



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

**2 MAY 2025
ONLINE**

Name of Registrant: Andrew Enever (CPJAC)

Heard by: Appeal Panel

Panel Members: Catherine Hinton (Lay Chair)
Martin Bhurruth (CPJAC)
Ian Roberts (UTC)

Legal Assessor: Rebecca Tuck KC, Old Square Chambers

Panel Secretary: Bethany Rees

UKCP Presenting Officer: Lucy Chapman, Great James Street Chambers

Registrant's Representative: Robin Kitching, Deans Court Chambers

Grounds upheld: Ground A – not upheld;
Ground B – upheld.

Documents

1. The Panel had placed before it the following documents:

Documents from the Council:

- A principal bundle on behalf of UKCP amounting to 68 pages, hereafter referred to as C1;
- An application to Appeal from the Council's Registrant, dated 10 January 2025, amounting to 7 pages;
- The decision of application to Appeal, dated 28 January 2025, amounting to 3 pages;
- The Adjudication Panel decision on sanction, dated 17 December 2025, amounting to 17 pages;
- A principal bundle on behalf of the Registrant from the Adjudication Panel hearing amounting to 18 pages, hereafter referred to as R1.
- Authorities: Professional Standards Authority for Health and Social Care v General Medical Council, Parvan Kaur Uppal [2015] EWHC 1304; Dr G Ruscillo v The Council for the Regulation of Health Care Professionals, the General Medical Council, the Council for the Regulation of Health Care Professionals v The Nursing and Midwifery Council, Steven Truscott [2004] EWCA Civ 1356.

Documents from the Registrant:

- Response to UKCP Appeal on behalf of the Registrant, dated 2 April 2025, amounting to 12 pages;
- Authorities: Hadiza Bawa-Garba v The General Medical Council v The British Medical Association [2018] EWCA Civ 1879, The Professional Standards Authority v Health and Social Care Professions Council, Benedict Doree [2015] EWHC 882.

Background

2. An Adjudication Panel met on 20 – 21 November 2024 to hear the matter of UKCP v Andrew Enever. The Panel heard this list of allegations:

That since being a UKCP registered psychotherapist since at least 2000, you Andrew Enever (the Registrant):

- 1) You were in a therapeutic relationship with Client A between 2017 and 24 January 2024.
- 2) On 24 January 2024, you kissed and cuddled Client A during a therapy session.

- 3) Between 24 January 2024 and at least 18 June 2024, you engaged in a personal and/or sexual relationship with Client A.
- 4) Your actions at paragraphs 2 - 3 above were:
 - a. Inappropriate; and/or
 - b. Unprofessional; and/or
 - c. Sexually motivated
- 5) The behaviours set out at paragraphs 2 - 4 above are in breach UKCP's Code of Ethics and Professional Practice (2019) (the Code). In particular, you:
 - a. Failed to act in Client A's best interests, thereby breaching paragraph 1 of the Code.
 - b. Failed to treat Client A with respect, thereby breaching paragraph 2 of the Code.
 - c. Had sexual contact or a sexual relationship with Client A, thereby breaching paragraph 4 of the Code.
 - d. Abused and/or exploited your relationship with Client A for any purpose including your sexual or emotional gain, thereby breaching paragraph 5 of the Code.
 - e. Harmed Client A, thereby breaching paragraph 6 of the Code.
 - f. Engaged in a dual relationship with Client A, thereby breaching paragraph 8 of the Code.
 - g. Failed to take reasonable care (taking into account the length of therapy and time lapsed since therapy) before entering into a personal relationship with Client A, thereby breaching paragraph 9 of the Code.
 - h. Failed to recognise that your behaviour outside your professional life may have an effect on your relationship with clients and take responsibility for critically examining these potential negative or positive effects to the benefit of the client, thereby breaching paragraph 10 of the Code.
 - i. Failed to ensure your continuing ability to practice by discussing your conduct with Client A in supervision, thereby breaching paragraph 25 of the Code.
 - j. Failed to act in a way which upholds the profession's reputation and promotes public confidence in the profession and its members including outside of your professional life as a UKCP practitioner, thereby breaching paragraph 32 of the Code.

- k. Failed to report potential breaches of the Code to UKCP, thereby breaching paragraph 37 of the Code.
- 6) Allegation 5(b), (e), (i), (k) were withdrawn by UKCP following preliminary discussions between Counsel.
- 7) The Panel found allegations 1, 2, 3, 4(a), (b), (c), 5(a), (c), (d), (g), (h), (j) proved by way of admission. The Panel found allegation 5(f) proved. In total, the Panel found seven breaches of UKCP's Code of Ethics and Professional Practice (2019) proved.

The breaches of the Code found proven were as follows:

- a. *Act in your client's best interests.*
- b. *Not have sexual contact or sexual relationship with clients.*
- c. *Not exploit or abuse your relationship with clients (current or past) for any purpose including your emotional, sexual or financial gain.*
- d. *Be aware of the power imbalance between the practitioner and client, and avoid dual or multiple relationships which risk confusing an existing relationship and may impact adversely on a client. If a dual or multiple relationship is unavoidable, for example in a small community, take responsibility for clarifying and managing boundaries and protecting confidentiality.*
- e. *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.*
- f. *Recognise that your behaviour outside your professional life may have an effect on your relationship with clients and take responsibility for critically examining these potential negative or positive effects to the benefit of the client.*
- g. *Act in a way which upholds the profession's reputation and promotes public confidence in the profession and its members, including outside of your professional life as a UKCP practitioner.*

The Application to Appeal

- 3. In accordance with section 8 of the UKCP's Complaints and Conduct Process ("CCP") the Council's Registrar Appealed the decision the Adjudication Panel in the case of UKCP v Andrew Enever on the following grounds:

- A) Ground 1 – Procedural irregularity or error which renders the decision unsafe;
 - B) Ground 2 – The decision on sanction was unduly lenient.
4. These above grounds were sent to an Appeal Chair to make a decision on whether the Appeal application should be permitted to proceed to an Appeal Panel hearing.
 5. Under paragraph 8 of the UKPC Complaints and Conduct Process ('Complaints Process'), an Appeal Panel Chair considered whether permission to Appeal should be granted, applying the test set out in paragraph 8.7, whether one or more of the grounds are considered to be arguable. As to permissible grounds of Appeal, paragraphs 8.4 and 8.5 were applied.
 6. The Appeal Panel Chair was mindful that in applying the 'arguable' test at an Appeal hearing the burden would be on the Appellant to satisfy the Appeal Panel that one or more of the grounds of Appeal should be upheld, and that the decision being Appealed was wrong.
 7. The Appeal Panel Chair, having considered the available documents, granted the application to proceed to an Appeal Panel in relation to all 2 grounds of Appeal. The application was granted for the following interrelated reasons:

A) Ground A:

- a. Para 8.5 of the Complaints Process provides that a procedural error or irregularity may have occurred if the Adjudication Panel has had regard to irrelevant considerations or has failed to have regard to relevant ones, or where an Adjudication Panel has not provided an adequate statement of reasons for their decisions.
- b. The Registrar in this case argues that the Panel failed to adequately consider the weight of the aggravating factors when making its determination. It essentially argued that even where relevant factors were recorded, there was insufficient reasoning for the determination reached.
- c. The Appeal chair considered that the grounds relied upon by the Registrar in paragraphs 11, 12 and 13 of the Grounds of Appeal do set out arguable errors which should appropriately be determined by a full Appeal Panel. It is apparent that the Adjudication Panel had regard to aggravating factors at paragraphs 66 to 68 of its determination, but it is arguable that earlier findings made by the Panel when determining impairment, for example at paragraphs 37 and 43, were not properly taken into account in considering

sanction. It is also arguable that the determination of the Adjudication Panel failed to provide an adequate statement of reasons for their decision.

- d. The final sentence of paragraph 5.4.3 of the Indicative Sanctions guidance warns Adjudication Panels that “if a Panel imposes any sanction other than termination of registration it needs to be particularly careful to explain the reasons for doing so in a way that can be understood by those who have not heard all the evidence.” It is arguable that the Adjudication Panel failed to have regard, or sufficient regard, to the indicative sanctions guidance in its determination at paragraphs 77 and 79, and/or failed to provide an adequate statement of their reasons for not removing the Registrant from the register.

B) Ground B:

- a. It is arguable that the Adjudication Panel’s determination was “unduly lenient” in order to reflect the severity of the misconduct, to adequately deter future breaches and to maintain public confidence in the integrity of the process. It is not apparent what the ‘exceptional circumstances’ were – which were relied upon by the Adjudication Panel to support its conclusion that removal from the register disproportionate. Nor is it apparent how any such circumstances were weighed in determining sanction, against the findings of serious breaches of the Code of Conduct when the Panel reached its determinations on misconduct and impairment.
 - b. It is also arguable that the Panel failed to provide appropriate justification for the exceptional circumstances which it considered meant that removal from the register was not appropriate in this case.
8. Both of the grounds of Appeal set out in the Registrar’s Grounds of Appeal were permitted by the Appeal Chair to proceed to an Appeal Hearing.

UKCP Complaints and Conduct Process

9. The UKCP Complaints and Conduct Process dated May 2022 sets out at Clause 8, details concerning Appeals. Appeals may be presented (i) alleging procedural irregularity or error rendering the decision unsafe, (ii) that the sanction was unduly lenient or unduly severe, or (iii) that a piece of evidence which was not reasonably available at the time of the Adjudication Panel hearing and which may have had a material effect on the finding of the complaint was not considered. Clause 8.5 provides that a procedural error or irregularity may have occurred – relevantly in this matter – if the Adjudication Panel has had regard to irrelevant considerations or has failed to have regard to relevant ones.

10. Clause 8.13 states that the burden shall be on the party making the Appeal to satisfy the Appeal Panel that one or more of the grounds of Appeal should be upheld and that the decision being Appealed was wrong. The procedure for an Appeal Panel is outlined at 8.14, and the Panel may dismiss the Appeal, or grant the Appeal and (subject to rehearing any aspects of the case to the extent necessary) make any decision which the Adjudication Panel could make under Clause 7 of the Process. The final submission should be by the appellant.

Submissions of the parties

11. UKCP says that the sanction of suspension should be replaced with removal. Ms Chapman adopted her written submissions, and addressed the two grounds of Appeal.
12. Firstly as to procedural irregularity includes where the Adjudication Panel has had regard to irrelevant considerations or has failed to have regard to relevant ones. It was submitted that:
 - a. the Adjudication Panel failed to adequately consider and appropriately weigh the aggravating factors, specifically the power imbalance, the Registrant's failure to accept guidance from his supervisor and his failure ensure a planned therapeutic ending. Client A had been exposed to a significant risk of harm by the failure to have a planned therapeutic ending to their therapy. In relation to the power imbalance as Client A was a trainee therapist, the Registrant had an obligation to model appropriate behaviour. While power imbalance is referenced at paragraph 67 of the determination, it was given insufficient weight. Similarly, the disregard of professional guidance demonstrated a significant failure on the part of the Registrant.
 - b. the indicative sanctions guidance makes clear removal from the register this is to ensure client safety and uphold public confidence in the profession. The imposition of a 3-month suspension is a procedural irregularity where entering into a sexual relationship irreparable harms public trust and confidence in the profession and gives risk to a significant risk of harm to the client and their wellbeing.
 - c. this is a manifest departure from the guidance and the rationale for such a departure was lacking. The mitigating factors taken into account by the Panel did not negate the severity of the conduct.
 - d. the commencement of a sexual relationship during a therapeutic relationship, which continued thereafter, compounded the severity of the misconduct. Deviating from the guidance without sufficient justification means that the Panel's decision undermines

confidence in UKCP as a regulator, and its duty to uphold professional standards of conduct and ethical standards of its members. The leniency of this sanction risks reputational damage to the profession as a whole. Given the public protection concerns and risk of actual harm to Client A (despite no finding of actual harm), this highlights a failure to prioritise Client A's welfare – a key principle of the code of ethics.

- e. the Panel's decision does not reflect proportionate accountability. While the Panel found some insight by the Registrant, it also had doubts about his remediation. Where there was not fully developed insight, 3-months suspension was insufficient to address the underlying attitudinal issues.

13. Second ground of Appeal is set out at paragraphs 20 – 28 of the UKCPs Appeal document. Ms Chapman submitted that paragraph 77 of the determination demonstrated that not removing the Claimant was unduly lenient as they failed to set out why the circumstances were "exceptional" in their view.

- a. Ms Chapman drew the attention of the Appeal Panel to the cases of:
 - (i) *Meadow v GMC* [2006] EWCA Civ 1390, in which the court emphasised that sanctions must serve to protect public confidence in the profession, act as a deterrent, and maintain high professional standards. Lenient sanctions, particularly in cases of serious misconduct, fail to meet these objectives and risk undermining public trust; and
 - (ii) *PSA v HCPC* [2019] EWHC 2819 (Admin), where the court highlighted the importance of aligning sanctions with the regulatory body's guidance to ensure fairness and consistency.
- b. She submitted that the lenient sanction imposed in this case deviates significantly from the Indicative Sanctions Guidance, undermining its intended purpose, and that the mitigating factors listed by the Adjudication Panel were insufficient to show why the indicative guidance should be displaced.
- c. Ms Chapman asked the Panel to replace the suspension with removal from the register.

14. In reply to Mr Kitching's written response:

- a. she agreed that an appellate tribunal should generally be slow to interfere with the finding made by a Panel which has heard and evaluated evidence. She said that it was appropriate in this case.
- b. The decision on impairment was made by the Adjudication Panel having heard the evidence; what the UKCP takes issue with is the application of those findings to the determination of sanction and the lack of reasoning therein.

- c. She pointed out that the remorse expressed by the Registrant before the Adjudication Panel was before this Appeal Panel today. She said that the decision of the Panel was wrong despite the representations made and quality of legal advice (submissions which apply to every case in any event).
- d. As to the concept of “unduly lenient”, she drew the attention of the Appeal Panel to the case of *Ruscillo* and in particular to paragraphs 73. She urged caution in the passage by Levenson J from the case of *Solanke* in light of paragraphs 76 and 77 of the *Ruscillo* case. She said that the test is one of reasonableness and whether the penalty was manifestly inappropriate. This test was applied by the High Court in *Uppal*.
- e. Ms Chapman also urged caution as to the application of *Attorney General’s Reference No 4 of 1989* [1990] 1 W.L.R. 41 , parts of which are relevant to criminal law. The concept of proportionality in the regulatory sphere permits consideration of whether an outcome is unduly lenient. It is not necessary to consider whether there has been “gross error”, as indicated in the criminal authority of *Edwards* [2012] EWCA Crim 2764.
- f. Ms Chapman highlighted that ultimately, the purpose of a sanction in disciplinary proceedings is not to punish a Registrant – as is in criminal cases – but protection of the public and the standing of the profession. She also submitted that consideration of the impact on others in criminal cases is very different from regulatory ones, where custodial sentences can impact on children / dependents whose liberty is to be removed.
- g. The Registrant essentially submits that there is a spectrum of sexual misconduct, where this is at the least significant end, which would be recognised by any right-thinking member of the public. It is the view of the Registrar that the predatory element remains even if a lasting relationship is entered into as a result of the misconduct; while “predatory” is a loaded term, the trust imbalance was a consideration of the Adjudication Panel.
- h. The Adjudication Panel stated that removal from the register will be appropriate save for “exceptional circumstances”, but they failed entirely to address what those “exceptional circumstances” were.
- i. As to paragraphs 36-38 of the response Ms Chapman accepted that a range of factors fall to be considered; she noted that while there was self-referral it was not entirely honest because the Registrant initially said he was seeking advice on behalf of another, and he did not initially admit to the charge of a dual relationship.

- j. Given that removal from this register did not impact on his ability to practice in any event, and he stated he intended to retire in 2025, the issue of public protection is in the balance and should have been considered. She noted that he might have failed to have complied with the condition ordered as to therapy then simply apply to rejoin the register.
 - k. She concluded that the only possible outcome in this matter should be removal from the register.
15. Mr Kitching for the Registrant made his oral submissions, relying entirely also on his written submissions (save that he recognised that remission is not an outcome available).
16. He briefly noted that there is no suggestion whatsoever that the Registrant might fail to comply with any order, and no basis for any such suggestion. He reminded the Appeal Panel that the appellant, the UKCP, bears the burden of showing the Appeal should be allowed.
17. As to adequacy of reasons Mr Kitching said, if the sanction was not unduly lenient, realistically, the adequacy of reasons would not give rise to a successful Appeal. The real focus must be on whether the sanction was “unduly lenient”. He said this was not a question of “exceptionality” to justify any departure from the rules – as made clear in the case of *Henricus Giele v General Medical Council [2005] EWHC 2143 (Admin)*. It is not necessary to show exceptionality to permit a deviation from the sanctions guidance.
18. Because this case falls within ‘sexual misconduct’, does not mean that removal from the register is inevitable. Cases falling within the guidance at para 5.4 will most often result in removal. It is not however inevitable. The sanctions guidance itself at para 1.1.2 points out that it is important guidance, but not to be slavishly followed or to deprive Panels of their ability to judge and assess a case. They can apply their discretion to the particular facts of the case before them. It is not a question of one size fitting all circumstances. The Adjudication Panel, he said, were entitled to find at paragraph 75 that “in relative terms and despite its troubling features, the Panel considered that this case was far removed from the most egregious examples of breach of boundary issues which its members have encountered in the exercise of their adjudicative function.”
19. The Adjudication Panel noted aggravating features and set them against the mitigating factors. The Registrant had self-referred, and there was no allegation of dishonesty in that regard, having swiftly made it clear that it was he who had entered into a relationship. He made admissions on his own self-referral. While he had not admitted a “dual relationship”, was left to the Panel to determine on the admitted facts, and this was taken into account when the Panel addressed insight. It is right to say they found insight was not complete, but

having heard from him did consider he had insight and took it into account in considering likelihood of repetition.

20. Ms Chapman implied that the Registrant's behaviour was somehow "predatory"; this has never been part of the UKCP's case before. It depends on the definition of 'predatory' if it is 'pursuing a course of conduct with the intention of exploiting, another for personal gain', then no doubt such behaviour would result in removal from the register. However, that is not the case here. The Registrant crossed the boundary with Client A, and then brought the professional relationship to an end as soon as practicably possible. The relationship between Client A and the Registrant [REDACTED] they share a deep and meaningful bond.
21. Mr Kitching said the impact of removal from the Registrant is a factor which can be taken into account in considering sanction – albeit it is not akin to the impact of deprivation of liberty.
22. Mr Kitching addressed each of the factors listed in the indicative sanctions guidance at 5.4.5 which provides that in deciding whether a suspension or termination is the appropriate sanction, a Panel must consider:
- The vulnerability of the person concerned; *There is no evidence that client A was especially vulnerable over and above anyone seeking therapy;*
 - Whether the sexual contact was voluntary; *it was*
 - Whether the misconduct was a one-off incident or prolonged over a period of time; *this is more complex, there was a one-off incident during a therapy session after his feelings for her had grown, and their relationship has continued thereafter.*
 - Whether the misconduct was part of a course of deliberate action; *this conduct was deliberate, but not 'predatory';*
 - The likelihood of repetition; *the Adjudication Panel have determined that the likelihood of repetition is low; he has no history of this type of conduct, he is now 78 years old [REDACTED]*
 - Whether the Registrant has insight to their failings and has taken steps to address these failings; *he has insight, starting with self-referral and acknowledgement of fault;*
 - and - The danger to the public posed by the Registrant if they were permitted to recommence practicing. *He poses no danger to the public – particularly given lack of risk of repetition.*
23. The fact of these factors being considered shows that removal from the register is not the only reasonable sanction in cases of sexual misconduct. Even if this Panel would have removed the Registrant, if it is not unreasonable to have suspended him, the Appeal will fail. There is essentially an agreement that if suspension of any length was a reasonable form of sanction, this Appeal again must fail.

24. By way of reply Ms Chapman noted that the Registrant has been able to continue to practice despite not being on the UKCP register, the point she was seeking to make about compliance with the condition imposed was that fortnightly sessions of his ongoing practice would persist for some 40 weeks, and given he had a three-month suspension and had expressed an intention to retire in 2025, this raised a question as to whether it was possible to comply prior to retirement. The approach of the UKCP to the indicative sanctions guidance is not that sexual misconduct inevitably leads to removal, but this is not a rare case where removal is not the appropriate sanction. As to “predatory” behaviour, this is not alleged, but exploitation of a position of trust and responsibility is present.

Legal advice

25. The Panel heard legal advice from Ms Tuck KC.

Determination of Appeal Grounds

26. The Panel accepted entirely the submission of Mr Kitching that it cannot be assumed that every case in which there is a finding of sexual misconduct ought to result in removal from the register, and accepted too that it is not necessary to find “exceptional circumstances” to avoid such an outcome. This Appeal Panel agreed that the factors listed in paragraph 5.4.5 of the indicative sanctions guidance would be otiose if that was the case.

Ground (A)

27. The Appeal Panel determined that the Adjudication Panel did give inadequate weight to the aggravating factors which it had found. In particular:

- a. At paragraph 66 while the Adjudication Panel recorded that the Registrant had consciously allowed a therapeutic relationship with Client A to evolve into emotional attachment, failing to respond to the professional guidance of his supervisor, it seemingly did not consider along side that its findings at paragraphs 39 and 40. Over the course of around a year of therapy, the Registrant was focused on his own interests and recognised “erotic transference”, or that the Registrant was “making more self disclosures and coming to rely on [Client A’s] insight into his behaviour”.
- b. At paragraph 67 the Adjudication Panel state that there was an inherent power imbalance in the therapeutic relationship exacerbated by Client A’s status as a trainee therapist. However, there is also a further exacerbating factor in the judgment of this Appeal Panel, made up of

professional members and a lay chair, when one looks at the CV setting out the experience of the Registrant and his high standing in this professional community, including serving as treasurer and chair of the Hallam institute of psychotherapy.

- c. At paragraph 68 an aggravating factor is listed as the failure to have a planned ending to the therapeutic relationship before establishing an intimate or sexual relationship – but a failure to cite here the advice which had been given to the Registrant from his supervisor in that regard, over a lengthy period when he was seeking advice from his client and prioritising his own needs (as set out in paragraphs 39 and 40). It is not apparent that the Adjudication Panel considered the failure of the Registrant to prioritise the needs of Client A when he recognised the changing nature of the therapeutic relationship.
28. It is also not apparent to the Appeal Panel how the fact that the therapeutic relationship had been going on for over seven years was weighed up, and while as a mitigating factor the statement of Client A was relied upon in paragraph 73, the shock expressed by Client A about the change to their relationship was not cited, nor was the part of her statement which referred to her relationship with the Registrant “at times” being a “source of anxiety and stress, especially in the early months when [the Registrant’s] ambivalence about the relationship became apparent”.
29. Mr Kitching drew the attention of the Appeal Panel to the finding at paragraph 75 that this was “removed from the most egregious examples of breach of boundary issues which its members have encountered in the exercise of their adjudicative function”. Of course the facts of particular cases are endlessly varied. This Panel has had careful regard to the facts of this particular case and considered whether the aggravating factors identified by the Adjudication Panel were properly weighed. There are undoubtedly more egregious cases, just as there are those which are less egregious. We have noted that even before there was a physical interaction in January 2024 between the Registrant and Client A, for a long period before then, the therapy had ceased being in the best interests of Client A when the Registrant’s needs were being prioritised by him as he had disclosed in supervision, but failed to act upon. This was a breach of the duty to Act in Client A’s best interests (charge 5(a) which was admitted) which would have been compounded by the abrupt cessation of therapy and the starting of a sexual relationship.
30. The Appeal Panel noted the remarks summarised in paragraph 82 by the Adjudication Panel about insight and remediation not being achieved at the date of their determination, though they noted progress made. This did give rise to the Appeal Panel considering whether the aims of public safety and ensuring the reputation of the profession were appropriately safeguarded by this outcome.

31. The Appeal Panel was not satisfied that appropriate weight had been given to the aggravating factors and considered that there were elements which appeared not to have been considered at all (in particular the high standing of the Registrant and the length of time over which the best interests of the client were not being served in therapy sessions). The Panel cannot be satisfied that there was a complete omission to consider factors which were such as to mean the decision was procedurally unfair when the significant concern held by the Appeal Panel was whether appropriate weight had been attached to them.
32. In the circumstances, the Appeal Panel does not uphold Ground (A).

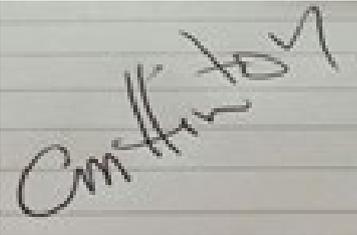
Ground (B)

33. In light however of its conclusions as to the aggravating factors in this case, the Appeal Panel was unanimously satisfied that Ground (B) of the Appeal should be upheld. This was an outcome which was unduly lenient.
34. The Appeal Panel reminded itself that it was not a question of what sanction it would have imposed had it been considering this matter at first instance, and that the Adjudication Panel had the advantage of hearing live evidence. It considers that careful findings of fact were made and clearly set out. However, once the Appeal Panel stood back from all those facts and viewed them in the round, it did consider this sentence was inappropriate having regard to the practitioners conduct and the interests of the public. In particular, this is a very senior and experienced practitioner who had a therapeutic relationship with Client A for 7 years, and for a year of that was focusing on his own interests and ignoring his erotic transference. He deliberately allowed the relationship to continue – in the face of advice from his supervisor. And he found himself relying on his client’s insight into his behaviour. The sexual relationship which followed essentially began during a therapy session when the Registrant and Client A kissed and cuddled. In circumstances where insight and remediation were incomplete, the sanction ought, in the view of this Appeal Panel, to have been erasure.
35. Finally, the Appeal Panel, read carefully paragraph 77 of the Adjudication Panels decision that “there may be exceptional circumstances that would render the outcome disproportionate and unnecessary to achieve the primary function of sanctions”. It was not however apparent to the Appeal Panel what the Adjudication Panel considered to be the circumstances which rendered the removal of this Registrant in this case to be disproportionate. As set out above, we accepted the submission of Mr Kitching that there is no requirement to show “exceptional circumstances”, however it is necessary to show what factors have been taken into consideration in determining the proportionality of the outcome. Those factors are not clear;

the aggravating and mitigating factors as found in this case, when properly balanced, could only have resulted in removal from the register.

36. The Panel determine that the Appeal should be permitted and the sanction of removal from the register substituted.

Signed,

A photograph of a handwritten signature in black ink on lined paper. The signature is written in a cursive style and appears to read 'Catherine Hinton'.

Catherine Hinton, Lay Chair

2nd of May 2025