GENERAL OSTEOPATHIC COUNCIL

PROFESSIONAL CONDUCT COMMITTEE

Case No: 868/7998

Professional Conduct Committee Hearing

DECISION

Case of:	Stephen Blinman
Committee:	Lakshmi Ramakrishnan (Chair) Pamela Ormerod (Lay) Kenneth McLean (Osteopath)
Legal Assessor:	Mr Jon Whitfield KC
Representation for Council:	Ms Nimi Bruce Mr Michael Bellis
Representation for Osteopath:	Not represented. Not present
Clerk to the Committee:	Mr D Bryan
Date of Hearing:	19, 20, 21 December 2022 30, 31 March 2023

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Summary of Decision:

Stage One

The allegation is that Mr Stephen Blinman (the Registrant) has been guilty of unacceptable professional conduct, contrary to section 20(1)(a) of the Osteopaths Act 1993, in that:

1. Between December 2021 to around March 2022 the Registrant treated Patient A at the Libra Chiropractic Clinic ('the clinic) in his capacity as a Registered Osteopath.
   Admitted & found proved

2. The Registrant saw Patient A at the clinic on various occasions between 23 December 2021 and 10 March 2022.
   Admitted & found proved

3. The Registrant groomed Patient A and/or pursued an improper sexual relationship with Patient A in that he:
   (a) Initiated a meeting at the clinic with Patient A that was not treatment based on 10 January 2022
   Equivocal Plea – treated as denied
   Found proved re improper sexual relationship
   Found proved re grooming

   (b) Saw Patient A at her home on various occasions between January and April 2022
   Admitted re improper sexual relationship. Found proved
   Denied re grooming. Found proved

   (c) Discussed his own use of masturbation to release tension on 10 January 2022
   Denied
   Found proved re improper sexual relationship
   Found proved re grooming

   (d) Hugged Patient A
   Admitted re improper sexual relationship. Found proved
   Denied re grooming. Found proved

   (e) Disclosed personal information during treatment sessions with Patient A about his previous relationships
   Admitted re improper sexual relationship. Found proved
   Denied re grooming. Found proved

   (f) Disclosed that he had feelings towards Patient A on 25 January 2022
   Admitted re improper sexual relationship. Found proved
   Denied re grooming. Found proved

   (g) Encouraged Patient A to have a treatment session at her house, without any clothes on 24 January 2022
   Equivocal Plea – treated as denied
   Found proved re improper sexual relationship
   Found proved re grooming

   (h) Told Patient A he wanted to "heal" her of previous [redacted] and get her ready for her "real relationship" by helping her to overcome sexual phobias and [redacted] or words to that effect.
   Equivocal Plea – treated as denied
   Found proved re improper sexual relationship
   Found proved re grooming

   (i) Sent messages of a personal and sexual nature to Patient A between December 2021 and April 2022

Admitted improper sexual relationship. Found proved
Denied re grooming. Found proved

4. The Registrant engaged in a sexual relationship with Patient A in that he:
   (a) Had and/or attempted to have penetrative sex with Patient A on two occasions
   Admitted & found proved re attempt
   Denied re penetrative sex. Found proved

   (b) Had oral sex and/or other sexual contact with Patient A on other occasions between January and April 2022
   Admitted. Found proved

5. The Registrant contacted Patient A again in March and April 2022 after she had ended the relationship with him.
   Equivocal Plea – treated as denied. Found proved

6. The Registrant shared details with Patient A which indicated that he had engaged in sexual activity and/or contact with other patients.
   Denied. Found proved

7. The Registrant did not refer Patient A to any other professionals or colleagues for further advice or support
   Equivocal Plea – treated as denied. Found proved.

8. The Registrant told Patient A that he had made a false entry on her records for 27 January 2022, to the effect that he had advised that they should have some distance due to her feelings of attachment and that he would refer her elsewhere
   Denied. Found proved

9. The Registrant's actions as described at 2 to 8 above were:
   (a) Not clinically justified
   Equivocal Plea – treated as denied. Found proved
   (b) Breached professional and sexual boundaries
   Equivocal Plea – treated as denied. Found proved
   (c) Sexually motivated
   Equivocal Plea – treated as denied. Found proved

10. The Registrant's actions as described at 8 above:
    (a) lacked integrity
    Denied. Found proved

Stage Two

Summary of Finding on Unacceptable Professional Conduct

The Committee found that the Registrant's conduct amounted to Unprofessional Conduct.

Stage Three

Sanction

The Committee determined that the Registrant should be removed from the Register.

Interim Suspension Order

The Committee determined that an interim suspension order should be imposed in order to protect the public

Details of Decision:

Preliminary Matters:

1. The parties and the Panel introduced themselves.

2. The Registrant was not present and not represented

Declarations:

3. Prior to the commencement of a hearing each member of the Professional Conduct Committee (PCC) is required to declare that they know of no reason why they should not sit upon the case. This declaration is intended to ensure that fairness is done and is seen to be done to all parties.

4. Each member of the PCC made this declaration. Mr McLean disclosed that he sat on the PCC in or around August of this year when the PCC was obliged to review the decision of the Interim Orders Panel in this case.

5. Mr McLean confirmed that he was in a position to deal with the case fairly and did not consider that his previous involvement several months ago would prejudice him in any way. He observed that the information was very similar if not the same as that which was now before the Committee.

6. Ms Bruce, on behalf of the GOsC submitted that there was nothing within the PCC rules that precluded a member in Mr McLean's position from sitting on the PCC. She submitted that there was no unfairness in Mr Mclean continuing with the case.

7. The Committee accepted the advice of the Legal Assessor.

8. The Committee determined that it should continue as constituted and hear the case. In reaching this conclusion the Committee considered the interests of the Registrant and the public interest in having serious allegations determined by an independent tribunal in a timely fashion. The Committee consisted of professional persons advised by an independent lawyer and it would concentrate only on those matters of evidence placed before it.

Service

9. Ms Bruce submitted that notice of the hearing had been served upon the Registrant at least 28 days prior to the hearing. At the time of the notice it was intended the hearing should be held in person. Subsequently in correspondence the Registrant was advised that the

hearing would be held virtually via the Go To Meeting online platform. He was provided with electronic links to access both the documentation and the hearing.

10. The Committee accepted the advice of the Legal Assessor.

11. The Committee was satisfied that the GOsC had made all reasonable effort to serve notice of the hearing upon the Registrant. Whilst actual service was not part of the test, the Committee was aware that the Registrant had in fact responded to the notice and was aware of the hearing.

Proceeding in absence

12. Ms Bruce applied to proceed in the absence of the Registrant. She submitted that it was reasonable for the Committee to use its discretion to proceed in his absence. She reminded the Committee of the care with which the discretion must be exercised but pointed to the fact that whilst the Registrant had engaged in pre-hearing correspondence he had, she said, voluntarily absented himself from the hearing. He had been provided with access to the evidence in electronic form, the links to the hearing and had been offered training on how to use these links and resources. He had made such comment and/or admissions as he chose to and had thereafter withdrawn from proceedings

13. The Committee accepted the advice of the Legal Assessor.

14. The Committee concluded that it should continue with the hearing in the absence of the Registrant. In coming to that decision the Committee balanced the Registrant's right to attend with the public interest in hearing such matters in a timely fashion. The Registrant had indicated that he did not wish to attend the in-person hearing. He had provided comments, admissions and denials in writing and had instructed his solicitor not to engage further with the process. Having been made aware of the change to an online hearing he did not resile from this position.

15. The Committee concluded that the Registrant had taken the decision to absent himself from the hearing and that adjourning would not alter this. The Committee had before it the views of the Registrant which had been submitted for consideration at the Interim Suspension Order hearing as well as his more recent responses by way of statements of fact and his response to the allegation. The Committee therefore considered it had received such information as the Registrant wished to provide and would consider this in due course. The Committee also took account of the fact that very serious allegations had been raised and there was a public interest

in progressing matters in a timely fashion. The Committee determined that it could ensure the evidence and the criteria were properly tested and thus hold a fair hearing despite the Registrant's absence.

Bundles

16. The Chair took the parties through the documentation to ensure everyone had the same material.

Amending the Allegation

17. Ms Bruce (Counsel for the GOsC) applied to amend the allegations. She took the Committee to the Registrant's signed admissions and observed that some were full/unqualified admissions, some were partial and some allegations were either denied or not dealt with at all. Ms Bruce said that her application fell into two categories. First, to amend the wording in some allegations where the Registrant had made admissions in slightly different terms – for example asserting that something happened on "various" occasions rather than 15 – 20 occasions. She submitted that amending the allegations to accommodate the Registrant's admissions did not change the meaning or alter the gravity of these allegations, rather it simplified the issues in dispute and caused no injustice to the Registrant.

18. Ms Bruce's second category of amendment concerned Allegation 10(b) (dishonesty) and certain minor aspects of other charges which, on a review of the evidence, could not be proved. She therefore sought to delete or withdraw these matters. Again she submitted no injustice would be caused to the Registrant since the simplified matters had either been admitted by him or may be determined by the Committee. The decision to withdraw the dishonesty charge was a considered one on the evidence and did not lead to the risk of 'undercharging'. In short Ms Bruce submitted that the application should be granted since it was fair to all parties and maintained a focus on the important matters in dispute.

19. The Committee accepted the advice of the Legal Assessor.

20. Having considered the proposed amendments and the oral representations, the Committee concluded that there would be no injustice in assenting to the applications. The amended allegations clarified and focused on the matters in dispute. It enabled the Committee to determine certain allegations based upon the admissions made by the Registrant and it removed those matters for which there was little or no evidence. This accorded with the overarching principle of these proceedings, namely, to determine important matters in issue in a timely fashion to protect the public.

Original Allegations

The allegation is that Mr Stephen Blinman (the Registrant) has been guilty of unacceptable professional conduct, contrary to section 20(1)(a) of the Osteopaths Act 1993, in that:

1. *Between December 2021 to around March 2022 the Registrant treated Patient A at the Libra Chiropractic Clinic ('the clinic) in his capacity as a Registered Osteopath.*

2. *The Registrant saw Patient A at the clinic on approximately seven occasions between 23 December 2021 and 10 March 2022.*

3. *The Registrant groomed Patient A and/or pursued an improper sexual relationship with Patient A in that he:*
   (a) Initiated a meeting at the clinic with Patient A that was not treatment based on 10 January 2022
   (b) Saw Patient A at her home approximately 15-20 times in total between January and April 2022
   (c) Discussed his own use of masturbation to release tension and encouraged Patient A to do the same on 10 January 2022
   (d) Hugged Patient A and told her a story during the hug to make it last longer on 13 January 2022
   (e) Disclosed personal information during treatment sessions with Patient A about his previous affairs and relationships
   (f) Disclosed that he had feelings towards Patient A on 25 January 2022
   (g) Encouraged Patient A to have a treatment session at her house, without any clothes on 24 January 2022
   (h) Told Patient A he wanted to "heal" her of previous [redacted] and get her ready for her "real relationship" by helping her to overcome sexual phobias and [redacted]
   (i) Sent *messages of a personal and sexual nature to Patient A between December 2021 and April 2022*

4. *The Registrant engaged in a sexual relationship with Patient A in that he:*
   (a) Had penetrative sex with Patient A on two occasions
   (b) Had oral sex and/or other sexual contact with Patient A on around 15-20 occasions between January and April 2022

5. *The Registrant contacted Patient A again in March and April 2022 after she had ended the relationship with him.*

6. *The Registrant shared details with Patient A which indicated that you had engaged in sexual activity contact with other patients at the clinic.*

7. *The Registrant did not refer Patient A to any other professionals or colleagues for further advice or support*

8. *The Registrant told Patient A that he had made a false entry on her records for 27 January 2022, to the effect that he had advised that they should have some distance due to her feelings of attachment and that he would refer her elsewhere*

9. *The Registrant's actions as described at 2 to 8 above were:*
   (a) Not clinically justified
   (b) Breached professional and sexual boundaries

(c) Sexually motivated

10. The Registrant's actions as described at 8 above:
(a) lacked integrity
(b) were dishonest

21. The amended allegations are set out under the heading "Summary of Decision".

Admissions

22. Following the amendments to the allegations the Registrant's written statement of comments and admissions were reconsidered.

23. The Committee noted that some comments and admissions were unqualified whereas some were partial, unclear or included comments that appeared to limit the scope or circumstance admitted. The Committee determined that these qualified admissions were 'equivocal' or uncertain and would be treated as denials. In addition the Registrant denied some allegations and some were not commented upon by him.

24. Where the Committee considered an admission to be unqualified it found those allegations proved by way of admission. It required all other allegations to be proved by the GOsC.

25. The above consideration together with the findings of fact consequent upon them, are set out under the heading "Summary of Decisions".

26. The Committee then went on to consider all disputed allegations. The Committees findings are also set out under the same heading.

Decision:

Background, Summary of Evidence and Submissions

Opening

27. Ms Bruce observed that the Committee had access to the documentation served by both parties and this should be taken into account. She said that Patient A considered seeing an osteopath or chiropractor due to headaches and, having searched for a practitioner online she contacted the Libra Clinic where the Registrant worked. There was some initial contact by correspondence and then a first meeting on 23 December 2021. At a second appointment on 30 December 2021 Patient A disclosed that she had experienced [redacted]

[redacted]. Patient A saw the Registrant as someone who could assist her in her future plans.

28. At the third appointment on 6 January 2022 Patient A [redacted]. The Registrant suggested she should use a vibrator and she could tell if the treatment was working by feeling if 'she felt [redacted]'. Ms Bruce said that there were no allegations relating to the first three appointments but that the dialogue was already 'creeping toward the inappropriate'. Patient A experienced an emotional and physical response to treatment causing her to relive or re-experience her [redacted]. As a result the Registrant suggested that on 10 January 2022 that they should meet informally at the clinic but not for treatment. Ms Bruce asserted that this was the point at which the grooming narrative had started. There was a dispute on the evidence as to whose idea it was to meet. Ms Bruce said that [redacted] At this meeting the Registrant disclosed that he relieved tension by way of masturbation.

29. Following the meeting on the 10th the Registrant and Patient A exchanged messages and texts. There were follow-up appointments on 13 January 2022 during which the Registrant mentioned orgasms and hugged Patient A longer than she expected. In addition, outside the treatment sessions during conversation the Registrant discussed his own sexual encounters where he said he was providing women something that was missing in their lives and that made him feel good. There were further text messages between Patient A and the Registrant outside of treatment sessions when Patient A was seeking support and on 23 January 2022 said the Registrant had offered to meet her and talk. Patient A said she followed this up with a text on 24 January when the Registrant offered to meet her at her home. During this meeting Patient A said they cuddled. She said they also discussed treatment using the terms "do skin" which meant Patient A being entirely naked and the Registrant suggesting this was quite normal for some patients. On 25 January 2022 the Registrant disclosed that he 'had feelings' for Patient A which made her feel good because she had feelings for him. The Registrant disclosed that he had experienced feelings for other patients, had attempted to have sex at one patient's home and had been engaged in an affair with another for many years whilst still treating her.

30. They met again on 27 January 2022 at Patient A's home during which he kissed her and he performed oral sex upon her. Patient A allowed the relationship to continue in this way because she said she 'wanted to be normal' [redacted] They exchanged graphic and intimate messages on WhatsApp. The first time they had penetrative

sex in the clinic was on 10 March 2022 which was Patient A's first real sexual experience and it was extremely painful. There was one other instance of penetrative sex but many other instances of intimate touching, oral sex and attempts to have sex.

31. Patient A attempted to end the relationship in March and April 2022 by blocking the Registrant from contacting her but he contacted her on 24 March 2022 and they met on 27 March 2022. They went for a walk and then they went back to her house and had another sexual encounter. Ms Bruce observed that Patient A had 'normalised' this relationship compared to the [redacted] she had suffered in the past so it did not feel wrong when the Registrant repeatedly contacted her.

32. Ms Bruce dealt with Allegation 8 separately, asserting that the Registrant told Patient A he had made a false entry in her records to suggest he had ended their professional relationship and would refer her to another practitioner. She submitted that there never was any such referral. Ms Bruce submitted that his actions were deplorable and lacked integrity.

33. In summary Ms Bruce said that the Registrant's actions were not clinically justified, breached professional and sexual boundaries and were sexually motivated. She said that Patient A was vulnerable and the Registrant knew that from an early stage. She went to him for help and he responded not in a professional way but in a predatory way abusing her trust entering into a sexual relationship and making notes in the record that did not reflect what was going on.

Evidence

34. Within the bundle, the GOsC had provided a draft statement of facts. The Registrant responded with his own version with some alterations. The statement is set out below along with an indication of those areas the Registrant accepted or disagreed with. Where he has used different phraseology this is indicated in brackets.

    1. *From December 2021 and March 2022 I was working as an Osteopath at the Libra Clinic. I saw Patient A in person at the Libra Clinic on approximately seven occasions during December 2021 and March 2022. During this time I treated Patient A in my capacity as an Osteopath. [Admitted by Registrant]*

    2. *The first appointment took place on 23 December 2021 at the Libra Clinic. I completed an initial assessment and Patient A disclosed personal information during this appointment. [Admitted by Registrant]*

3. *On 2 January 2022, Patient A emailed me a document setting out her personal goals for the new year. ~~I later told Patient A that this was the point where I felt something would happen between us both~~. [Admitted by Registrant in amended form]*

4. *The second appointment took place on ~~29~~ [30] December 2021 at the Libra Clinic. Patient A alluded to the fact that she had been through [redacted] She also disclosed that she had [redacted] hich had also led to [redacted] [Admitted by Registrant in amended form]*

5. *I went on to exchange emails with Patient A and advised her on matters which related to her general physical health and ~~her mental health which was outside of my remit as an osteopath~~ [her wellbeing]. This included providing various literature to Patient A such as [redacted] Discussions also related to toxin releases and a rash on her body. [Admitted by Registrant in amended form]*

6. *The third appointment took place on 6 January 2022 ~~and Patient A disclosed that she suffered from [redacted] I told Patient A that professionals like me can help and that the only way to tell if the treatment helped her was to [redacted]~~ [redacted] [Admitted by Registrant in amended form]*

7. *On 9 January 2022, I emailed Patient A stating that I did not want to be like the controlling men [redacted] I also confirmed that I offered home visits to patients. I told her I was worried about her driving back from appointments after getting upset and that I would have driven her back if I did not have appointments in the diary. [Admitted by Registrant]*

8. *On 10 January 2022, I ~~saw~~ [agreed to see] Patient A for an informal meeting [at her request] at the Libra Clinic. ~~We discussed how she was feeling and the fact that she was not in a relationship. I told her that I released tension by way of masturbation.~~ [During this conversation she shared details about [redacted] As she was leaving, I told her that I would have given her a big hug if it was not for covid. [Admitted by Registrant in amended form]*

9. *On 11 and 12 January 2022, we continued to chat over text messages, sharing details from our daily life. [Admitted by Registrant]*

10. *The fourth appointment took place on 13 January 2022 [during which she became very shaky and tearful and we ceased the*

session]. Before Patient A left she asked me for a hug. ~~I held and rocked her~~ whilst hugging and I told her a story about another patient with terminal prostate cancer that I had ~~held~~ [hugged] at the end of sessions. ~~Following this session, Patient A contacted me and shared details about~~ [redacted] [Admitted by Registrant in amended form]

11. *We continued to message each other and talked about how Patient A was feeling. She asked me about hypnotherapy and I responded. We had previously discussed the mind, body and parasympathetic nervous system. [Admitted by Registrant]*

12. *During one of the earlier sessions I had told Patient A that most of my sexual experience was not until I was in my thirties ~~and that I had several flings with women in choirs and that I had even had an affair with one~~. [Admitted by Registrant in amended form]*

13. *On 18 January 2022, Patient A texted me and told me that she was drunk. She said she felt like she was "on self-destruct and could not manage my life at all anymore". I told her I hoped I could help her and would have popped round to see her if I did not have another patient home visit that evening. [Admitted by Registrant]*

14. *The fifth appointment took place on 20 January 2022 and Patient was emotional. I held her while she cried on my shoulder. [Admitted by Registrant]*

15. *On 21 January 2022, Patient A text me and said I "fucking love Fridays". I responded stating that I initially misread her message as "I love fucking" and wondered which part of my treatment that was referring to. Patient A replied that it would be breaking boundaries if that were to happen and I said that "talking about it breaks absolutely no boundaries" and said "I love it!". I told her she had not been at all inappropriate yet but I would "let her know if that looked like it was happening (actually I might not)". [Admitted by Registrant]*

16. *Patient A continued to share personal details with me about how she was feeling emotions of shame, despair and hopelessness which was connected to her previous [redacted] We also shared messages of a sexual nature. [Admitted by Registrant]*

17. *On 23 January 2022, I messaged Patient A to say I would be free from 10pm if she wanted to talk because my partner was on a night shift. Patient A referred to the shame and body hate issues and said she needed me to touch her skin now where I could in the next treatment. [Admitted by Registrant]*

18. *On 24 January 2022, I was driving past Patient A's home and offered a visit which she accepted. Before leaving I checked with Patient A that she "wanted to do skin on Thursday".[Admitted by Registrant]*

19. *On 25 January 2022, Patient A confessed to having deep feelings for me. I told her that was a wonderful message to wake up to and that I also appreciated, echoed and reciprocated the feelings. I noted that it was "dangerous territory". I texted Patient A from my personal phone number and suggested that we used WhatsApp. [Admitted by Registrant]*

20. *I later disclosed details about ~~another patient to Patient A and told her we had decided to have sex on a home visit but I was unable to get "hard enough" as I was anxious about her husband coming back home. I also confided that I had been in a long term affair of ten years with someone from the choir group. This was also someone I provided regular treatments and home visits for and was still in a sexual relationship with at the time~~ other sexual encounters I had had, although I was not sufficiently clear that none of these had been with patients; prior to this case I have never had any improper relationships with any patients. [Admitted by Registrant in amended form]*

21. *On 27 January 2022, [Patient A cancelled a scheduled appointment with me due to her feelings so I recorded an entry in her records to say that she had ceased treatments and I thought that would conclude our acquaintance. Later that afternoon however she changed her mind and so I met with her ~~Patient A~~ for an informal meeting at her house. During this visit I gave Patient A a massage with body oil ~~and performed oral sex on her~~. [which developed into our first sexual contact]. ~~After this,~~ I told her ~~that I had made an entry in her records to say that she needed distance from me, due to her feelings~~ [of the final entry I had earlier made in her records]. [Admitted by Registrant in amended form]*

22. *On 28 January 2022, I met with Patient A at her house again and ~~I performed oral sex on her~~ [we had sex together]. [Admitted by Registrant in amended form]*

23. *I went to Patient A's house on ~~around 15-20~~ [several other] occasions. We only ~~had~~ [attempted] penetrative sex on two occasions but were intimate and had oral sex on ~~each visit~~ [most visits]. [Admitted by Registrant in amended form]*

24. I met with Patient A for walks in the area where she lived on four occasions during February and March 2022. [Admitted by Registrant]

25. On 16 March 2022, Patient A asked for some space because she was feeling emotional about everything. I replied that I felt "woebegone and sad" but would leave her in peace if that is what she preferred. [Admitted by Registrant]

26. I messaged Patient A again on 24 March 2022. We met up and we had sex again. [Admitted by Registrant]

27. On 14 April 2022, I messaged Patient A again after hearing that she had been in a car accident. [Admitted by Registrant]

28. [On 17 April Patient A messaged to ask if there was any way she could see me. This was the final time we met, although messages continued amicably between us for a few more days.] [Admitted by Registrant]

35. Patient A was sworn and gave evidence in addition to her written statement and the timeline in the bundle. She spoke of her charity work and a wish to re-assess her life. She was experiencing headaches and health issues and considered seeing a chiropractor or osteopath for help. Having searched online for a practitioner she found the Registrant and saw him for the first time in December 2021. She said that this first treatment session caused a physical and emotional response for which she did not have a coping strategy. She asked to see the Registrant again.

36. From the documentation the Committee was aware that Patient A says that she saw the Registrant on 30 December at which time she says she disclosed her past history. Patient A stated that there was a further appointment in early January during which intimate matters were discussed concerning Patient A's [redacted] She said he suggested an informal meeting, either going for a walk or meeting at his clinic. In the event the meeting took place at the clinic.

37. They discussed relationships and the Registrant suggested she was 'unfulfilled' and that he released tension by way of masturbation. Ms Bruce asked Patient A about whether actually stated this. Patient A said she was "100% sure" that this term was used. She said she thought it was an unusual and personal response but felt the Registrant was trying to help her. She said she had not seen an

osteopath before but was aware of their holistic approach which was different to a doctor. She said "the difference was that the conversation was very personal and it felt like a friendship. Due to his age and the way he responded it felt fatherly as if he provided fatherly support, and she saw him as a source of wisdom". She said there were times when she queried if she was relying on him too much and he said he was 'there for her' and a shoulder to cry on so she did not have to manage alone.

38. Regarding the Registrant attending her home on 24 January 2022 Patient A said her understanding of 'doing skin' was that she might remove her outer clothes but would keep her underwear on. However, the Registrant had explained it would mean her being naked. He said it was normal for patients to be in their underwear or to be naked. He suggested that being naked would work for her as he practised massage, and he thereby reassured her. He described being a masseur before he was an osteopath and recalled walking into a treatment room to see a patient naked on the treatment couch. The training kicked in and she said 'he just normalised it' he was not leering at the patient he was treating.

39. Ms Bruce then took Patient A to her statement and her timeline and asked her about the term "heal". Patient A described the Registrant as saying, "he wanted to heal me and encouraged a sexual relationship with him". She confirmed that he used this specific word not only did he use it but she had felt he was healing her. She went on to describe how due to her [redacted]
She wanted this and she trusted him. She said he had been very clear that he could not offer her a traditional form of relationship but he could facilitate her healing and make her ready for a fulfilling sexual relationship in the future. She said she felt stupid now but he was aware of her past issues and she felt he was experienced and had intimate knowledge of her. If it did not work with him it wouldn't work with anyone.

40. Patient A confirmed they had penetrative sex on two occasions. She said his penis entered her vagina and differentiated this from the many other attempts. They had tried to have sex in early February but it did not work. She described him trying to have sex with her every time they met and using his fingers on her. She said the "first time it worked" was at the clinic. It was toward the end of the day and it was extremely painful. She described the physical effect of this act and the ongoing pain she suffered. She said she stopped him because it was so painful.

41. Ms Bruce took Patient A to another topic and asked her about whether the Registrant had discussed his other relationships. She

confirmed that he had said he had 'flings' with other women giving them something they didn't otherwise get which made him feel good. Regarding whether the Registrant disclosed having sex with other patients, Patient A said that the Registrant spoke of a time when he had gone to another patient's house to have sex with her but he had been unable to do so due to worry that her husband may return. He spoke of a family friend with whom he had had an affair for ten years and who he was treating weekly. He was a 'pseudo-husband' to her. She said she assumed he did not charge that patient. She also referred to him mentioning another relationship with someone in a choir who was a friend of his wife.

42. Patient A said she questioned the Registrant about having sex with others and she gleaned information over time. She said she felt insecure and wanted to be different or special but she didn't entirely trust hm. She asked him and he said that he had met "V" at the clinic and had sex with her at her house. He saw her again some years later but did not find her attractive. He spoke of feelings for other patients such as one who wore a very tight bra and one he had tried to kiss but she had rebuffed him. He said all women were attractive and sexy and spoke of a patient attending late on a Friday who was "attractive but not horny". When asked 'if he would go there' he replied, 'you know me too well' and she said she felt he would pursue an opportunity if it arose.

43. Concerning ending their relationship she said the last session was a naked session at her house. She had cancelled then rebooked. At her house it 'got physical'. She asked about what the clinic would say at her cancelling and rebooking and he said he had written in the notes that she had developed feelings for him so he had noted this and advised that 'we step back' from treatment. He did this in case anyone else complained because any investigation would mean looking at his other notes to see how he had dealt with such a situation in the past. He advised she would get a formal email and a referral but no email came.

44. Patient A said that she had tried to end the relationship but she had struggled to say no and to assert boundaries. She felt anxious, stuck in a rut and powerless. She contacted the GOsC and was signposted to advocacy/victim support at which point she recognised what had occurred was not right. She said she struggled with what had occurred. [redacted] Her life had been lonely and she had put all her efforts into her career. She said this brought success and she did not think of herself as vulnerable but now recognised there had been a huge lack of boundaries. She had trusted the Registrant and felt safe so she opened up to him about her vulnerability. She didn't understand

it but he explained. Following her relationship with the Registrant she said she experienced more migraines and she had to return to using [redacted].

She said she had worked through her vulnerabilities and could now understand what had happened with the Registrant. It had been painful but she did not want to be a victim again.

45. The Committee then asked questions in which Patient A confirmed that the Registrant had said he could not offer a traditional relationship because he had a long-term partner. After the discussion about naked/skin sessions she had booked a counselling session with a therapist. Following this she said she had texted the Registrant to say she wanted a proper relationship. Whilst they were intimate and trusting, he would always leave to go home. She said she 'took what he could offer thinking it would help'. She said this was spoken of many times perhaps even before the naked sessions.

46. Patient A said she had tried to end the relationship and they had discussed this too. She would ask why he couldn't have a relationship with her and he would say she knew why. They had agreed to carry on until one of them became unhappy. Patient A said she had tried to set boundaries but the Registrant had contacted her. She blocked his phone number and he had texted her from another phone to re-establish contact. She said that she had initially had his work phone number but then he provided his personal phone number. The phone was more modern and could better appreciate the content of her messages including emojis and gifs. They then moved to WhatsApp. She was still receiving treatment when he gave her his personal number.

47. Patient A said the Registrant helped in various capacities. He was trying to help her with her physical issues. She had told him of her history of [redacted] at their second meeting and that things may be difficult for her. She said, 'I think he wanted to give me a better, genuine experience of men'. She said her whole world started to revolve around him and seeing him at the end of the day it was the first time she felt someone had cared. At first it was almost parental, not sexual or romantic. She did not trust her instincts and did not know what to do but she felt attracted to him and loved him. She also felt confused. She said the relationship became sexual and she struggled with [redacted] and he said he could get her ready for a real relationship. He said it was her "training ground" and he explained sexual positions and kinky stuff he wanted to do that his partner would not allow. Patient A said the Registrant had said he had feelings for her. She said that the Registrant was the first person

she would text to say how she felt. On receiving work-related news one day which made her happy, she texted him to say "I fucking love Fridays" he had responded "I love fucking…". She said she felt this was the turning point and she didn't know what to reply. She said she thought it could get messy but it might be enjoyable, he had hugged her and she said he had reciprocated her feelings. He had said it was 'dangerous but could be awesome'. She said she felt she could not do without him.

48. Patient A described the relationship between them ending and the Registrant contacting her. She said she had ended it but had been weak and contacted him on some occasions. Other times she had ended it and he contacted her. She said in March and April the majority of the contact had been from him.

49. Regarding sex with other patients Patient A said that V was still a patient. She described his interest in all women, making no distinction between patients and non-patients. She believed he was having affairs with patients and non-patients. She said there were four instances of incidents with other patients. She kept asking him about his other relationships because of her insecurities.

50. In response to questions in re-examination Patient A confirmed there had been one occasion when he had attempted to have penetrative sex with another patient during a home visit but he was unable to do because he was worried that the patient's husband might return home. He was into other forms of sex. He was also having sex with someone from a choir whom he was treating

Submissions of the Parties on the Facts

51. Ms Bruce said that the Committee should take account of all the evidence including the information provided by the Registrant. The burden of proving the case was on the GOsC and the standard of proof required was the civil standard. She said there was not a great deal of difference between the Registrant's case and that of the GOsC but, there were some differences and some allegations about which he had made no comment. She said a principle issue to decide was whether what he had engaged in was grooming. Ms Bruce said Patient A was vulnerable both as a patient [redacted]. She had not experienced an adult sexual relationship so he had offered to 'heal' her by having sex with her. He made her feel special, said he did not want to be controlling like other men and gave her preferential access to himself. She said Patient A just wanted someone to make her feel normal and to protect her. Ms Bruce submitted the Registrant's actions were calculated and predatory.

52. Ms Bruce submitted that the Registrant's behaviour showed a pattern of grooming – seeing Patient A at home was not normal therapeutic behaviour, hugging her, disclosing personal relationships and feelings, and the 'fucking Friday' text. His actions and 'getting her ready for a real relationship by having sex with her' were all calculated with gain in mind for the Registrant. Ms Bruce further suggested that the Registrant's use of language in his admissions demonstrated a mindset of changing the onus, placing the blame on the victim. He suggested he 'indulged her' to have treatment naked or answered her calls when in fact he encouraged her. He used pseudo-caring language and targeted her to make her feel special in their meetings and the treatment.

53. Ms Bruce said that Patient A showed no guile or desire to lie in her description of him discussing masturbation. The Registrant was encouraging and creeping the relationship toward his own sexual gratification. Patient A was clear that the Registrant had used the word 'heal'. She was very clear that the two occasions when he had penetrated her were different to the other sexual contact. Ms Bruce then took the Committee through allegations 5 to 8 observing that the Registrant was blaming Patient A. He had described sexual contact with other patients, he had not referred Patient A to anyone else rather he appeared jealous at the thought. As to Allegation 8, she said the Registrant was covering his tracks. Finally as to Allegation 9, she submitted that all three subsections were clearly made out as was the lack of integrity in Allegation 10.

The Committee's Determination on the Facts

54. The Committee accepted the advice of the Legal Assessor which included that grooming involves a registrant building a relationship, gaining confidence and trust to make an emotional connection with a patient so they be manipulated and abused. It may include seemingly innocent actions or comments if the registrant's purpose is to build trust with a view to abusing a patient. It bore in mind the burden and standard of proof. It took account of the Registrant's hitherto good character and the written comments he had made.

55. The Committee first observed that the Registrant had made a number of factual admissions including that he had engaged in repeated sexual activity with Patient A including at least attempted sexual intercourse and that he had admitted pursuing an inappropriate sexual relationship with Patient A. The Committee also noted the submissions made by Ms Bruce that the Registrant's admissions were less than fulsome and/or attempted to shift the blame toward Patient A. The Committee considered that this point of tension was an important one. It centred around whether the Registrant groomed Patient A in a predatory way as Ms Bruce

submitted (and Allegation 3 alluded to) or, whether it was, as he suggested, a sexual relationship between equals, albeit that it was improper because she was a patient. When looking at the alternatives the Committee bore firmly in mind that there was no burden of proof upon the Registrant.

56. The Committee was assisted in its deliberations by the Registrant's comments and admissions but it noted the comment by Ms Bruce that the Registrant had changed the language he used and placed responsibility for the relationship on Patient A. In addition, the accuracy or otherwise of his assertions and version of events had not been tested in cross-examination.

57. When considering Patient A's evidence, the Committee found her to be straightforward and open in giving evidence and answering questions. She did so in a balanced way and did not demonstrate malice toward the Registrant. Her oral evidence was consistent with the WhatsApp records which she said she had used to assist her recollection and in drafting her initial statement to the GOsC. She said that she thought the Registrant had been trying to help her at first and that she had found benefit from his initial treatment. Regarding some of the details such as whether he had said he had pursued sexual relationships with other patients she did not appear to try and exaggerate, rather she appeared to differentiate between the reported acts and thoughts of the Registrant. Likewise she was careful to explain why she knew certain words had been used and why she knew they had had penetrative sex on at least two occasions. She gave clear evidence of her thoughts and feelings and how she now regarded her relationship with the Registrant.

58. The Committee accepted the suggestion made by Ms Bruce that Patient A did not appear to be acting with 'guile or malice' but appeared to be giving evidence that she believed to be accurate.

59. When looking at Allegation 3 and the issue of grooming the Committee had no doubt that from a very early stage the Registrant was grooming Patient A for his own sexual gratification. This was further illustrated by the content of the explicit WhatsApp messages and his suggestion that 'skin on skin' treatment at her own home would be with her naked. His suggestion that this was quite normal for some patients was done to mollify her concerns and 'normalise' what is not normal professional conduct. The Committee regarded the Registrant as firmly in control by mid-January 2022. His suggestion that he could "heal" her by having sex with her was clearly described by Patient A. The Committee found that such a word was used and the Registrant used this as a pretext to indulge in sexual contact and sexual intercourse with her.

60. During the period January to April 2022 the Registrant sent a large volume of personal and sexualised messages to Patient A and received the same from her. In late January he provided her with his personal phone number to facilitate contact.

61. The out of hours contact, personal phone number, home meetings and reassurance were all elements of the Registrant's conduct which started when he was aware of Patient A's vulnerability and sexual difficulties. This was not a case of a registrant entering an improper relationship with a patient of potentially equal standing or experience. Rather the Committee found that the Registrant saw an opportunity to take advantage of a particularly vulnerable patient. The Committee concluded that save perhaps for the first treatment session and some of the second treatment session, the Registrant's actions were driven by his own sexual needs and he groomed her toward that end.

62. Turning to the specific allegations themselves, the point of dispute in Allegation 3(a) was whether the Registrant initiated the meeting at the clinic on 10 January 2022 or whether he had simply responded to Patient A's request. The Committee found Patient A to be clear and accurate in her recollection. Whilst she was having difficulties and asked to meet with him for reassurance and support, he had suggested and initiated the meeting at the clinic which was not treatment based. The Committee found her version of events to be the more likely. The Committee was of the view that a professional faced with a distressed patient may offer her/him an appointment or signposting. It was very unusual to suggest informally going for a walk or meeting out of hours. The Committee noted that by this time the Registrant was aware of Patient A's traumatic past and considered that he had started on the path of grooming her.

63. The fact of Allegation 3(b) namely the Registrant seeing Patient A at home on several occasions between January and April 2022 was not disputed. The dispute lay in the basis of this admission with the Registrant denying there was any element of grooming. The Committee adopted the reasoning in respect of Allegation 3(a). It concluded that it was very unusual to offer to meet Patient A at her home as he did. This was compounded by the vulnerability of Patient A and the speed with which his offer was made and acted upon by him. He was by now aware of Patient A's traumatic past and he took the opportunity to continue on his path of grooming her.

64. Regarding Allegation 3(c), Patient A was clear and direct regarding this both in her statement and her evidence. She thought he was trying to help her by disclosing personal details of his own coping strategies. The Committee found that he did make reference to masturbation and masturbation as a form of tension/stress-relief is

referenced many times in the WhatsApp exchanges. The Committee also observed that this was only a little over two weeks since they first met each other. This illustrated how quickly matters moved from appropriate therapeutic conversation to sexualised matters. The Registrant did not close-down such inappropriate sexualised exchanges rather the Committee concluded that he maintained them as he continued to groom her.

65. The facts of Allegations 3(d) 3(e) and 3(f) were admitted however the Registrant denied grooming. The conduct of hugging Patient A, discussing the Registrant's previous relationships and his feelings for her were in the Committee's view illustrative of the sexualised nature of contact between the Registrant and Patient A. His conduct encouraged Patient A's perception of intimacy between them as he continued to groom her.

66. The Committee next considered Allegation 3(g) and noted Patient A's clear evidence regarding the suggestion by the Registrant that she should have 'skin on skin' treatment. The Committee accepted this as accurate and it also accepted her description of the Registrant reassuring her that such treatment was normal. The Committee found this conduct to be part of his strategy in grooming her and maintaining an improper sexual relationship between them.

67. Regarding the use of the term "heal" as set out in Allegation 3(h), as set out above the Committee found that this term was used in the circumstances described by Patient A. The Registrant sought to reassure her that he could help her in ways that others could not. The Committee was satisfied that he did so not for therapeutic reasons but for the purpose of continued grooming and the pursuit of the improper sexual relationship.

68. Turning to Allegation 3(i), the messages between the Registrant and Patient A. The Committee noted that the Registrant admitted the fact of the messages and admitted that they were part of the improper sexual relationship between them but he denied that he was grooming Patient A. The Committee had already rejected the notion that this was a relationship between equals. The Committee found that Patient A was a dependent party and the Registrant was in control of the relationship. His use of sexualised and intimate messages between them, the provision of his personal number and a smartphone to improve such communication was from the very early stages all part of his conduct in grooming her to pursue and then maintain a sexual relationship.

69. Turning to Allegation 4(a) and the dispute over whether penetration was attempted or completed during sexual intercourse, Patient A clearly explained why she knew she had had penetrative sex. She

had a physical reaction to the intercourse where she had suffered harm and her description was of two incidents that were quite different to any of the others. The Committee noted that even when giving this account she did not appear to try and make matters worse for the Registrant but said that when he realised he was hurting her he withdrew. The Committee accepted her clear and compelling evidence of this. It concluded that there were at least two occasions when the Registrant went beyond attempting to have sexual intercourse and he actually penetrated Patient A.

70. When looking at Allegation 5, the Committee concluded that Patient A had described times when they had both contacted each other during March and April. She said she had tried to keep the boundaries and had blocked his number on her phone but she had been too weak to maintain this and unblocked his number to contact him again. However, there were also times when he initiated contacted her such as on 24 March and 14 April. The Committee found this allegation proved.

71. Regarding Allegation 6, Patient A spoke of at least two people with whom the Registrant said he had had sex or sexual contact whilst he was still treating them. One was "V" to whose house he had attended in order to have sex but he was unable to do so. Another was a choir member with whom the Registrant was said to have had a sexual relationship whilst he still treated her. Patient A said that the Registrant told her he also found other female patients attractive. Patient A's evidence was clear and given without embroidery. She had questioned him about other patients because she was concerned that he may have been with another patient just before he was due to see her. The Committee accepted her version of events as being more likely than not and found this allegation proved.

72. Regarding Allegations 7, the Registrant admitted that he did not refer Patient A to another professional but, he suggested that he did not do so due to her fear of rejection. He blamed her weakness. Although the WhatsApp messages mention the availability of other professionals, no action was taken by him to effect a referral. The Committee found it more likely that he did not refer her in order to protect his own interests rather than for any caring reason.

73. As to the final factual allegation, Allegation 8, Patient A's evidence was clear that he told her he had put or was putting an entry in her records to suggest he had taken the lead to advise her to step away from the relationship due to her feelings for him. Furthermore that he would refer her on. There is no evidence that he did refer her on and the Committee concluded that the Registrant did make an entry in these terms, it was false in that it did not accurately reflect their

relationship and it was done to cover his own back as their relationship continued.

74. Having considered the factual allegations and concluded that the Registrant groomed Patient A to pursue a sexual relationship and that he did pursue and maintain a sexual relationship from very early on in their contact, the Committee next considered Allegation 9.

75. The Committee concluded that on the evidence before it the matters set out in Allegations 2 – 8 were not clinically justified (Allegation 9a). The Registrant's conduct breached both professional and sexual boundaries (Allegation 9b) and his conduct was sexually motivated (Allegation 9c). In coming to this conclusion the Committee took account of the Registrant's written comments however, it rejected the underlying basis of these that this was a relationship between equal consenting adults. The Committee accepted the assertion made by Ms Bruce on behalf of GOsC that the Registrant's conduct was opportunistic and predatory. He took advantage of Patient A knowing she was vulnerable. There was no clinical justification for his actions. He acted in a predatory manner toward Patient A ignoring his duties as a healthcare professional to respect the professional boundaries between them and he put his desires for sexual gratification before her interests.

76. Finally looking at Allegation 10 the Committee found that the Registrant had put a false entry into Patient A's records and that he told her had done so. He did this to protect himself. Such conduct is not the conduct expected of a professional. The Committee concluded that in so doing the Registrant acted to protect his own interests and did so without integrity.

Resumed hearing 30 March 2023

Conflicts of interest

77. The Chair confirmed that none of the Committee members had a conflict of interest in continuing to hear this case.

Service regarding resumed hearing

78. Mr Bellis took the Committee to documentation regarding the service of notice of the resumed hearing upon the Registrant. This comprised of an email dated 22 December 2022 from the GOsC to the Registrant providing advance notice of the resumed hearing and a reminder email dated 9 March 2023. He submitted that notice of the hearing had been served upon the Registrant in accordance with the Rules.

79. The Committee accepted the advice of the Legal Assessor.

80. The Committee was satisfied that the GOsC had made all reasonable effort to serve notice of the resumed hearing upon the Registrant. The Committee was in any event aware that the Registrant knew of the proceedings having been notified of the original hearing dates in December 2022 and having taken part in the limited fashion set out in the determination above.

Proceeding in absence

81. Mr Bellis applied to proceed in the absence of the Registrant. He submitted that the Committee should exercise its discretion to do so. He submitted that whilst the Committee should exercise caution there was nothing from the Registrant to suggest he wished to attend this hearing and he had absented himself from the proceedings.

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

83. The Committee concluded that it should continue with the hearing in the absence of the Registrant. In coming to that decision the Committee balanced the Registrant's right to attend with the public interest in hearing such matters in a timely fashion. The Registrant had previously indicated that he did not wish to attend the in-person hearing. He had provided comments, admissions and denials in writing and had instructed his solicitor not to engage further with the process. Having been made aware of the change from an in-person hearing to an online hearing he did not resile from his position. The Committee previously concluded that the Registrant had absented himself from the proceedings and adjourning would not alter this.

84. The Committee reconsidered the overarching objective of public protection, the interests of the Registrant and the public interest. The Committee had received no further information from the Registrant and, given his stance to date it concluded that adjourning would not result in his attendance. The Committee took account of the seriousness of the allegations and the public interest in concluding the case in a timely fashion. The Committee determined that it could continue to test the evidence and consider the criteria regarding unprofessional conduct (UPC) despite the Registrant's absence.

Submissions on Unprofessional Conduct (UPC)

85. Mr Bellis submitted that the issue of UPC was a matter for the independent judgement of the Committee taking account of the

caselaw and published guidance. He reminded the Committee of the comments made in the cases of *Spencer v GOsC [2012] EWHC 3147*, and *Shaw v GOsC [2015] EWHC 2721* that UPC is conduct that would attract a degree of moral blameworthiness. He said that UPC was similar to misconduct and referred to *Roylance v GMC (No.2) [2000] 1 AC 311* and the description of this as conduct which fell short of the conduct expected of a professional.

86. In addition Mr Bellis submitted that breaches of published guidance may support a finding of UPC. He took the Committee to the Osteopathic Practice Standards (2019) in force at the time of the events found proved and submitted that there had been breaches of the following standards and guidance

> ***Standard A2***
>
> *You must work in partnership with patients, adapting your communication approach to take into account their particular needs and supporting patients in expressing to you what is important to them.*
>
> *5. The most appropriate treatment for patients will sometimes involve:*
>
> *5.1 referring them to another osteopath or other healthcare professional*
>
> ***Standard A5***
>
> *You must support patients in caring for themselves to improve and maintain their own health and wellbeing*
>
> *1.3 encouraging and supporting patients to seek help from others, including other health professionals or those coordinating their care, if necessary*

Mr Bellis submitted that the Registrant had breached the above standards and guidance by not referring Patient A to another professional.

> ***Standard A6***
>
> *You must respect your patients' dignity and modesty*

Mr Bellis submitted that encouraging a patient to be treated in her own home whilst naked did not respect her dignity or her modesty.

> ***Standard C4***
>
> *You must take action to keep patients from harm*

Mr Bellis submitted that rather than keep Patient A from harm it was the Registrant's actions that caused harm to her.

87. Mr Bellis submitted that the Registrant's multiple breaches of Standard D were the principle concern in this case. He said the following were engaged.

> ***Standard D***
>
> *Osteopaths must act with honesty and integrity and uphold high standards of professional and personal conduct to ensure public trust and confidence in the profession. The standards in this theme deal with such issues and behaviours, including the*

establishment of clear professional boundaries with patients, the duty of candour, and the confidential management of patient information. These contribute to ensuring that trust is established and maintained within therapeutic relationships.

Standard D1

You must act with honesty and integrity in your professional practice

Standard D1.1

[An example of a lack of integrity is] putting your own interest above your duty to your patient

Standard D2

You must establish and maintain clear professional boundaries with patients, and must not abuse your professional standing and the position of trust which you have as an osteopath

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

2 Appropriate professional boundaries are essential for trust and an effective therapeutic relationship between osteopath and patient. Professional boundaries may include physical boundaries, emotional boundaries and sexual boundaries. Failure to establish and maintain sexual boundaries may, in particular, have a profoundly damaging effect on the patient, is likely to bring the profession into disrepute and could lead to your removal from the GOsC Register

4 You should be aware of the risks to patients and to yourself of engaging in or developing social or commercial relationships with patients, and the challenges which this might present for the therapeutic relationship and to the expectations of both patient and professional. You should also be aware of the risk of patients developing an inappropriate dependency upon you, and be able to manage these situations appropriately, seeking advice from a colleague or professional body as necessary.

5 When establishing and maintaining sexual boundaries, you should bear in mind the following:

5.1 words and behaviour, as well as more overt acts, may be sexualised, or regarded as such by the patient. Examples might include:

5.1.1 sharing inappropriate intimate details about yourself

5.1.2 visiting a patient's home without an appointment

5.1.3 making inappropriate sexual remarks to or about patients

5.1.4 unnecessary physical contact.

5.2 you should avoid any behaviour which may be construed by a patient as inviting a sexual relationship or response.

5.3 physical contact for which valid consent has not been given can amount to an assault, leading to criminal liability.
5.4 it is your responsibility not to act on feelings of sexual attraction to or from patients
5.5 if you are sexually attracted to a patient or if a patient displays sexualised behaviour towards you, you should seek advice from, for example, a colleague or professional body on the most appropriate course of action. If you believe that you cannot remain objective and professional or that it is not possible to re-establish a professional relationship, you should refer your patient to another healthcare practitioner. If referring a patient because of your own sexual feelings towards them, you should endeavour to do so in a way that does not make the patient feel that they have done anything wrong.
5.6 you must not take advantage of your professional standing to initiate a personal relationship with a patient. This applies even when the patient is no longer in your care, as any personal relationship may be influenced by the previous professional relationship and an imbalance of power between the parties

Mr Bellis submitted that all of the above standards were breached by the Registrant placing his interests above Patient A's and pursuing a sexual relationship with her to her detriment.

88. Finally Mr Bellis submitted that by reason of his conduct the Registrant had breached Standard 7 which states:

Standard D7

You must uphold the reputation of the profession at all times through your conduct, in and out of the workplace

89. Mr Bellis submitted that the Registrant's conduct breached professional standards in the most serious way and could properly be described as egregious. The Registrant groomed a vulnerable patient in pursuit of an improper sexual relationship doing so in an opportunistic and predatory way and despite her efforts to impose boundaries upon him. His grooming of her started at the lower end of such conduct but quickly escalated to serious and deplorable conduct that amounted to UPC.

The Committee's findings on UPC

90. The Committee went on to determine whether the facts found proved amounted to UPC. It bore in mind the overarching objective of these proceedings, namely the protection of the public. It reminded itself that the three limbs of that objective are protecting and promoting the health, safety and wellbeing of the public; promoting and maintaining public confidence in the profession; and

promoting and maintaining proper standards and conduct for members of the profession.

91. The Committee accepted the advice of the Legal Assessor and had regard to Section 20 of the Act and the well-known cases of *Spencer v GOsC [2012] EWHC 3147*, *Shaw v GOsC [2015] EWHC 2721* and *CHRE v Grant [2011] EWHC 927*. From these it was clear that UPC is conduct which falls short of the standard required of a registered osteopath in a way that is sufficiently serious to attract a degree of moral blameworthiness or opprobrium.

92. The Committee bore in mind that there was no standard of proof to be applied at this stage and that consideration as to whether the threshold for UPC had been reached was a matter for its own independent judgment. In coming to this judgement, the Committee took account of its findings of fact, the written documentation provided by the Registrant and Mr Bellis' submissions. As part of this process the Committee considered that it was important to examine each element of the conduct found proved and then to consider the Registrant's conduct in the round.

93. The Committee accepted the submission made by Mr Bellis that the Registrant's conduct was very serious, it caused harm to Patient A and it breached many of the fundamental principles of professional conduct. Having carefully considered the standards and guidance referred to by Mr Bellis the Committee concluded that all those referred to had been breached.

94. In addition, the Committee took account of the guidance provided by the CHRE (Clear sexual boundaries between healthcare professionals and patients. January 2008) and the following in particular.

> *Healthcare professionals must not display sexualised behaviour towards patients or their carers. This is because the healthcare professional/patient relationship depends on confidence and trust. A healthcare professional who displays sexualised behaviour towards a patient or carer breaches that trust, acts unprofessionally, and may, additionally, be committing a criminal act. The abuse of patients is also highly damaging in terms of confidence in healthcare professionals generally and leads to a diminution in trust between patients, their families and healthcare professionals.*

95. The Committee agreed with Mr Bellis' submissions that the Registrant's breaches of Standard D were at the heart of this case. The Registrant failed to set or maintain professional and sexual boundaries. Indeed he had wilfully breached them. He took advantage of a very vulnerable patient in a predatory fashion. He

groomed Patient A in order to enter into a sexual relationship. He then prolonged that relationship despite her attempts to end it. When responding to GOsC's inquiry concerning the complaint about his action and conduct, the Registrant appeared to suggest that Patient A had initiated and maintained the relationship rather than accepting responsibility for his conduct in grooming Patient A and subsequently embarking upon and maintaining a sexual relationship with her.

96. In all this the Registrant placed his interests above those of Patient A in breach of Standard A and caused harm to her in breach of Standard C. He failed to maintain her modesty or dignity or to refer her to another professional – all breaches of Standard A.

97. The Committee concluded that the Registrant had breached fundamental tenets of the profession as set out in the above standard and in the way indicated in the CHRE guidance. (For the avoidance of doubt this Committee is neither entitled to nor does it make any finding regarding the criminality or otherwise of the Registrant's conduct.)

98. Having considered all the evidence, information and submissions the Committee concluded, for the reasons stated above, that the Registrant's conduct amounted to UPC.

Submissions on Sanction

99. Mr Bellis submitted that sanction was a matter for the Committee's professional judgement taking account of the guidance and the overarching objective of disciplinary proceedings. He said they were not intended to punish but may have a punitive effect. Mr Bellis emphasised the need to consider whether the Registrant had demonstrated insight into or remediation of his failings and whether there was a risk of repetition. In considering these matters Mr Bellis conceded that the Registrant had made some partial admissions and had said he did not wish to attend and cause further upset to Patient A. Conversely, the admissions were partial which necessitated the attendance of Patient A to give evidence and the Registrant still sought to blame Patient A in his written documentation. Mr Bellis reminded the Committee that it had rejected the Registrant's version of events.

100. Mr Bellis pointed to the fact that the Registrant had attended a course on professional boundaries but queried whether there would be any new learning in such a course or whether as an experienced practitioner the Registrant should have already known that what he was doing was wrong.

101. Regarding mitigating factors Mr Bellis said the Registrant had undertaken some CPD training, he had made some limited admissions and had apologised. He said that aggravating factors included the Registrant's abuse of his position of trust, predatory behaviour, sexual misconduct and a lack of integrity.

102. Mr Bellis took the Committee to the Hearings and Sanctions Guidance document provided by the GOsC and emphasised the seriousness with which sexual misconduct is regarded. He invited the Committee to consider where on the spectrum of seriousness this Registrant's conduct ought to be placed. He submitted that because it involved sexual misconduct with a vulnerable patient it may be regarded as the most serious.

The Committee's decision on sanction

103. The Committee determined that the Registrant's name should be removed from the Register. In coming to this conclusion the Committee kept the overarching objective of public protection at the forefront of its mind. It took account of its findings of fact, the written documents provided by the Registrant, Mr Bellis' submissions and the published guidance.

104. The Committee first considered the seriousness with which the Registrant's conduct should be regarded. The Committee found that the Registrant acted in a predatory fashion toward a vulnerable patient and engaged in a sexual relationship with her. This was conduct that could only be regarded as extremely serious.

105. The Committee next considered whether there were any aggravating or mitigating factors. In terms of mitigation, the Committee noted that the Registrant had undertaken some professional training, he had made partial admissions, he had apologised and he was of previous good character. The Committee placed limited weight on these factors. There was little information concerning the training and none concerning any learning or the application of that learning by the Registrant. The limited nature of the Registrant's admissions meant that Patient A still had to attend and give evidence. The Registrant's previous good character and apology, whilst in his favour, had little impact on the seriousness of his transgressions. Regarding aggravating features the Committee considered there were several. The Registrant had abused his position of trust, acted in a predatory fashion toward a vulnerable patient, he had groomed Patient A and entered into a sexual relationship with her. He had failed to protect her when he perceived her vulnerability and his conduct lacked integrity. Subsequently he

had sought to place blame upon Patient A rather than take full responsibility for his conduct.

106. Taking all the above factors into account the Committee concluded that the Registrant's conduct was toward the top of an already serious scale of conduct.

107. The Committee next considered the question of the Registrant's insight and the risk of repetition. The Committee acknowledged his admissions, his apology and the CPD course but concluded that the Registrant had only taken very limited responsibility for his conduct. He had sought to place responsibility on Patient A and he had failed to accept the fundamental transgression of grooming. The Committee heard evidence from which it concluded that the Registrant's attitude regarding sexual relations with a patient was entrenched and unlikely to be remedied. It had received little or no evidence of real insight and no evidence of learning or change in the Registrant's practise to demonstrate that he was capable of remediation or that he had remediated or at least started to remediate. Whilst the Committee noted that a number of references were provided on behalf of the Registrant at the Interim Order Hearing last year, none were provided for this hearing.

108. The Committee thus concluded that the risk of repetition was high and the risk of serious harm to the public was likewise high. In coming to this conclusion the Committee took specific account of the speed with which the Registrant groomed Patient A and entered into a sexual relationship with her as well as the length of that relationship. The Committee concluded he was entirely in control of his actions.

109. Having made the above findings the Committee turned to the available sanctions, considering them in order of seriousness and the impact they may have upon the Registrant. The Committee took particular note of Paragraph 52 of the guidance which states that:
Where sexual misconduct is proven, especially in circumstances where there has been a breach of professional boundaries involving vulnerable patients, including those with emotional problems, physically disabled young people and people with learning disabilities, this should be regarded as very serious by the PCC, where removal from the register is likely to be considered an appropriate and proportionate sanction.

110. The Committee first considered the sanction of Admonishment and concluded that this was insufficient to meet the overarching objective. It would do nothing to protect patients, prevent repetition or support public confidence in the profession or its regulator.

111. The Committee next considered the sanction of Condition of Practise. The Committee again concluded this would not meet the overarching objective for the reasons set out above and, there was no evidence that the Registrant would abide by and/or learn from any conditions placed upon him.

112. Turning to the sanction of Suspension, the Committee considered that whilst this may protect the public temporarily and afford the Registrant the opportunity to remediate, in the absence of any evidence to suggest he was capable of or willing to remediate this sanction also was insufficient to meet the overarching objective.

113. Finally the Committee considered the sanction of Removal from the Register. It concluded that no lesser sanction would meet the gravity of this case, protect the public, uphold standards or maintain public confidence in the profession. In coming to this conclusion the Committee noted and took account of the following factors at Paragraph 78 in the Sanctions Guidance.

Removal is the most severe sanction that can be applied and should be used where there is no other means of protecting the public and/or maintaining confidence in the osteopathic profession. This sanction is likely to be appropriate when the behaviour is fundamentally incompatible with registration with the GOsC as an osteopath and involves any of the following (this list is not exhaustive):

a. A reckless or intentional disregard for the principles set out in the Osteopathic Practice Standards and for patient safety.
b. A serious departure from the relevant professional standards outlined in the Osteopathic Practice Standards which is incompatible with continued registration.
c. The osteopath poses a risk of harm to others (patients or otherwise), either deliberately or through incompetence, particularly where there is a continuing risk to patients.
d. Serious abuse of position/trust (particularly involving vulnerable patients) or serious violation of the rights of patients.
e. ...
f. ...
g. ...
h. ...
i. ...

114. In terms of the above guidance the Committee concluded that the Registrant's conduct was fundamentally incompatible with registration. The Committee found that the following guidance was engaged: The Registrant had intentionally disregarded the principles of the Osteopathic Practice Standards (OPS) (a); he had engaged in a serious departure from the OPS that was incompatible with continued registration (b); he was a serious and continuing risk to patients (c); he had seriously abused his position of trust (d). In

addition he had engaged in what most right thinking members of the public and/or the profession would consider to be sexual misconduct with a patient and he had shown limited insight into his conduct.

115. Having taken all the above matters into account the Committee concluded that the only appropriate and proportionate sanction was that of Removal from the Register.

Submissions on Interim Suspension Order (ISO)

116. Mr Bellis submitted that an interim suspension order (ISO) was necessary to protect the public taking account of the Committee's findings and decision on sanction. The order would protect the public for the period during which the Registrant may appeal

The Committee's decision on ISO

117. The Committee accepted the advice of the Legal Assessor.

118. The Committee determined that an ISO was necessary to protect the public for the period during which the Registrant may appeal against the above decision.

119. The Committee found that the Registrant's conduct was so serious as to be incompatible with continued registration. It concluded that the public could only be protected by removing him from the register. In addition the Committee found that the Registrant presents a continuing risk of serious harm to the public. In light of these findings and to protect the public the Committee determined that an ISO was necessary and proportionate to the gravity of the risk posed by the Registrant.