

**GENERAL OSTEOPATHIC COUNCIL
PROFESSIONAL CONDUCT COMMITTEE**

Case No: 463/1977

Professional Conduct Committee Hearing

DECISION

Case of: Mr Malcolm Mayer

Committee: Mrs Judith Worthington (Chair)
Mr Philip Geering
Mr Anthony Kanutin

Legal Assessor: Mr Alastair McFarlane

Representation for Council: Mr Jamie Hunt

Representation for Osteopath: none

Clerk to the Committee: Miss Vanissa Tailor

Date of Hearing: Monday 24 to Wednesday 26 November
2014

Summary of decision

The Committee has decided to order the Registrar to Remove Mr Malcolm Mayer's from the register.

Please see the Committee's full decision below.

Allegation and Facts

It is alleged that you, Malcolm Mayer, are guilty of Unacceptable Professional Conduct, contrary to section 20(1) (a) of the Osteopaths Act 1993, in that:

1. Between 18 August 2010 and 16 October 2013, you held a number of consultations with Patient A, at the Kingston University Alternative Therapy Centre ('the Practice').
2. Whilst Patient A was under your care, you failed to maintain adequate standards of record keeping by not recording in Patient A's case notes the results of the investigations and/or treatments you provided to Patient A.
3. Between 18 August 2010 and 16 October 2013, during consultations with Patient A at the Practice, you:
 - 3.1 stated to Patient A that she was a "VIP client";
 - 3.2 extended the length of Patient A's consultations with you;
 - 3.3 reduced the price paid by Patient A for her treatments;
 - 3.4 on one or more occasions, stated that Patient A did not need to pay for her treatment;
 - 3.5 exchanged gifts with Patient A;
 - 3.6 conversed in French with Patient A during your treatment sessions with her;
 - 3.7 used inappropriate words whilst conversing in French with Patient A;
 - 3.9 caused and/or allowed Patient A to perform yoga positions during consultations with you, dressed only in her underwear;
 - 3.10 offered Patient A, a pass to your gym;
 - 3.11 invited Patient A to attend a yoga class at your gym;
 - 3.12 offered Patient A, a role as the model for a book that you were writing about yoga;
 - 3.13 stated to Patient A that she had "a lovely body" or words to that effect;

- 3.14 stated to Patient A that she "looked good for her age" or words to that effect;
- 3.15 commented on Patient A's tan.
4. Your conduct as set out at paragraphs 3.1 to 3.15 above transgressed professional boundaries.
5. Between 18 August 2010 and 16 October 2013, during consultations with Patient A at the Practice, you:
 - 5.1 failed to offer Patient A, a chaperone;
 - 5.2 remained in the room whilst Patient A dressed and undressed;
 - 5.3 failed to provide Patient A with an appropriate cover, such as a towel or gown;
 - 5.4 required Patient A to remove her bra;
 - 5.5 placed your hands over Patient A's underwear;
 - 5.6 on one or more occasions, placed your hands inside Patient A's underwear;
 - 5.7 touched Patient A's vagina and/or clitoris;
 - 5.8 placed your hands on Patient A's breasts and/or nipples;
 - 5.9 massaged Patient A's breasts and/or nipples;
 - 5.10 on one or more occasions, pressed your groin against Patient A's arm;
 - 5.11 attempted to move Patient A's arm against your groin;
 - 5.12 pressed your groin against Patient A's head.
6. By your conduct as set out in Paragraphs 5.1 to 5.6 above, you:
 - 6.1 failed to protect Patient A's dignity and/or modesty;
 - 6.2 transgressed sexual boundaries.

7. Your conduct as set out in paragraphs 5.7 to 5.12 above was:
 - 7.1 not clinically justified;
 - 7.2 sexually motivated.
 9. On an occasion between 18 August 2010 and 16 October 2013, you performed a lymphatic massage on Patient A.
 10. Before providing the treatment specified at paragraph 9 above, you failed to:
 - 10.1 explain to Patient A the treatment that you intended to carry out;
 - 10.2 inform Patient A that you would be treating her intimate areas;
 - 10.3 offer Patient A, a chaperone;
 - 10.4 obtain written consent to provide treatment to Patient A's intimate areas;
 - 10.5 obtain valid consent from Patient A.
 11. While providing the treatment to Patient A specified at paragraph 9 above, you:
 - 11.1 placed your hands inside Patient A's underwear;
 - 11.2 rubbed Patient A's vagina and/or clitoris.
 12. Your conduct as set out at paragraph 11.1 and/or 11.2 above was:
 - 12.1 not clinically justified;
 - 12.2 sexually motivated;
 - 12.3 an abuse of your professional position.
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Decision on whether to proceed in the absence of the Registrant:

Mr Mayer did not attend the hearing and was not represented. The Committee has carefully considered the submissions of Mr Hunt for the Council on the issue of service of the notice of hearing and proceeding in the absence of Mr Mayer. It has accepted the advice of the Legal Assessor.

The Committee has received a service bundle and is satisfied that service of the notice of hearing has been effected in accordance with the Rules.

The Committee next considered whether to proceed in the absence of the Registrant. It had specific regard to the criteria approved by the House of Lords in R v. Jones and the Registrant's right to attend and participate in the hearing. It noted that the Registrant had solicitors acting on his behalf until 29 October 2014 and that their letter of that date confirmed that the Registrant was "withdrawing from his participation in these proceedings". The letter made it clear that the Registrant, while maintaining his denial of any professional misconduct, would not be attending this hearing or participating in it. The Committee is satisfied that the Registrant has therefore voluntarily waived his right to attend the hearing. The Committee was not persuaded that an adjournment would make the Registrant's attendance and engagement any more likely. Having regard to all the circumstances and its duty to ensure the expeditious conduct of its business and the attendance of the council's witnesses today, is satisfied that it is in the interests of justice to proceed in the absence of a the Registrant.

Decision on the Facts

The Committee has carefully considered all the evidence in this case. It is noted the submissions of Mr Hunt on behalf of the GOsC and it is accepted the advice of the Legal Assessor.

On behalf of the Council, the Committee heard oral evidence from Patient A and an expert witness, Mr Rajendran. It also received a bundle of documentation, consisting of 198 pages which included Patient A's witness statements, Mr Rajendran's reports and a witness statement form Patient A's friend to whom she first reported her complaint in October 2013.

Although the Registrant did not attend, he did submit a detailed "Response to the Allegations" document, dated 25 April 2014.

The Committee reminded itself that the burden of proving the facts is on the Council alone; that the standard of proof is the ordinary civil standard and that the absence of the Registrant is not an admission of guilt and adds nothing to the Council's case.

Background

The Registrant has been in osteopathic practice for 40 years in London as well as at the Health Centre of Kingston University for over 20 years.

This case concerns serious allegations, which include allegations of sexual abuse, made by Patient A, who was the Registrant's patient between August 2010 and October 2013. Patient A is a French national. She suffered from a variety of health complaints and between these dates attended consultations with the Registrant on over 100 occasions.

The central allegations made against the Registrant are essentially that over the period he initially breached patient/practitioner boundaries and then behaved in an inappropriate and sexually motivated manner towards Patient A. It is alleged that he breached boundaries by, among other things, using the consultations to improve his French and in exchange reducing the cost of the consultations to a nominal sum and, on occasion, to nothing; increasing the length of the consultations up to one and a half hours; by exchanging gifts with Patient A and by making inappropriate comments on her appearance. After Patient A requested the Registrant undertake a lymphatic massage on her in early 2012, it is alleged that from this date on, he commenced sexual touching of the patient, which included touching her vagina and/or clitoris on a total of about five occasions and massaging her breasts and nipples and pressing his groin against her during treatment. In addition, there are allegations of failing to obtain valid consent in relation to the lymphatic massage and failing to maintain an adequate standard of record-keeping.

In his Response Document, the Registrant has denied any inappropriate or sexually motivated behaviour.

The Committee has to make an assessment of the credibility of Patient A and, as best it can given his absence, the Registrant.

The Committee had the benefit of seeing and hearing from Patient A. In assessing her credibility, the Committee concluded that she was an honest witness, who did not embellish her evidence, which she gave in a calm and measured way and in describing her consultations with the Registrant she was readily prepared to acknowledge any positive aspects of her treatment. She described how her upbringing and character led her to be absolutely trusting of

those in authority, whether parents, teachers or healthcare professionals – the latter of whom she had had considerable experience. The Committee was satisfied that she saw the best in people and that her character displayed a certain fragility and naivety. It found that she gave clear and thoughtful answers to questions and that her evidence – orally to this Committee, in her witness statements and to the police was broadly consistent.

The Committee noted that the Registrant had practised osteopathy for many years and was of good character. It put this into the balance in his favour. It noted that he admitted many of the background facts as to their relationship – while denying any breach of professional boundaries and has consistently denied any inappropriate sexualised behaviour. It noted that it was deprived of the opportunity of his evidence being given on oath or tested under cross-examination.

The Committee paid particular attention to Patient A's explanation as to why she did not stop the treatment, given the nature of her complaints. She said that at the time, her response was to freeze and go into shock and said that she stopped breathing.

The Committee also specifically considered her explanation as to why she continued to attend so many consultations with the Registrant after she said inappropriate sexualised behaviour had started before she complained in October 2013.

She explained that she had questioned her own understanding of his actions; thought that she may have misinterpreted them or that they were a series of "bad coincidences". She stated that it was only, finally, when there were several abuses at the same session in October 2013 that her mind "connected strongly adding all the coincidences and misfortunes together". She described how she had done a lot of thinking and described feeling angry with herself.

The Committee specifically considered whether Patient A had indeed misinterpreted what were a series of innocent events. Having seen and heard her give her evidence, the Committee has accepted her explanation as an accurate, truthful and telling reflection of her state of mind at the time in the context of her character and trusting approach.

It is satisfied that she did not misinterpret the Registrant's actions.

Accordingly, for these reasons, where the evidence of Patient A and the Registrant conflicts, the Committee prefers the evidence of Patient A.

Part 1

This is background, rather than an allegation of wrongdoing, and is admitted by the Registrant's.

Part 2

Regarding allegation 2 concerning a failure to maintain adequate standards of record keeping, the Committee considered the Registrant's record and his transcript of his record as well as the report of the expert witness Mr Rajendran. The expert's opinion was that in certain regards, including any diagnosis that reflected Patient A's changing complaints, the records were inadequate. The Committee received no evidence from the Registrant on this issue. The Committee accepted the expert's evidence and concluded that the Registrant did fail to maintain adequate records as alleged.

Part 3 (Particulars 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.7, 3.8, 3.9, 3.10, 3.11, 3.12, 3.13 and 3.14)

Save for 3.1, 3.7, 3.9, 3.11 and 3.13, the Registrant admitted the facts alleged in these particulars (although his written response maintains in relation to the whole Part that he had not transgressed professional boundaries).

In any event, for the reasons set out above, the Committee found Patient A's account to be credible and accurate. It therefore accepts that the Registrant at one point did describe her as a "VIP client" and that he used on occasion inappropriate words whilst conversing with her in French – words she described as "naughty". It therefore finds Particulars 3.1 and 3.7 proved. In relation to attending a yoga class with the Registrant at his gym, the Committee accepts that he invited her to his gym and that he used a guest pass for her. It therefore finds Particular 3.9 proved. In relation to Particular 3.11, the Committee preferred Patient A's account that he offered her a role as a model for a book he was writing about yoga and therefore this Particular is proved. It also accepts her recollection that on occasion he used words to the effect that she looked good for her age and therefore Particular 3.13 is proved.

Accordingly, all Particulars of Part 3 are proved.

Part 4

The Registrant has not admitted that any of the Particulars in Part 3 amount to a transgression of professional boundaries.

The Committee noted that in isolation some of the Particulars in Part 3 may not, of themselves, necessarily transgress professional boundaries – for example, conversing in French with a French patient. However, in the Committee's judgment, the totality of the behaviour, set out in Part 3, mean that the Registrant crossed the line delineating appropriate patient/practitioner boundaries. The Committee concluded that the Registrant's behaviour constituted a breach of the proper role and necessary degree of separation needed between a patient and a practitioner. It concluded that over a prolonged series of consultations, the Registrant established a pattern of behaviour with Patient A, on his part becoming over-familiar, that developed into him transgressing professional boundaries.

Accordingly, Part 4 is proved.

Part 5

Particular 5.1

The Registrant accepted that he did not offer a chaperone to Patient A. He explained that he only offered one when treating intimate areas and that he never treated "intimate areas" with Patient A.

The Committee is satisfied that there were occasions, when the Registrant treated Patient A's intimate areas – for example, when he undertook the lymphatic massage, when he treated her groin area. This is an intimate area as defined by the Code of Practice and accordingly, Patient A ought to have been told of her right to a chaperone. As the Committee accepts that he did not offer a chaperone, Particular 5.1 is proved.

Particular 5.2

This is proved as both the Registrant and Patient A stated that he remained in the room.

Particular 5.3

Whilst the Committee accept that the Registrant may have provided a towel initially and provided towels when Patient A stated that she was cold, it accepts her evidence that the majority of the time, towels or other cover were not offered. Patient A was not surprised at this, given her experience of the usual practice in France, and the Committee has no doubt that over a prolonged series of consultations, Patient A and the Registrant fell into an accepted way of working which did not conform to expected standards. However, it is satisfied

that the duty was on the Registrant to continue to provide towels and covers more than he did. Accordingly, particular 5.3 is proved.

Particular 5.4

This is not proved. Patient A's evidence was that she took her bra off without being asked. The Registrant had only asked her to unhook it.

Particular 5.5

Both Patient A and the Registrant accept that during elongation treatment, the Registrant placed his hands over her underwear.

Accordingly Particular 5.5 is proved.

Particular 5.6

The Registrant denied this occurred, but stated that if it did happen, it was an inadvertent touching for a functional purpose. The Committee rejects his explanation (which included tucking a towel in the back of her briefs) and accepted Patient A's account of his hand on several occasions going down the front of her briefs.

Accordingly particular 5.6 is proved.

Particular 5.7

The Registrant denied this occurred. Patient A described how the Registrant placed his hand over her briefs during the "elongation technique", but that on about five occasions, his hand went inside her briefs and that he sometimes touched the top of her vagina and clitoris. The Committee accepted the expert evidence of Mr Rajendran to the effect that there were no osteopathic massage techniques that required an osteopath to come into either direct or indirect contact with the vagina or clitoris of a patient. The Committee accepted Patient A's account as true. It considered that her evidence that he did not touch her vagina or clitoris each time he placed his hands inside her briefs as adding to her credibility.

Accordingly Particular 5.7 is proved.

Particular 5.8 and Particular 5.9

The Registrant explained that his hands may legitimately have come into contact with Patient A's breasts and nipples during massage techniques. Patient A stated

that he placed his hands on her breast and nipples and that on about five occasions he massaged the breasts and nipples for about 3 to 5 seconds. The Committee accepts patient A's account and accordingly both Particulars 5.8 and 5.9 proved.

Particulars 5.10, 5.11

These Particulars relate to allegations of the Registrant pressing his groin either against Patient A's arm while treating her or attempting to move her arm against his groin during treatment.

Patient A explained how she thought initially that these incidences were unfortunate coincidences and that it was only after the final session in October 2013 that she concluded they were not innocent.

The Registrant did not admit that he intentionally pressed his groin against her.

The Committee accepts Patient A's accounts of these incidents as credible and is satisfied that the behaviour alleged at Particulars 5.10, 5.11 are proved.

Particular 5.12

This Particular relates to an allegation of the Registrant pressing his groin against Patient A's head while treating her. On the basis of the expert witness's evidence, the Committee concluded that this could have been a result of poor positioning or poor technique on the Registrant's part and therefore this Particular is not proved.

Part 6

Particular 6.1

The Committee is satisfied that the conduct it has found proved at Particulars 5.1, 5.2, 5.3 and 5.6 each amount to failures to protect Patient A's dignity and modesty.

In relation to Particular 5.5, the Committee noted that Mr Rajendran accepted that in certain osteopathic procedures, the osteopath does put his hand over the underwear of the patient in order to put pressure on the pubic bone. Patient A accepted that the Registrant was performing elongation stretches on her. In these circumstances, the Committee is not persuaded that when the Registrant placed his hand over her underwear, he was failing to protect Patient A's dignity and modesty and accordingly Particular 6.1 is not proved in relation to Particular 5.5.

The Committee need hardly state that placing of his hand inside the Patient A's underwear as set out in Particular 5.6 clearly is a failure to protect her dignity and modesty.

Particular 6.2

The Committee is satisfied that transgressing sexual boundaries means displaying sexualised behaviour towards a patient. Sexualised behaviour includes behaviour designed to arouse or gratify sexual desires.

The Committee has considered the conduct it has found proved at Particulars 5.1, 5.2, 5.3, and 5.5. Some elements taken individually might not be sexualised behaviour. However, taken collectively against the wider background between the Registrant and Patient A, the Committee satisfied that the behaviour developed sexual overtones to it. It is not necessary for the Committee to determine that the behaviour was designed to gratify the Registrant's sexual desires from the outset, but the Committee is satisfied that as the behaviour went on it became sexualised and that sexual boundaries were transgressed. The Committee finds confirmation for its view in the conduct at Particular 5.6. When this first occurred in early 2012, the Committee is satisfied that it was clearly designed or intended to arouse sexual impulses or to gratify sexual desires.

Accordingly, Particular 6.2 is proved in relation to the conduct set out in Particulars 5.1 to 5.6, except Particular 5.5 for the reasons given above under Particular 6.1.

Part 7

Particular 7.1

In relation to particular 5.7

The behaviour of touching Patient A's vagina and/or clitoris was not clinically justified for the reasons given above.

In relation to Particulars 5.8 and 5.9

The Committee concluded that the placing of his hands on Patient A's breasts and nipples were deliberate acts by the Registrant and not accidental touching of the breasts and/or nipples during treatment to the chest area. Given its conclusion that the conduct at Particulars 5.8 and 5.9 amounted to inappropriate touching, it was therefore not clinically justified.

In relation to Particulars 5.10 and 5.11

The Committee noted that Patient A concluded, on reflection, that the conduct here was not accidental, but rather deliberate actions by the Registrant. The Committee accepts Patient A's interpretation is more likely than not to be correct, given its view of her accuracy, the nature of the acts and the background and is therefore satisfied that they were not clinically justified.

In relation to Particular 5.12

While the Committee heard expert evidence, that a practitioner performing this technique would be expected to move to the side, if his groin came near or into contact with a patient's head, it was not persuaded that the registrant's actions under this Particular, were deliberate acts as opposed to poor technique and poor self positioning. Accordingly the Committee is not persuaded that these were not clinically justified actions within a clinically justified technique. Therefore Particular 7.1 is not proved in relation to Particular 5.12.

Particular 7.2

In relation to Particulars 5.7, 5.8 and 5.9

The Committee is satisfied that the Registrant's conduct was sexually motivated. In relation to touching patient A's vagina and clitoris, there was no clinical reason for doing this and in the Committee's judgment it is self evident that the touching of these clearly intimate areas were sexually motivated. The Committee is similarly satisfied as to the motivation of the Registrant in relation to the inappropriate touching that has been found of Patient A's breasts and nipples.

In relation to Particulars 5.10 and 5.11

Given the Committee's findings that these were deliberate actions by the Registrant to enable his groin to touch Patient A, it is satisfied that they were also sexually motivated.

In relation to particular 5.12

Given the Committee's conclusion that these could have been accidental within poorly executed clinical technique to the lumbar spine, it is not proved that they were sexually motivated.

Part 8

The Registrant admitted this in his response document and given this and Patient A's account, it is proved.

Part 9

Particular 9.1

It is agreed evidence that Patient A, who had previously undergone lymphatic massages, asked the Registrant if he could perform this procedure for her. He researched the subject and the following week stated that he could perform one. Patient A said that at no point did the Registrant explain that he would access her groin. The Committee concludes that it is more likely than not in these circumstances, that there was some discussion about the treatment, but is satisfied that there was not a sufficient explanation of the treatment the Registrant intended to carry out.

Accordingly, Particular 9.1 is proved.

Particular 9.2

The Registrant in his document, stated that he explained he would be treating Patient A's groin. Under the Code of Practice, the groin is an intimate area. On his own account, the Registrant did not appreciate this.

Against this evidence, Patient A clearly stated that at no point did the Registrant warn her that in the massage he would be accessing her groin. For the reasons given above, the Committee prefers the account of Patient A and therefore particular 9.2 has proved.

Particular 9.3

The Registrant did not offer Patient A chaperone. Because the groin is an intimate area, he should have offered one. Therefore, Particular 9.3 is proved.

Particular 9.4

The Code of Practice at Clause 28 required written consent to be obtained for vagina or rectal examination or techniques. The Registrant was not conducting a vagina all rectal examination or technique and therefore there was no duty upon him to obtain written consent. Therefore, Particular 9.4 is not proved.

Particular 9.5

The Code of Practice emphasised that it is particularly important to ensure that the patient understands and consents to the proposed examination and treatment of any intimate area before it is administered. This would include treatment of the groin. Given that the Committee accepted Patient A's account

that Registrant did not mention the groin to her, it is satisfied that is not obtain valid consent. Therefore, Particular 9.5 is proved.

Part 10

Particulars 10.1 and 10.2

The Registrant denied that he placed his hands inside Patient's underwear or that he rubbed her vagina or clitoris during the lymphatic massage. Patient A maintained that this has happened. For the reasons set out above, the Committee preferred the evidence of Patient A and accepted her account as true. Therefore particulars 10.1 and 10.2 are proved.

Part 11

Particulars 11.1, 11.2 and 11.3

The Committee is satisfied that the Registrant placing his hand inside Patient A's underwear and rubbing her vagina and clitoris was not clinically justified. It accepted Mr Rajendran's opinion on this. Given, the Committee's conclusion that such actions were not clinically justified, the absence of any other explanation for it and the nature of the acts, the Committee is satisfied they were sexually motivated. It follows that such sexually motivated behaviour is a clear abuse of the Registrant's professional position.

Accordingly Particulars 11.1, 11.2 11.3 are proved.

Unacceptable Professional Conduct

The Committee next considered whether the facts found proved amounted to unacceptable professional conduct, which is defined in the Osteopaths' Act 1993 as conduct falling short of the standard required of a registered osteopath. The Committee had regard to the submissions made by Mr Hunt for the General Osteopathic Council and accepted the advice of the Legal Assessor.

The Committee applied the guidance given by Irwin J in *Spencer v General Osteopathic Council* as to the meaning of unacceptable professional conduct and the threshold required for failings to qualify for this description, and the observations of Jackson J (as he then was) in *Calhaem v General Medical Council*. It was reminded (and bore in mind) that not every omission or instance of poor practice would be sufficient to cross the threshold, and that failings must

be judged to be serious to be worthy of the opprobrium and publicity which accompanies a finding of unacceptable professional conduct.

The Registrant's failings in this case are numerous and wide-ranging over a prolonged period of time. The sexual misconduct perpetrated by the Registrant on his patient is a gross violation of the position of trust an osteopath occupies in relation to their patients. There is no doubt in the Committee's judgment that the Registrant's actions caused harm to Patient A. Further, such serious conduct of this kind undermines the reputation of the profession and the trust and confidence which the public is entitled to expect in osteopaths. In addition, the Committee is satisfied that this conduct would be regarded as deplorable by fellow practitioners. The Registrant allowed proper professional boundaries between himself and Patient A to break down over time and as this broke down embarked upon conduct that was for his own sexual gratification. The facts that the Committee has found proved in relation to boundaries, sexual misconduct, and the other discrete areas, such as consent found numerous breaches of the Code of Practice and Osteopathic Practice Standards. In particular, for example:

[OPS] Standard D16 "Do not abuse your professional standing"

1 "Abuse of your professional standing can take many forms. The most serious is likely to be the failure to establish and maintain appropriate boundaries, whether sexual or otherwise"

[OPS] Standard D17 " Uphold the reputation of the profession through your conduct"

1 "the public's trust and confidence in the profession and the reputation of the profession generally can be undermined by an Osteopath's professional or personal conduct"

The Committee has no hesitation in determining that the proved facts amount to Unacceptable Professional Conduct.

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1 "the public's trust and confidence in the profession and the reputation of the profession generally can be undermined by an Osteopath's professional or personal conduct"

Sanction

The Committee has had regard to the Indicative Sanctions Guidance and the principle of proportionality. It noted the submissions of Mr Hunt and accepted the advice of the Legal Assessor. It considered the sanctions available to it in ascending order of seriousness.

The Registrant's behaviour towards his patient spanned a period from August 2010 until she terminated her appointments in October 2013. His misconduct escalated at the appointment in April 2012 when he performed a lymphatic massage. It has been found proved that leading up to that appointment a pattern of behaviour developed, including the exchange of gifts, lengthening of appointment times, reduction of fees and, on occasions, free treatments, use of inappropriate language when they spoke in French, and personal comments about the patient's body.

Such behaviour is unprofessional in any event but Patient A was particularly vulnerable given her health and personal background. In the course of her evidence, she told the Committee that her experience of healthcare in France meant that she did not question the need to undress to her underwear and remain unclothed throughout her appointments. She described how she had been brought up to trust people in authority so that she respected the Registrant's authority as a healthcare practitioner and as a professional and had put her trust in him.

The Committee concluded that the Registrant had encouraged the informal exchanges and the Patient's dependency on him. With this background of informality and lack of professionalism, failure to involve chaperones and appropriately protect the patient's privacy and dignity, the Registrant took the opportunity when performing the lymphatic massage to behave in a manner that could only have been sexually motivated and for his own personal gratification.

The Registrant's misconduct culminated at the appointment on 16 October 2013, where in the patient's own words, 'several sexual misconducts occurred'. This included, brushing his groin against her arm, massaging of her breast and nipples, placing his hands inside her knickers touching her vagina and clitoris.

Viewing the entire period, the Committee have concluded that there was pattern of behaviour where he knowingly breached the trust of a vulnerable patient for his own gratification.

The Registrant's behaviour was deliberate and was not an isolated incident. The Committee noted that he had previous good history but considered the conduct so serious that an Admonishment would be wholly inadequate. There was no evidence of insight before the Committee or of remediation but in any event such matters are of significantly less importance when dealing with sexual misconduct. There is no basis for the Committee to consider that a Conditions of Practice Order is either appropriate or sufficient given the circumstances of this case and similarly a suspension order would not address the seriousness of the misconduct both in terms of the risk of harm to the public and the maintenance of public confidence in the reputation of the profession.

The Committee is satisfied that the unacceptable professional conduct, which included sexual misconduct has found, is fundamentally incompatible with registration as an osteopath. There was both a reckless disregard for the principles set out in the relevant standards at the material times and a serious departure from those standards. In addition the behaviour constituted a serious abuse of the Registrant's position of trust and a serious violation of Patient A's rights. For all these reasons the Committee has no doubt that the only proportionate and sufficient sanction for the protection of patients and for the upholding the reputation of the profession and its standards is an Order of Removal.

Interim Suspension Order

The Committee is satisfied that an Interim Suspension Order pending any appeal or disposal thereof is necessary for the protection of the public. Its reasons are the same as those set out in its substantive decision which deal with the seriousness of the behaviour, the harm of Patient A and provide the Committee with the basis for its conclusion of a continuing risk to the public.

Under Section 31 of the Osteopaths Act 1993 there is a right of appeal against the Committee's decision.

The Registrant will be notified of the Committee's decision in writing in due course.

Section 22(13) of the Osteopaths Act 1993 requires this Committee to publish a report that sets out the names of those osteopaths who have had Allegations found against them. The Registrant's name will be included in this report together with details of the allegations we have found proved and the sanction that that we have applied today.