that as the Registrant's conduct was found to be inappropriate and sexually motivated it must be that the Registrant had failed to treat the client with respect.
20. Regarding Allegation 4c (that the Registrant had sexual contact or a sexual relationship with the client). Having considered the findings of the BPC Ms Ferson conceded that there was no evidence to support this allegation.
21. Ms Ferson next dealt with Allegation 4d (that the Registrant exploited/abused his relationship with the client for his own sexual gain), Ms Ferson directed the Panel to paragraphs 13, 13b, 13d, 12g, 14c, and 16c of the BPC Guidelines. She submitted that as BPC found the Registrant's conduct to be sexually motivated it must be found to be exploitative.
22. Regarding Allegation 4e (that the Registrant entered into a dual relationship with the client), Ms Ferson directed the Panel to paragraphs 13 and 14 of the BPC Code and paragraphs 13, 13b, and 13c of the BPC Guidelines. Ms Ferson further submitted that the Registrant, in both his representations to UKCP and BPC admitted that he had entered into a personal relationship with the client.
23. In respect of Allegation 4f (that the Registrant had failed to uphold the reputation of the profession), Ms Ferson directed the Panel to paragraph 16 of the BPC Code and paragraphs 3a, 13f, 16, and 16f

of the BPC Guidelines. She further submitted that given a finding of current impairment was now publicly available this in and of itself failed to uphold the reputation of the profession.

### **The Registrant**

24. The Registrant relied upon his written submissions and then gave evidence on oath.
25. Regarding his written submissions the Registrant said that he had fallen profoundly in love with his client and accepted the consequences of this. He recognised that this could result in removal from the UKCP Register but that the Panel should consider the context of what occurred. He said that his motivation had been reduced from an act/acts of love to ones of tawdry sexual motivation. This was a distortion of events and missed the point. He said that whilst a sexual relationship might be part of the loving relationship they were not equivalents. He said that he had discussed his feelings with his supervisor and the Chair of the SAP Ethics Committee and followed their advice. In addition the expert evidence in the FPP proceedings was that a relationship was not prohibited but it was a question of the time elapsed between ending a therapeutic relationship and starting a personal relationship and there was little or no guidance as to what length of time was appropriate.
26. The Registrant said that in the FPP proceedings he had been given no opportunity to address a matter from 25 or more years ago which was of a wholly different nature to these events. He said the BPC had sought to blacken his character.
27. The Registrant said that he deeply regretted the distress and the difficulty caused to everyone affected by his actions. This included both clients and the wider public perception of the profession. However, he argued that it was contrary to human rights for a body such as the BPC to proscribe a relationship between himself and an ex-client or trainee in perpetuity. He submitted the punishment was draconian and made no allowance for human nature. He treated his now fiancée as the most important person in his life and both she and he were committed to each other. He denied ever having treated her without respect or exploiting her or seeking to harm her in any way.
28. In Document R1 the Registrant repeated the above and added that these events had occurred in the context of the pandemic. He fell deeply in love and was overwhelmed by this. He repeated that he took the matter of his feelings for AT1 to supervision and thereafter on advice he spoke to a senior and experienced person who was by then the Chair of the Ethics Committee at SAP. In addition he went into analysis regarding his actions and returned AT1's fees to her. He said that he acted ethically, professionally and honourably in ending the professional relationship with AT1, seeking and then following advice. He said that he was aware of the conflict he felt with his professional obligations and he and AT1 had undertaken a period of separation save for meeting once in October and once in November.

29. The Registrant accepted that he may suffer sanction for what he had done but reiterated that the UKCP and BPC did not have the right to proscribe a relationship between two consenting adults and that to do so was an interference in their private life. He reaffirmed that his motives were not as described by the BPC. He said that he had received support from colleagues in staying true to himself and to his love.
30. Regarding the specific allegations he said that he had not failed to act in his client's best interests nor had he failed to treat her with respect. Rather he had fallen in love with her as she had with him. He asserted that he acted out of respect and honour toward her. As to the issue of exploiting or abusing his professional relationship with her, he said that he thoroughly rejected this characterisation. They had fallen in love. Theirs was a mutual, loving consensual relationship that was categorically not exploitative or abusive. Turning to the issue of the duality in their relationship the Registrant said he recognised what had happened and acted to prevent duality by ending the relationship and allowing time for consideration. In looking at the issue of upholding the reputation of the profession, the Registrant said that he had not undertaken some clandestine relationship. He and his fiancée had acted openly with honesty and integrity. Finally dealing with the issue of failing to notify the UKCP, he said that he had done so, but accepted that it was not done as quickly as it should have been and that this was an oversight. He had assumed the BPC would be doing this as they had with other professional bodies.
31. In summary the Registrant posed the question 'should he be removed from the Register for falling in love?' He said he did not invite this, it was an extraordinary experience for him and, whilst he accepted the profession sought to discourage relationships, it should also recognise that such events do occur and account should be taken of the circumstances.
32. In oral submissions the Registrant confirmed that he sought to rely upon the Human Rights Act [the right to a private and family life] and this case was about his motivations and actions. He said that in ending the analysis-relationship with AT1 he had acted both professionally and appropriately. He said that when he realised he had feelings for AT1 he spoke to a senior member of the BPC and consulted the SAP Chair of the Ethics Committee. He had allowed for space between himself and AT1 in accordance with the advice he received. He said that his motivation came from love and had been distorted by the suggestion that it was all a matter of sexual motivation.
33. The Registrant then took the oath and reiterated that the public view of the terminology such as sexual motivation was different to the professional view. He confirmed he had in his view behaved properly by seeking advice from the Chair of the SAP Ethics Committee. He said his actions were not sexually motivated but he had fallen in love and it had been like Jonah being swallowed by the whale. Nothing like this had ever happened before. He had not acted for reasons of sexual motivation but had drawn the analysis to a close and ended the professional relationship. In so doing he had acted appropriately and professionally and had followed advice. The Registrant said he had

asked himself if he followed his heart or his career and, even though he understood he may be removed from the register he had followed his heart. He said there was no guidance on the length of time to elapse before a relationship might occur and he had done all he could.

34. In answer to questions in cross-examination the Registrant confirmed he had been represented at the BPC hearing. He said that AT1 started therapy with him in 2012 and the professional relationship ended in August 2020. They had drawn the relationship to a close over a couple of weeks. They had met once at the end of October and the start of November to check how they were each doing.
35. In answer to questions from the Panel the Registrant confirmed that he and AT1 had tried not to have any contact during their separation and this had largely succeeded. There was a little bit of contact but not a great deal. He had not allowed AT1 to use his consulting rooms. Regarding the period of separation he said there was no period written down. He said the Chair of the SAP Ethics Committee had warned him that 'people won't like it' but he said his heart had taken him. He conceded it would be much better if he had fallen in love with someone else but he did not regret what was the defining moment of his life. He said it was not ideal and he appreciated the concerns but this was not just a phase of falling in love this was something of a different order and something he had never experienced before.
36. Regarding guidance, the Registrant said that his supervisor, his analyst and the Chair of the SAP Ethics Committee could all see how he felt and were not prepared to violate that. The Chair had recommended they end the analysis, he repay her fees and undertake analysis himself. He had done all this. They had allowed time for consideration despite no length of time being specified. They had talked about all this and he said he had behaved professionally and appropriately. He said he had considered the BPC guidance not the UKCP guidance since BPC was his principal regulator.
37. When asked about sexual motivation the Registrant said it was entirely possible to separate love and sexual motivation. Whilst a sexual relationship may be part of a loving relationship it was not primarily about that. The Registrant reiterated that when he felt himself falling in love he had taken this to supervision but he felt he had things under control and had contained his feelings as therapists often have to do. He had thought it was a passing thing that he had 'in hand'. He said that he had failed AT1 as a therapist and regretted that. He had overstepped the mark by what he had said and he had to stand by what he had done and its consequences. He said he let AT1 down and broke the therapeutic frame and in so doing let her down. He had gone beyond the bounds.
38. When asked about what he had learnt from the prior incident in 2010 with a different client referred to in the FPP proceedings, he said that he had understood how things may get reenacted in therapy. The client then involved had reenacted something with himself and he had learned from that. He said that those past events were difficult and traumatic and the polar opposite to what had occurred with AT1. He said that these events concerning AT1 had been neither logical nor rational. He said

that supervision was there to try and understand the dynamic. He respected AT1 deeply and this was a once in a lifetime event. When asked about the discussions with his supervisor the Registrant said he did not discuss AT1 at length since she was not otherwise a difficult client. They had worked within the therapeutic frame and AT1 had used this well. He said that the pandemic had affected him. His falling in love had occurred in the context of the pandemic. He had tried to come to terms with what was happening to everyone, he was frightened. This is how it had all affected him. He said he had discussed this with his supervisor and the Chair of the SAP Ethics Committee. He said the ending of their professional relationship was as professional as it could be. He had acted in her best interests and the legalistic treatment of the relationship was abhorrent. He had acted in her best interests as a client. What was subsequently in her best interests was for her to decide. He said they did not have a dual relationship because he drew the professional relationship to a close.

39. The Panel heard and accepted the advice of the Legal Assessor. This included that the burden of proving matters remained on the UKCP and that the Panel must be satisfied on balance of probability. The Panel should deal only with the head of charge but is entitled to consider the entirety of the UKCP Code. The Panel could accept some, all or none of the evidence from any witness and could draw inferences from matters found proved or disproved. The meaning of certain key words in the allegation were explained, including failed, inappropriate, unprofessional, sexual motivation and incongruent. Finally that a registrant's right to a private life may be impacted by their professional responsibilities including those set out in the Code.

40. On balance, having fully considered the above, the Panel made the following findings:

- 1) Failed within a reasonable time to inform UKCP that on 9 March 2022 your British Psychoanalytic Council (BPC) registration had been suspended for a period of 18 months by an Interim Orders Committee.

**Admitted and found proved**

The Registrant said that he told the UKCP of his suspension when it came to renewing his registration in October 2022. He conceded that he should have done so earlier and admitted the amended allegation.

- 2) On 15 May 2023 a Fitness to Practise Panel of the BPC directed that your name be removed from the register of the BPC.

**Admitted and found proved**

- 3) The allegations found proved which led to your removal from the register at 2 above were:

- a. Inappropriate and/or

**Denied – allegation withdrawn by UKCP**

- b. Unprofessional and/or

**Denied – allegation withdrawn by UKCP**

- c. Sexually motivated and/or

**Denied – allegation withdrawn by UKCP**

- d. Incongruent with what is expected of a UKCP registrant and related to your

practice as a psychotherapist.

**Denied. Found proved**

The Panel determined that the allegations found proved as part of the BPC's regulatory proceedings and which led to the sanction of removal from the BPC Register included findings of fact which were incongruent with what was expected of a UKCP registrant.

The BPC allegations included inappropriate and sexually motivated conduct on the part of the Registrant and breaches of the BPC code of conduct. These were proved after a regulatory hearing during which the Registrant was represented. It resulted in him being removed from the BPC register. Such findings of fact and removal from the BPC's register were of themselves matters that called into question the Registrant's registration with the UKCP and as such they were incongruent with registration.

However, whilst the Panel noted the BPC's findings of misconduct, impairment and sanction and the reasons for such findings, these are matters for this Panel's independent judgement at a later stage of these proceedings. At this stage the Panel is restricted to making the finding of fact that the matters found proved are incongruent with registration. It has made no finding regarding whether they are determinative of current registration.

4) The behaviours set out at 1 – 3 above are in breach of UKCP's Code of Ethics and Professional Practice 2019 ("the Code"), in particular:

- a. You failed to act in your client's best interests, thereby breaching clause 1 of the Code;  
**Denied. Found proved.**

The Panel noted that the Registrant accepted that he had failed AT1 as a therapist, that he had overstepped the mark in what he had said and that he had let her down by breaking the therapeutic framework within which he was expected to work.

The Panel noted the Registrant's assertion that he had ended the professional relationship in the best way he could but, this missed the significance of the fact that he had in the first place allowed the professional relationship to become clouded by his personal feelings which he expressed by his assertion that he loved her.

As the practitioner, the Registrant was responsible for maintaining the professional boundaries including the personal/sexual boundaries in their relationship. He did not do so which led to the end of a seven-year professional relationship and necessitated AT1 seeing another two analysts.

Whilst the Panel accepted that the Registrant had raised his concerns about his feelings toward AT1 in supervision and had taken advice regarding terminating the therapeutic relationship it was he who was responsible for these remedial actions because he had acted in his own interests rather than his client's best interests.

- b. You failed to treat your client with respect, thereby breaching clause 2 of the Code;  
**Denied. Found proved.**

The Panel considered that in the context of professional disciplinary cases the term

'respect' means a registrant recognising and regarding someone as a client and acknowledging the power imbalance between client and registrant. It is not simply an issue of the social mores of holding someone in esteem and being polite to them, nor is it a question of ending therapy politely and returning funds to a client. In this case it was a matter of the Registrant not respecting AT1 as a client and trainee and not attending professionally to her need as client and trainee. Rather he treated her as a person who he was attracted to.

The Registrant accepted that he had failed AT1 as her therapist. He described his feelings for her in detail as being deep and, for him, life changing. It was clear to the Panel and should have been clear to the Registrant that his feelings were of such a degree that he could not work with her. He should have taken responsibility for that and either terminated the therapeutic relationship before his feelings took over or, he should have addressed and managed these feelings privately in supervision and personal analysis.

In declaring his love for AT1, the Registrant revealed his primary view of her as a person who he loved or who might be an intimate partner and not as a client or trainee [REDACTED]. His subsequent actions in maintaining contact for some time, albeit sporadically, reinforced the fact that he saw her as a potential partner and not as a client/trainee.

- c. You had sexual contact and/or a sexual relationship with your client, thereby breaching clause 4 of the Code;  
**Denied – allegation withdrawn by UKCP.**

The UKCP accepted that there was no evidence of a sexual relationship between the Registrant and AT1 whilst she was his client. Any sexual relationship between them started after she ceased to be a client.

- d. You exploited or abused your relationship with a client for your sexual gain, thereby breaching clause 5 of the Code;  
**Denied found. Found proved**

The Panel adopts its comments for 'a' and 'b' above. The relationship between the Registrant and AT1 commenced as a professional one. The Registrant then used this professional relationship to form a personal relationship. He failed to maintain his professional distance from AT1 and respect the power-imbalance between them. The Panel considered this to be an exploitative use of the therapeutic relationship with AT1. Despite the Registrant and AT1 having had a professional relationship for seven years he allowed the relationship to move to a personal one. In so doing, he stepped well outside the therapeutic framework within which he accepts he should have worked.

Having said that there was an element of exploitation of the relationship, the Panel noted that the Registrant asserted that he acted from a sense of what he saw as a very profound love for AT1. Whilst some of the Registrant's actions may have been motivated unconsciously by matters to which he alluded, his motivation was at least in part conscious and included his desire for a relationship with AT1. To say 'I love you' to a client in analysis is potentially seductive [REDACTED]. It is certainly inappropriate in the professional context of registrant and client. Whilst the Panel acknowledged the findings of the FPP that the Registrant was not driven by a sexual motive at first, he had clearly stepped outside the therapeutic framework which is there

to protect the client (and the registrant). The Panel was of the view that the Registrant's continuation of the professional relationship after this initial declaration was at least in part driven by his personal feelings for AT1 which included an element of sexual desire/gain. His continued sporadic contact with her when the professional relationship had been terminated was also indicative of this. The Panel therefore was of the view that the Registrant's conduct was in part more likely than not to include an element of sexual gain.

- e. You failed to avoid a dual relationship with a client, thereby breaching clause 8 of the Code;

**Denied. Found Proved**

The Panel adopts its comments for 'a', 'b' and 'd' above. The Registrant was aware of his feelings for AT1 and, rather than controlling them or terminating the relationship he declared them. Thereafter he maintained the professional relationship for a period of time and again declared and acted upon his strong feelings for her. This was a clear crossing of the boundaries into a personal relationship. In his evidence, the Registrant reinforced this by his description of himself and AT1 separating only for a short period of time whilst also maintaining some contact and wondering and/or inquiring how long they would have to be apart before they could be together.

As it has outlined above, whilst it may be that the Registrant viewed his actions as being wholly motivated by his newfound love for AT1, he breached his professional duty to avoid a dual relationship.

- f. You failed to act in a way which upholds the profession's reputation and promotes public confidence in the profession and its members, thereby breaching clause 32 of the Code;

**Denied. Found proved.**

The Panel was of the view that uppermost in the mind of the public and the profession are issues of honesty and interpersonal/sexual integrity. Of course it is not suggested that the former applies in his case. The issue of integrity is important in that clients must be able to trust that the registrants to whom they reveal their most personal thoughts can handle those thoughts and the potential for transference professionally. That is in a way that protects the registrant and the client from themselves. The onus of so doing is always on the registrant.

By failing to recognise his feelings and disentangle his own needs from those of AT1 before he broke the therapeutic framework, the Registrant acted in a way that adversely affected her, himself, and the profession. The public must be able to trust that healthcare professionals do not place their feelings and needs before those of the client.

The Panel was also of the view that these events have impacted upon AT1 [REDACTED]. It also clearly affected other trainees and colleagues who the public need to rely upon. The public must be able to trust healthcare professionals, such as the Registrant, not to act on their own feelings or in their own interests.

- g. You failed to inform UKCP that you were suspended or placed under a practise restriction by an employer or similar organisation because of concerns relating to your

competence, health or practice of psychotherapy thereby breaching clause 39d of the Code.

**Found proved by way of admission.**

Following the amendment of Allegation 1 the Registrant accepted that he did not act as quickly as he should have done in notifying the UKCP of his suspension. The Panel acknowledged his explanation that he believed this had been done by a third party, that did not absolve him of his own responsibility to ensure the UKCP had been notified.

41. Further to the above, the Panel had regard to the entirety of the Code and considered that Clause 9 was engaged. This requires a registrant to *“Exercise all reasonable care before entering into a personal or business relationship with former clients, taking into account the time that has elapsed since therapy ended. Should such a relationship prove to be detrimental to the former client, you may be called to answer an allegation of misusing your former position.”*
42. It was the Registrant’s assertion that he did exercise such care however, this Panel did not accept that. Following his termination of their professional relationship due to his already clear attraction to AT1, an attraction which the Registrant says was reciprocated, the Registrant said that there was little or no guidance as to how long they should be apart before entering into a personal relationship which they have now quite clearly done. Whilst there was no professional contact they met on at least two occasions and maintained contact remotely. He described a joint decision to get together and argued that AT1 was entirely free to make up her own mind as a consenting adult as regards their relationship. The Registrant said that his actions were reasonable and did not merit censure because they were motivated by his genuine love for AT1.
43. The Panel was of the view that the Registrant did not exercise all reasonable care as Clause 9 required him to do. He had been AT1’s analyst for several years prior to these events. He declared his feelings and, whilst he ended the professional relationship, he maintained contact with AT1 looking to keep their partial separation to a minimum. The Registrant acknowledged that he received some guidance as to what an acceptable period of separation might be. Despite this, he remained in contact with AT1 and was found to have commenced a personal relationship with her within a short period of time. In so doing, he acknowledged before this Panel that others may regard his actions as inappropriate.
44. In making the above findings the Panel took the view that the Registrant found himself in a position that he was ill-equipped to deal with. He was unable to control or contain his emotions and acted on them rather than acting in accordance with his professional obligations. Subsequently he has explained and justified his actions to himself and to others as being motivated by love. That may indeed be his primary motivation but, in so doing he has, as he recognised, acted outside the professional framework and Code of Ethics within which he is expected to operate, and which should have militated against such conduct.

45. The Panel found that there were 7 breaches of the Code in total.

### **Determination of Misconduct and Impairment**

46. This determination should be read in accordance with the Panel's previous determination.

47. In accordance with rule 7.23 of UKCP's Complaints and Conduct Process, the Panel then went on to consider the question of misconduct. In addressing this question, the Panel took into account of the relevant information before it.

48. Ms Ferson provided written submissions to the Panel and amplified these with short oral submissions. The Registrant also made submissions regarding the issues of misconduct and impairment.

49. Ms Ferson invited the Panel to conclude that the facts found proved constitute misconduct. She first set out the legal test for misconduct by reference to the cases of Roylance v GMC (no.2) [2000] 1 A.C. 311, Nandi v GMC [2004] EWHC (Admin) and Calhaem v GMC [2007] EWHC 2606 (Admin). In short, these collectively provide that misconduct is a serious departure from the standards expected of a registrant and/or which fellow practitioners may regard as deplorable. Ms Ferson referred to the findings of the FPP that the Registrant's conduct 'fell far below the standards expected of a reasonably competent analyst' and that there were 'multiple and very serious departures from the standards of conduct expected'. Ms Ferson said that these made it evident there had been a serious departure from the standards expected of a UKCP Registrant. She asserted that the power-imbalance in the professional relationship, the length of that relationship and the fact that it had been brought to an end were all indicators that the misconduct was serious.

50. Regarding current impairment Ms Ferson said that the decision by the FPP was only reached in May of this year. That was a recent finding and there was nothing to demonstrate any learning or reflection or insight on the part of the Registrant to support a departure from this finding. She referred to various authorities including Cohen v GMC [2008] EWHC 581 (Admin) and the familiar questions from the Fifth Shipman Inquiry Report (2004, para 25.50) dealing with whether a practitioner has in the past or may in the future (a) present as a risk to patient; (b) bring the profession into disrepute; (c) breach one of the fundamental tenets of the profession; (d) act in such a way that his/her integrity can no longer be relied upon.

51. Ms Ferson submitted that the Registrant had breached multiple sections of both the BPC code and the UKCP Code. She said that although he did not accept that his conduct was sexually motivated, that was the finding made in both proceedings. She further submitted that there was no evidence of remediation or insight on the part of the Registrant. Ms Ferson submitted that a finding of current

impairment should be made on both grounds of public protection and the wider public interest of declaring and upholding standards.

52. The Registrant stated that he understood that he may be removed from the UKCP register for what would be regarded as a serious breach of standards by others. He said that it was a shame the regulations do not allow for the situation of people falling in love. He said this is what had happened, it was entirely unexpected, and he had worked on what had occurred in analysis. He said it had been a steep learning curve as to why he would follow his heart rather than the regulations, even when it was not in his own best interests. The Registrant said he had considered events at length and what had occurred was now assimilated as part of his life. He had fallen in love; this was not just mere sexual motivation. He said he had not done any further training and did not regard himself as currently impaired. He said he had worked with other clients and their response to these types of feelings for 30 years and now understood them better having experienced them himself.
53. The Registrant confirmed that he was now working with around 15 patients per week, and he felt his experience had not impaired him and he functioned well. He said he had considered the issues of transference and countertransference and understood them. He said he and AT1 were in a settled relationship and these events were now all part of himself. He said if AT1 had been a person other than his client then it would be a simple ordinary relationship. He referred to a book he had read entitled *Boundaries and Boundary Violations in Psychoanalysis* written in 1996. He stated that it is a classic book on these issues. The book states that people fall in love with other people and this is what happened to him and is in a way an entirely personal matter. The Registrant further stated that he knew the rules and regulations very well and it has been a steep learning curve for him as to his motivations to act in a way contrary to the guidelines and his own best interests.

## **Misconduct**

54. The Panel accepted the advice of the Legal Assessor as to the approach it should adopt in considering the question of misconduct. The Panel recognised that the question of misconduct is a matter of independent judgement and is not a matter of proof for the parties.
55. In addressing whether the facts proved amounted to misconduct, the Panel had regards to the words of Lord Clyde in the case of *Roylance v. General Medical Council*. He stated:
- “Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required by...a practitioner in the particular circumstances.”*
56. The Panel had regard to the judgement of Collins J in the case of *Nandi v General Medical Council* (2004) EWHC 2317 (Admin) in which he said: *“The adjective “Serious” must be given its proper*

*weight, and in other contexts, there has been reference to conduct which would be regarded as deplorable by fellow practitioners. It is, of course, possible for negligent conduct to amount to serious professional misconduct but the negligence must be to a high degree.”*

57. The Panel first considered the decision of the FPP and noted that this included multiple findings of serious departures from the standards expected of a BPC registrant. Those standards were mirrored in the standards expected of a UKCP registrant. In considering these findings and the facts as found proved by this Panel it determined that the conduct found proved did fall far below that expected of a registered professional. The Panel concluded that the Registrant breached the therapeutic framework in a serious way and which has had consequences to AT1, to himself, and his colleagues and trainees. He did not follow the advice he was given and he was unable to maintain the professional boundaries between himself and AT1. Whilst the Registrant denies any aspect of sexual motivation it was a finding made before the FPP and it was a finding made by this Panel in its written reasons.

58. The Panel was satisfied that the conduct found proved amounted to misconduct.

### **Impairment**

59. The Panel then went on to consider the question of current impairment. In doing so, the Panel was mindful that the question of current impairment is a matter for its professional judgement. The Panel had to assess the current position looking forward taking account of the way in which the Registrant had acted in the past. The Panel acknowledged that a finding of misconduct does not necessarily mean that there is impairment. There must always be situations in which a panel can properly decide that the act of misconduct was, on the part of the Registrant, isolated and the chance of it being repeated in the future is so remote that his or her fitness to practise has not been impaired.

60. The Panel applied the approach to determine the question of impairment by considering the questions posed by Dame Janet Smith as set out in the 5th Shipman Enquiry and cited with approval in the case of CHRE v Grant (2011) EWHC 927 (Admin):

*“Do our findings of fact in respect of the doctor’s misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:*

- a. Has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b. Has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*

- c. *Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d. *Has in the past acted dishonestly and/or is liable to act dishonestly in the future.*

61. In addition, the Panel had regard to the decision in the case of Cohen v GMC (2008) EWHC 581 and considered whether the Registrant's misconduct was easily remedied; had already been remedied; and/or whether it was likely to be repeated.

62. The Panel was also mindful that when considering impairment, it was entitled to have regard to the wider public interest in the form of maintaining public confidence in the profession and declaring and upholding proper standards. The Panel had regard to the following part of the judgement in the case of Grant:

*"In determining whether a practitioner's fitness to practice is impaired by reason of misconduct, the panel should generally consider not only whether the practitioner constitutes a present risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances."*

63. In considering the four questions a – d above, the Panel determined that 'd' was not relevant to this case however, it concluded that questions a, b and c were all answered in the affirmative. The Registrant, as he admitted, had failed AT1 as her therapist. He had allowed his feelings and needs to take precedence over hers. This had resulted in the termination of a 7-year therapeutic relationship. Shortly after the termination of that relationship he commenced and/or continued a personal relationship with AT1.

64. The Panel was satisfied that the Registrant's conduct put AT1 at risk of harm and that such conduct brought the profession into disrepute. The Panel was further satisfied that the Registrant's conduct in breaching professional, personal, and sexual boundaries broke one of the fundamental tenets of the profession.

65. Turning to the issue of risk, the Panel noted that the Registrant was found to be impaired by the FPP only seven months ago. The Registrant referred to the above-mentioned book on boundaries published in 1996 but conceded he had undertaken no training in respect of boundaries since these events. He said he was seeing an analyst in America once a week online. He had chosen an analyst who was not on the SAP register and was outside the country. The Panel had no information concerning what that analysis dealt with or what the Registrant had learned or taken from it.

66. The Registrant was adamant that all his actions came from a position of love and respect however, the Panel was concerned that he showed no understanding of the impact his actions had on others, on AT1 [REDACTED], or on other trainees or on the wider profession. He

appeared to simply justify his actions on the basis that he fell in love. It appeared to the Panel that the Registrant has a blind spot and lacks insight as to the harm these events had occasioned and that these events may well have arisen from his own emotional and psychological needs. The Registrant was previously under conditions of practise for a similar matter that should have raised his levels of alert as to his own vulnerabilities however this was not the case. In addition, having moved fairly rapidly into a personal relationship the Registrant has not taken time out or allowed AT1 space to process and come to terms with what has occurred. The Panel concluded that the Registrant has shown little insight into events, why they occurred and the risk of repetition maintaining as he does that he simply fell in love.

67. For the reasons set out above the Panel determined that the Registrant is currently impaired.

### **Determination on Sanction**

68. In accordance with rule 7.25 of UKCP's Complaints and Conduct Process, the Panel went on to consider the question of sanction. This determination should be read in accordance with the Panel's previous determinations.

69. Ms Ferson provided written submissions on sanction. Ms Ferson adopted her written submissions and said that for the reasons set out the only appropriate sanction was one of removal from the Register.

70. Ms Ferson submitted that the Panel should consider the proportionality of sanction taking account of public protection, the public interest and the interests of the Registrant but that the public interest should prevail. She observed that the public interest included protection of the public, the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct and behaviour.

71. Ms Ferson further submitted that whilst the Panel should consider sanctions in order of seriousness this was a case of sexual misconduct for which the only appropriate sanction was an order to terminate the Registrant's entry on the UKCP Register. She said that in such cases it was unlikely that a sanction less than suspension would be sufficient and that in most cases the appropriate order would be one of removal from the UKCP Register. Ms Ferson took the Panel to factors within the case that she said aggravated the seriousness of the case including the power imbalance in the relationship between the Registrant and AT1 and when the Registrant's conduct became sexually motivated. She said there was no evidence that the Registrant had insight into his misconduct or that he had taken any steps to remediate it or the impact it had had upon his ability to practise safely. As such she submitted the only appropriate sanction was one of removal from the Register on grounds of public protection and the wider public interest.

72. The Registrant acknowledged that a sanction may be regarded as necessary by others and was expecting the Panel to remove him from the UKCP Register. He said that he was seeing his analyst weekly for one hourly sessions and that he may have extra sessions if needed. He said that he had followed the guidance provided by a senior practitioner to leave the relationship between himself and AT1 for “as long as possible”. He said that he had made serious attempts to develop insight albeit he had not undertaken training. He had taken this approach because he regarded his actions as personal and that he needed to address his actions himself.
73. In terms of the effect of a more serious order the Registrant said that he recognised such an order was likely but the damage to his practice, income and reputation had already been done. He said that a more serious order may adversely affect his insurance but that his insurance company was aware of these proceedings and would review the situation. The Registrant earlier confirmed that he was working professionally with 15 clients and that he was looking perhaps to cut down his work and retire.
74. The Panel accepted the advice of the Legal Assessor.
75. The Panel recognised that the purpose of any sanction was not to punish the Registrant, although sanctions may have a punitive effect. The Panel recognised that any sanction must be proportionate and balance the public interest with that of the Registrant.
76. The public interest includes the protection of members of the public; clients; the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct and behaviour within the profession.
77. The Panel considered the sanctions available to it under rule 7.25 of the Complaints and Conduct Process in ascending order and was mindful that any sanction imposed should be the minimum that would be considered proportionate and appropriate in the circumstances.
78. The Panel has determined that there were multiple serious breaches of the standards expected of a registered practitioner. Furthermore, the Registrant lacked insight into these matters and there is no evidence of remediation.
79. The Panel considered the sanctions in the following order:
- a. Apology  
The Panel determined that this sanction was insufficient to meet the seriousness of this case. It did not remediate the Registrant’s failings nor prevent repetition and thus would not protect the public. The Registrant had stated his position clearly that he had acted as found proved because he had fallen in love. The Panel did not consider that an apology would carry any particular weight for the public.

b. Warning

The Panel determined that this sanction was insufficient for the same reasons set out in 'a' above.

c. Written report or oral statement

The Panel determined that this sanction was insufficient for the same reasons set out in 'a' above.

d. Further training

The Panel determined that this sanction was insufficient to meet the seriousness of this case for the reasons set out in 'a' above. In addition there was no evidence from which to conclude the Registrant would engage with or learn from training having not undertaken any training since these events or since the findings of the FPP in May of this year. The Registrant explained that he regarded his actions and the reasons for them as personal matters. He said that he needed to deal with them which implied that he did not consider them to be open to training.

e. Further supervision or therapy

The Panel determined that this sanction was insufficient for the same reasons set out in 'd' above. In addition the Panel noted that the Registrant said he was receiving support by way of analysis with someone in America. Whilst he said he had made serious attempts to develop insight it was evident to the Panel that his insight into these events had not yet evolved. The Panel also noted that the Registrant's previous engagement with supervision had been insufficient to protect his client or himself.

f. Conditions of Practice order

The Panel determined that this sanction was insufficient for the same reasons set out in 'd' and 'e' above. The Registrant's previous learning from the experience of being subject to conditions had not been sufficient to prevent the conduct that occurred in this case. The Panel was of the view that no workable conditions could be drafted and, even if there were, there was no evidence from which to conclude the Registrant would engage and that his impairment would thereby be remediated.

g. Suspension Order:

The Panel again determined that whilst suspension was a serious order it was insufficient for the same reasons as set out above. A suspension order is limited to twelve months. The Panel had received no evidence upon which to conclude the Registrant had gained insight to date and there was no evidence that he would do so in the next twelve months. That being the case the panel determined that a Suspension Order would neither protect the public nor protect the public interest. In this respect the Panel noted that despite the existing Interim Suspension Order the Registrant was still practising. It concluded that a suspension order would have no impact upon the Registrant and would not protect the public.

h. Removal from UKCP Register

Having considered all alternatives the Panel determined that no lesser sanction than removal from the UKCP Register would meet the seriousness of this case, protect the public nor meet

the wider public interest. In so concluding the Panel determined that removal from the UKCP Register met the overarching objective of these proceedings.

80. The Panel recognised that removal from the UKCP Register may have a punitive impact upon the Registrant but it was of the view that no lesser sanction would mark the seriousness of the case, or meet the need for public protection or meet the public interest.

### **Interim Suspension Order**

81. Ms Ferson submitted that an Interim Suspension Order (ISO) was necessary in this case. The Registrant did not argue otherwise.

82. The Panel accepted the advice of the Legal Assessor.

83. Bearing in mind the seriousness of this case and the risks to the public outlined above the Panel considered that an ISO was necessary to protect the public and was otherwise in the public interest. It therefore extended the existing ISO to cover the period during which either party may appeal. In the circumstances the Registrant must not practise under the auspices of the UKCP.

### **Right of Appeal**

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

85. The sanction outlined above will not take effect until after the 28-day period has lapsed. If no appeal is received the decision will take effect after the 28th day.

Signed,

A handwritten signature in black ink that reads "HM Moulder". The signature is written in a cursive, slightly slanted style.

Heather Moulder, Lay Chair

5/12/2023