

BRITISH PSYCHOANALYTIC COUNCIL

Fitness to Practise Committee Hearing

27 November 2024

Virtual Hearing

Name of Registrant:	Rob Stuart
Registration Number:	23276
Case Number:	COM26-23
Committee members:	Rose Persson (Registrant, Chair) Catherine Moxon (Lay) Asim Butt (Lay)
Legal Adviser:	Graeme Henderson
Presenting Officer	Ashley Hendron
Registrant	Present and unrepresented.

Outcome of hearing: Facts proved, Impairment found and Reprimand Issued

Background

The Committee met to consider regulatory proceedings brought by the British Psychoanalytic Council (BPC) against the Registrant. The Registrant is registered with the BPC .

At the hearing the BPC was represented by Mr Hendron. The Registrant was present and not represented.

On 14 August 2023 the Registrant sent an email to the BPC notifying it that he was convicted in relation to a series of climate related protest activities. He had already informed the BPC that he had been charged of offences relating to these protests.

The Registrant stated he was convicted of a criminal offence namely Causing a Public Nuisance. He also advised he had outstanding criminal and civil proceedings which were still ongoing.

On 15 August 2023 the BPC requested a copy of the Certificate of Conviction and an update on the outstanding proceedings.

On 20 September the Registrant sent the BPC the Certificate of Conviction dated 19 September 2023 which confirms that on 28 June 2023 Rob Stuart was convicted of Causing a Public Nuisance. He was sentenced to an 18- month Community Order with 140 hours unpaid work requirement. To pay costs of £500 at a rate of £25 per month as well as pay a victim surcharge.

The Registrant received a further conviction, on 17 October 2023, for causing a public nuisance and was sentenced to a 12 month community order with 100 hours unpaid work requirement and to pay costs of £575.40 and a victim surcharge of £95.

The BPC make no complaint other than the fact that the Registrant has two convictions.

Charge

The Registrant faced the following charge:

That being registered as a psychodynamic counsellor;

1. On 28 June 2023, at Lewes Crown Court, you were convicted of Causing a Public Nuisance contrary to common law.

2. On 17 October 2023, Lewes Crown Court, you were convicted of Causing a Public Nuisance contrary to common law.

AND that by reasons of the facts alleged, your fitness to practise is impaired by reason of your conviction(s).

Findings in fact

In advance of the hearing the BPC prepared a Schedule of Admissions. The Registrant ticked the relevant boxes in respect of the two factual charges but placed a cross next to the impairment section.

Following the reading of the charges the Registrant confirmed that he admitted the charges but did not accept that his fitness to practise is currently impaired by reason of his convictions. The BPC produced Certificates of Conviction conforming the accuracy of the charges.

The Committee accordingly found the charges proved.

Current Impairment

The Committee were then invited by Mr Hendron to consider whether the fitness to practise of the Registrant was currently impaired by virtue of his convictions.

The Registrant invited the Committee to find that he was not impaired. He explained to the Committee the effect the trial and these regulatory proceedings had had upon him. He was taking on less clients than he would have. He explained what further steps he had taken in light of these proceedings.

The Registrant explained that he had a long history of being involved in public protest. When questioned by the Committee about the effect his actions had on other people he expressed that thinking about them he felt bad and this brought tension in the pit of his stomach.

Legal Advice

The Committee accepted the advice of the Legal Adviser. He advised the Committee of its powers under the Fitness to Practise Procedure of the Council.

The issue for the Committee to determine was set out in the test approved in the case of *CHRE v NMC and Grant [2011] EWHC 97*;

'Do our finding 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 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 profession; and/or

d. not relevant in this case....'

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Committee Decision on impairment

Having carried out a comprehensive review of the written material and taken into account the submissions made on behalf of the BPC and the Registrant's submissions the Committee first assessed how serious his convictions were. The Committee had particular regard to the Sentencing Remarks of the sentencing judge when he sentenced the Registrant on 29 June 2023.

The Registrant was found guilty by a jury of the offence of causing a public nuisance.

On Friday 24 September of 2021, the Registrant and 38 other people brought arterial roads into and within the town of Dover and its Port to a standstill for about an hour and three-quarters.

The sentencing judge observed that:

"...you and all of the others, set yourselves up as judges, jurors and executioners of the ability of, I am satisfied, the 1000's of people to go about their business that day."

He went on to state that:

"In well-planned and concerted action, consciously not in the communities where you yourselves lived, you all, having travelled from different parts of the country, with high visibility clothing, leaflets and determination to get yourselves arrested to promote your cause, you set about bringing Dover to a standstill. Your group, together, sat in busy roads, leading to and from the port, blocking any and all traffic, until one by one you could be arrested and removed from the scene."

You claim to have intended to target only the port and HGV drivers, as if the people working in the port and HGV drivers were not worthy of consideration and were merely fair game for your protest. In fact, your actions were totally indiscriminate. You didn't care who was caught up in the traffic chaos, although I accept that the stories of individual victims, now that you've heard them, are ones that you do care about. The small selection of stories of victims, and victims they were, which were read to the Court, just demonstrate that. The self-employed therapist, travelling to meet a vulnerable young person; the scaffolder awaiting delivery of parts vital to the repair of a road bridge; a young woman travelling to

the home of her elderly grandmother, to spend the day caring for her; the lifeboat crew, forced to take two or three times as long to get to the lifeboat station; the builder, late for work, and so late home and missing an important family event.

There are the records and the information about the ferries containing hundreds of people, stuck at berths in the United Kingdom and France and possibly worst of all, stuck at sea, unable to enter the port because there were no empty berths. There were many such stories of inconvenience, many hurting innocent people in their pocket, through lost wages. Of even more significance was the great risk of physical and psychological harm that you exposed people to. One such was the victim of the chemical spill at a petrol station. As a result of tailbacks of traffic being so long the specialist ambulance team couldn't reach them other than by leaving their ambulance and running on foot with what equipment they could carry. Your so-called blue light policy, of letting emergency vehicles through was arrogant, ill thought out and useless if queues of traffic were so long that emergency vehicles couldn't even get close to where the roadblocks were.

As the morning wore on, there was growing risk, and a real risk of public disorder and violence, as you and the other protesters were impervious to the pleas of ordinary people to let through medical staff, care staff and others, making people more and more angry. Anyone and everyone was merely collateral damage in this crusade, the large company, the subcontractor, the employee, the self-employed, the emergency worker, the nurse, the carer, the parents and the children. I think of the little boy being taken to nursery school by his father, distressed and upset by witnessing the growing anger of the motorists, in which his father's car was stuck, and, in particular, the two toddlers with a neurological condition, trapped with their mother in a hot car for an hour, growing increasingly distressed until other motorists were able to shuffle their vehicles aside and let them escape.

It was suggested during the trial that HGV drivers are used to such delays and that seemingly they're fair game for your actions, but the nation depends on them to deliver the goods that everybody needs. They perform a vital role for us all. The contents of each HGV load was important to someone, and each driver was a person with their own life to get on with, their own homes, and families to return to and bills to pay. Your suggestions during the trial that somehow the Police were at fault and contributed to the traffic congestion by failing to remand people in custody from earlier actions, and by failing to arrest you all sooner, is hypocritical and ridiculous. They were stationed at the other end of the County of Kent because of earlier protests around the M25.

In the end, over 100 Police Officers were needlessly taken away from their duties of investigating crime and keeping communities safe, by having to attend Dover, to painstakingly arrest you all and remove you from the road because you steadfastly refused their repeated requests, that having exercised your rights to protest you now needed to respect the rights of everyone else to go about their business. You wouldn't have it. Instead, to further your aims, you exploited the Police and the communities in Dover and Kent, in order to get the sensational images you wanted.

There are no sentencing Council guidelines for offences like these, but I must still assess culpability and harm. Culpability is high, in my judgment, due to the extensive

planning, the travel from far afield, the large size of the group, the strategic targeting of a vital and busy port and the determination to resist all pleas to lift your blockades for as long as it took to be arrested”

As a result, the Registrant was sentenced to an 18 Month Community Order with a requirement of 140 hours of unpaid work. He was also ordered to pay costs of £500 and a victim surcharge.

In respect of his other conviction, the Registrant pleaded guilty and was sentenced to a 12-month Community Order with 100 hours of unpaid work. He had to pay costs of £575.40 and a victim surcharge of £95.

The Committee considered whether any of the first three limbs of *Grant* were engaged.

The Committee considered that although emergency services were disrupted it was stretching the wording of limb (a) to the issue of placing patients at unnecessary risk of harm was engaged. It determined this issue on the basis that this limb was focussed on a clinical setting.

The Committee considered that the behaviour of the Registrant, set out in the sentencing judge’s comments, had in the past brought the profession into disrepute.

The Committee considered that a fundamental tenet of the profession that a registrant should obey the law. The criminal conviction was sufficiently serious for the Committee to consider that the Registrant had in the past breached a fundamental tenet of the profession.

The Committee then went on to consider whether or not limbs b and c of the *Grant* test were engaged in the future.

The Committee paid careful regard to all that was written by the registrant as well as his oral submissions. The Committee determined that his levels of insight and remorse were not sufficient to satisfy the Committee that there would be no repetition of the behaviour that led to his offending.

The Committee noted that in his written statement to the ethics Committee he stated:

‘I am not denying my actions. I did what I thought was right based on everything I knew at the time.’

‘I struggled with the question of whether I did the right thing ...’

‘It is for these reasons that I do not believe I have brought the profession into disrepute. Quite the opposite, in fact...’

The Committee was concerned that the Registrant focussed his submissions on himself rather than the victims of his crime and the effect his actions had on the profession. The Committee determined that he was liable to repeat his behaviour in the future.

In light of that a finding of current impairment was required with regard to public protection as well as being in the wider public interest.

Sanction

Following the announcement of the decision on impairment Mr Hendron invited the Committee to consider sanction. He submitted that the appropriate sanction was that of reprimand. He invited the Committee to consider the Indicative Sanctions Guidance (ISG) issued by the BPC. In particular he referred to the passages relating to criminal convictions and sentences. He submitted that as the Community Order for one sentence had already expired and one was about to this was not a situation where it could be said that he was still serving a sentence.

The Registrant provided evidence under affirmation at this stage. He explained that he and his family were victims of climate change. His house was flooded as was his father in laws. His criminal activity was brought about by the fact that he felt that signing petitions and other activities were not enough. He informed the Committee that he was the subject of a civil injunction brought about by a private company which would prevent him from repeating his behaviour.

The Registrant informed the Committee that if he was the subject of a reprimand he would treat it seriously and this would influence his future conduct.

Committee determination on Sanction

In determining which sanction to impose, if any, the Committee had regard to the ISG as well as submissions and all other material.

It started by considering aggravating and mitigating factors.

It found the following factors to be aggravating:

- Two serious convictions and the impact the behaviour had on thousands of people
- Limited insight and remorse

It found the following factors to be mitigating:

- Your motivation arose from personal suffering and beliefs
- Some time has elapsed since the offending behaviour without repetition

The Committee began by considering sanction in ascending order. It began by considering whether issuing a reprimand was the appropriate sanction. The ISG states:

'Reprimand

58. A written reprimand is the least serious of the BPC's sanctions in that it is the least restrictive.

59. Reprimands are only appropriate if the Committee has decided there is no risk to the public or to patients requiring a Registrant's practice to be restricted. This means that the case is at the lower end of the spectrum of impaired Fitness to Practise, however the Committee wants to mark the behaviour as being unacceptable and must not happen again.

60. Because a reprimand doesn't affect a Registrant's practise, the Committee will always need to ask itself if its decision about the Registrant's Fitness to Practise indicated any risk to patient safety.

61. If it did, the Committee will then have to ask themselves whether a Reprimand will be enough to protect the public, given that it would allow the Registrant to continue to practise without any restriction.'

The Committee noted that this was the sanction that the BPC sought. This was despite the fact that part 59 of the guidance makes it a condition that it can only be imposed if there is no risk to the public. The Committee had already determined, at the impairment stage, that there was a risk to the public. The Committee noted the definition of public protection in the ISG:

'13. When considering the need to protect the public, the Committee will need to consider:

- The protection of the safety and wellbeing of the Complainant, patients and the wider public;*
- The need to promote high professional standards in the profession;*
- Promoting and maintaining proper professional standards and conduct for Registrants of the profession;*
- The deterrent effect to other Registrants, and the importance of clear regulation in the profession;'*

Despite this the Committee considered that it would be appropriate to issue a reprimand. This was the disposal requested by the BPC. The Registrant assured the Committee, at the sanctions stage, that he would respect a reprimand from his regulator. The Registrant also disclosed the existence of an injunction which may have the effect of discouraging him from repeating the actions that led to his convictions. His past actions were not directly related to his professional practise. Any restriction on his practise would not, necessarily, decrease any risk to the public.

Before concluding its consideration, on the issue of sanction, the Committee then considered if any other sanction was more appropriate. Since there were no clinical concerns on his practise it could see no purpose in imposing conditions. A short period of suspension would also serve as a warning to the Registrant but such a sanction was disproportionate, disrupt patient care, and cause financial hardship.

The Committee determined that the issuing of the following reprimand was proportionate and appropriate:

“You have been convicted on two separate occasions for offences involving you causing a public nuisance.

Both offences were serious enough to be brought before the Crown Court and both of these were serious enough to result in you being given Community Orders.

The Committee found that this behaviour was unacceptable, brought the profession into disrepute, broke a fundamental tenet of the professions and is not to be repeated.

You are warned that if you repeat this behaviour you may well find a less favourable outcome.”

That concludes this determination.