

GENERAL OSTEOPATHIC COUNCIL
PROFESSIONAL CONDUCT COMMITTEE

Case No: 840/768

Professional Conduct Committee Review Hearing

DECISION

Case of:	Jessica Turner
Committee:	Alastair Cannon (Chair) Lakshmi Ramakrishnan (Lay Member) Barry Kleinberg (Osteopathic Member)
Legal Assessor:	Tim Grey
Representation for Council:	Lewis MacDonald
Representation for Osteopath:	Appeared but was unrepresented
Clerk to the Committee:	Sajinee Padhiar
Date of Hearing:	1 March 2023

Summary of Decision:

No further order made. Suspension order to lapse in April 2023.

Allegation and Facts

The allegation as amended is that Ms Jessica Turner ("the Registrant") has been guilty of unacceptable professional conduct, contrary to section 20(1)(a) of the Osteopaths Act 1993, in that:

1. From 01 September 2013 to 03 August 2014 and/or 01 September 2015 to 29 February 2020 (inclusive of both dates), the Registrant:
 - a. was registered and/or practised as an osteopath;**Admitted and found proved**

b. failed to obtain and maintain insurance cover as required by Rule 3 of the General Osteopathic Council (Professional Indemnity Insurance) Rules Order of Council 1998 ("the 1998 Indemnity Rules"), and/or Rule 3 the General Osteopathic Council (Indemnity Arrangements) Rules Order of Council 2015.
Not admitted in respect of 1 September 2013 to 3 August 2014. Admitted and found proved in respect of the dates 1 September 2015 to 29 February 2020 inclusive. Found proved in respect of 1 September 2013 to 3 August 2014.

2. Between 01 March 2020 and 18 August 2021 the Registrant:
 - a. had the registration status of non-practising at the GOSC;
Admitted and found proved
 - b. practised as an osteopath during all or part of this period;
Admitted and found proved
 - c. failed to obtain and maintain insurance cover as required by Rule 3 of the 1998 Indemnity Rules and/or Rule 3 of the 2015 Indemnity Rules for the period of time she was practising as an osteopath.
Admitted and found proved
3. The Registrant failed to immediately notify the GOSC that her professional indemnity insurance cover lapsed, as required by Rule 8(2) of the 1998 Indemnity Rules and/or Rule 7 of the 2015 Indemnity Rules.
Not admitted. Found proved.
4. During all or part of the periods of 01 September 2013 to 03 August 2014 and/or 01 September 2015 to 29 February 2020 and/or 1 March 2020 to 18 August 2021 (inclusive of both dates), the Registrant-treated patients despite not having appropriate professional indemnity insurance, thereby acting to the potential detriment of such patients and placing them at risk.
Admitted and found proved
5. By reason of the matters alleged at paragraph 1b, and/or 2b and/or 2c, and/or 3 and/or 4 above, the Registrant's conduct:
 - a. was misleading; and/or
 - b. lacked integrity.
Admitted and found proved
6. By reason of the matters alleged in paragraphs 1b. and/or 2b. and/or 2c. above, your conduct was dishonest in that you knew that in holding yourself out to the public as a registered osteopath, you were required to hold professional indemnity insurance.
Not admitted. Not proved

7. By reason of the matters alleged in paragraph 3 above, your conduct was dishonest in that you knew that you were required to notify the GOSC immediately that your indemnity insurance cover had lapsed.

Not admitted. Not proved.

8. By reason of the matters alleged in paragraph 4 above, your conduct was dishonest in that you treated patients knowing you did not have appropriate professional Indemnity insurance in place.

Not admitted. Not proved.

The Committee determined that the appropriate sanction was one of suspension of practice for a period of three months with a review before the end of that period.

Background:

1. The Registrant was first registered with the Council on 6 August 2010. She remained on the Register as a practising osteopath until 1 March 2020 when she requested that her registration status be changed to non-practising. The Registrant was advised her status had been changed back to practising by email dated 5 January 2022.
2. The Registrant emailed the Council on 18 August 2021 and reported that she had been practising without insurance for a period of time. She indicated in correspondence with the Council that she had been treating patients during some of the time that she was without insurance.
3. The Registrant was first insured by the British Osteopathic Association, now called the Institute of Osteopathy (IO), from 21 September 2010 and had continuous cover until her policy expired on 31 August 2013. Despite the IO sending a number of reminders, the Registrant's cover lapsed on 31 August 2014. The Registrant was therefore not insured by IO or apparently by anyone else from 1 September 2013 until 3 August 2014.
4. The Registrant took out a further policy with the IO, which commenced on 4 August 2014 and ran until 31 August 2014, and subsequently a policy which ran from 1 September 2014 until 31 August 2015. On 12 August 2015, the IO sent the Registrant an email advising her that her membership would change to a full member and reminding her to renew her indemnity insurance. In addition a renewal postcard was sent to her in August 2015. A final reminder letter was sent to the Registrant requesting that she confirm her renewal instructions in September 2015. The IO sent the Registrant a further email on

2 October 2015 advising her that as her insurance was not renewed, her direct debit would be reduced.

5. The Registrant's registration status was changed to non-practising on 1 March 2020, following her request. On 15 July 2020, the Registrant emailed the Council to request that her status be changed back to practising. The Council responded by email the following day requesting that she provide a copy of her indemnity insurance and confirm her practice details and the date she planned to return to practice.
6. On or around 6 August 2020, the Registrant contacted the Council via its website stating that she had requested her status be changed back to practising, but that had not yet happened. The Council responded by email dated 10 August 2020 again stating that the Registrant needed to provide a copy of her indemnity insurance before her status could be changed back to practising. According to the Registrant, she had responded to this email providing the information and asking what was needed in relation to insurance but did not receive a reply to that email.
7. The Registrant assumed the information she had provided to the Council was sufficient and so resumed treating patients on around 10 August 2020. The Registrant notified the Council on 18 August 2021 that she had been practising without insurance. The Registrant stated that she was not aware that her status was non-practising until she was required to renew her registration in August 2021.
8. The Registrant subsequently obtained insurance from Balens, which came into effect on 8 November 2021 and initially ran until 7 November 2022. The Council confirmed by email dated 5 January 2022 that the Registrant's status had been updated to practising.
9. Whilst the Committee found the Registrant to have acted with a lack of integrity and that this conduct was misleading, it did not find her conduct to have been dishonest.
10. The Committee concluded that the facts as found proved did amount to Unacceptable Professional conduct (UPC), and imposed an order of suspension for a period of three months. No interim suspension order was imposed.

Decision:

11. This is a first review of the substantive three month Suspension Order imposed on 16 December 2022, which came into effect, following the appeal period, on 14 January 2023.

12. When imposing the order of suspension the Committee made the following recommendations:

The information that may be of assistance to the Reviewing Committee would include:

- evidence of the attempts the Registrant had made to obtain insurance cover for the periods for which she was not insured;
- evidence of her professional development activity during the period of suspension which might include a reflective piece setting out what she has learned from the events of this case, in particular in respect of the impact of her actions on patients, the public and the reputation of osteopaths generally.

Evidence & Submissions of the Parties

13. The Committee heard representations from Mr. MacDonald, on behalf of the GOsC. He outlined the basis for the original factual determination, noting that the Committee had found the Registrant acted in a misleading fashion and lacked integrity. Mr. MacDonald submitted that there were mitigating and aggravating factors present and took the Committee to the recommendations made by the previous Committee. Mr. MacDonald made no positive submission as to what measures, if any, the Committee should take, but reminded it that any measures it might take should be proportionate in all the circumstances.

14. The Registrant provided the Committee with a personal reflective statement in advance of the hearing. She also gave oral evidence before the Committee. She explained that she had regularised her insurance position once she had become aware of the issues, and had maintained that insurance ever since. At the time the issues came to light she had understood she had insurance through IO as she thought her membership fee included insurance, but it did not.

15. The Registrant explained that having discussed this with both IO and Balens, her current insurers, neither were prepared to offer retrospective insurance, with IO refusing to insure her in the future.

16. The Registrant accepted she had not provided documentary evidence of her attempts to get retrospective insurance. She went on to explain that between January 2023 and the date of this review hearing she had made attempts in

phone calls and internet research to obtain such cover. She said she had approached AIG, Directline, Counce O'Hara and the British Insurance Brokers Association (BIBA) but all to no avail.

17. In relation to her reflections she accepted that the reflective piece did not express the full extent of her understanding of the impact of her conduct on her patients, the public and the profession of osteopathy as a whole. Notwithstanding that she had spent the three months and the time since the omissions had come to light, reflecting on the situation which had caused her to put things in place to try and assist in her administrative organisation of her practice.
18. The Registrant further explained her understanding of the effect of her conduct on the reputation of the profession which she said was clearly impacted by her failure to be properly insured, and that she had done all in her power to make amends for that. She also outlined the personal impact it had on her and to an extent the impact it had on her existing patients.
19. The Registrant assured the Committee that she was now very well aware of her administrative failings and had put in place strategies to address those previous failings. In particular she explained she used an app to audit and organise her diary, with reminders prompting her to action specific tasks. She went on to explain that following these proceedings nothing of this sort was every likely to happen again. She further confirmed that her insurance was now paid by direct debit and therefore would not require her to manually renew in the future. The Registrant also explained that she fully understood the need to have run-off cover should she choose to cease practice in the future.
20. The Committee received and accepted the advice of the Legal Assessor. It was advised that it should exercise its independent judgment in relation to the action it should take, and should take the minimum action necessary to ensure protection of the public and the wider public interest. It should balance the interests of the Registrant in resuming unrestricted practice with those of the public interest as a whole.

Determination

21. The Committee first turned to consider the Registrant's reflective statement and oral evidence in the context of the recommendations made by the previous Committee. In doing so it noted it did not have any documentary evidence before it of efforts she had made to obtain retrospective insurance. It further considered her written reflective piece which it noted showed a good deal of attention to how matters had affected her personally, but less about how her conduct had impacted patients, the public and the profession

as whole. Whilst the written piece provided by the Registrant did not acknowledge the risk to patients by a practitioner not being properly insured, in cross examination during her oral evidence she demonstrated some understanding of the potential risk to patients should a claim arise and patients not be protected.

22. The Committee took careful account of the Registrant's oral evidence and was satisfied that she had made efforts to obtain retrospective insurance, albeit she had provided no documentary evidence of the same. The Committee further considered her oral evidence showed a degree of insight into the impact of her conduct on the profession.
23. The Committee therefore concluded that whilst the Registrant did have some insight she had yet to develop full insight. Notwithstanding that fact, the Committee determined that the salutary effect of the proceedings and the suspension she had so far been subject to, as well as the administrative organisation she had put in place, meant that the risk of repetition of similar misconduct in the future was therefore low.
24. The Committee then considered the necessary steps needed to protect the public interest. It noted the insight and remorse the Registrant had shown, and noted she had accepted her failings and understood to some degree how her failings impacted the public interest. The Committee noted that the practical steps she had taken during her period of suspension had been minimal although sufficient, considering that there was not a huge amount the Registrant could have done in practical terms to address her failings, over and above the systems of administration she had put in place. Given the nature of the original findings made against her, the Committee considered that in all the circumstances the wider public interest had been sufficiently served by the imposition of the original three month suspension, such that no further order was necessary to protect the wider public interest.
25. Notwithstanding that the risk of repetition was low, the relatively limited insight the Registrant had shown did give the Committee cause for concern, such that it was only just able to conclude that a further order was unnecessary in the circumstances.
26. The Committee therefore determined that no further order was necessary in the circumstances. It has therefore determined to make no further direction and to allow the order for suspension to lapse in April 2023.

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.

All final decisions of the Professional Conduct Committee are considered by the Professional Standards Authority for Health and Social Care (PSA). Section 29 of the NHS Reform and Healthcare Professions Act 2002 (as amended) provides that the PSA may refer a decision of the Professional Conduct Committee to the High Court if it considers that the decision is not sufficient for the protection of the public.

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.