

**GENERAL OSTEOPATHIC COUNCIL**

**DECISION OF THE PROFESSIONAL CONDUCT COMMITTEE**

In the case of:

**Mr Russell Oakes**  
**Registration Number: 2471**

Wednesday 14<sup>th</sup> and Thursday 15<sup>th</sup> July 2010

**The Tribunal:** Mr David Plank (Chair)  
Ms Jean Johns  
Mr Anthony Kanutin

**Legal Assessor:** Mr Christopher Kinch QC

**For the Council:** Mr Nicholas Leale

**For the Osteopath:** None

**In attendance:** Miss Kellie Green (Clerk)

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**Allegation:**

It is alleged that you, Russell Oakes, are guilty of unacceptable professional conduct, contrary to section 20(1)(a) of the Osteopaths Act 1993, in that you:

1. At the Crown Court at Liverpool, on 16 October 2009, were convicted on indictment on your own admission of:
    - a) 4 counts of obtaining by deception;
    - b) 2 counts of doing acts tending and intended to pervert the course of public justice;
    - c) 1 count of using a false instrument with intent;
    - d) 1 count of forgery;
    - e) 34 counts of fraud.
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**Decision:**

The Committee has decided to proceed in the absence of the Registrant, Mr Oakes.

**Reasons:**

Our reasons are as follows. Since 11 January 2010 the Registrant has been serving a sentence of imprisonment.

So far as these proceedings are concerned the General Osteopathic Council (GOsC) has been in correspondence with Mr Oakes on a regular basis. Mr Oakes has responded indicating that he did not intend to attend the hearing.

In particular on 25 May 2010 he wrote to the GOsC saying "I do not plan to attend the hearing or be otherwise represented at it."

The formal Notice of Hearing was sent to Mr Oakes on 9 June 2010. He responded by letter on 10 June 2010 saying "I am happy for the hearing to go ahead in my absence."

We are satisfied that all reasonable steps have been taken to serve the Notice of Hearing on Mr Oakes and indeed that the Notice has been served.

In the light of the correspondence we have read we have concluded that an adjournment would be unlikely to result in Mr Oakes' attendance. We have considered to what extent Mr Oakes could be disadvantaged if we proceed in his absence. We note that Mr Leale on behalf of the Council wrote to Mr Oakes on the 29 June 2010, among other things inviting him to provide any "evidence or submissions to put before the Committee which may support your case or provide mitigation". There has been, we were told, no response to that letter.

In all the circumstances we are satisfied that Mr Oakes absence is voluntary and intentional and that the case should proceed in his absence.

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**Facts:**

The Committee has carefully considered all the evidence it has received in this case and the submissions made by Mr Leale for the Council. We have also accepted the advice given to us by our legal assessor.

We have reminded ourselves that the burden of proving the facts is on the Council alone and that the standard of proof is the ordinary civil standard, namely the balance of probabilities.

The Committee has found that particulars 1 a, b, c, d and e have been proved with the sole exception that in 1 e we are satisfied only that 33 counts of fraud have been proved.

The Committee's reasons are as follows:-

Included in the bundle before us, which had also been provided to Mr Oakes, were copies of the indictment preferred against him, a Certificate of Conviction signed by an officer of Liverpool Crown Court and dated 2 February 2010, and a transcript of the sentencing remarks of His Honour Judge Swift on 11 January 2010. We accept these documents as genuine records of the proceedings against Mr Oakes. We have noted some disparities between the Certificate and the Judge's sentencing remarks and we have sought to adopt the interpretation most favourable to Mr Oakes. That is why we have found proved only 33 counts of fraud.

**Unacceptable Professional Conduct:**

The Committee next considered whether the facts it has found proved as stated above constituted conduct falling short of the standard required of a registered osteopath (unacceptable professional conduct).

The facts we found proved present a picture of a course of dishonest and deceptive conduct sustained over almost three years. The narrative that follows is drawn essentially from His Honour Judge Swift's sentencing remarks.

On 16 October 2009 at the Crown Court at Liverpool Mr Oakes was convicted on indictment on his own admission of four counts of obtaining by deception; two counts of doing acts tending and intended to pervert the course of public justice; one count of using a false instrument with intent; one count of forgery and 33 counts of fraud. Subsequently on 11 January 2010 he was sentenced to a total of 24 months imprisonment for the offences above, to which he had pleaded guilty.

The offences cover the period July 2005 to March 2008 and the amounts obtained by Mr Oakes as a result of the offences of deception and fraud totalled something over £6,500 although no final figure was ascertained. The Judge described this as a serious case in that it included a deliberate course of conduct over a lengthy period of time and there were numerous breaches of trust placed in Mr Oakes by the victims of his offending.

Mr Oakes was an osteopath for a number of years practising from a practice in Wigan. Sometime prior to 2004 Mr Oakes began providing treatment for horses and whilst doing this he claimed to be a medical practitioner. At a similar time he indicated to other people that he intended to practise as a vet. He forged a degree certificate from a university in Australia in late 2006 and then secured certificate of membership from the Royal College of Veterinary Surgeons in order to pass himself off as qualified to practise as a vet when he was not a vet. He told some people that due to his medical qualifications which did not exist he was able to undertake a fast track course and qualify in veterinary science and others that he was sitting exams and that he had actually qualified.

From that point until early 2008 he passed himself off as a properly qualified veterinary surgeon entitled to treat a number of animals, principally horses. Mr Oakes charged for these services and was paid on the basis that his qualifications were genuine. Mr Oakes misled

people into entrusting the care of their animals. They relied upon him and were misled by his deliberate deception.

Whilst this was ongoing Mr Oakes continued to pursue his claims that he was a doctor. He treated a number of people in such a way that he undertook medical investigative procedures. These included some physical examinations, blood tests and some examinations of an intimate nature. He charged for the medical services that he was purporting to provide and there was an obvious breach of trust of those who were taken in by the fraud. The procedures and more intimate procedures and examinations were the sort of procedures that might never have been the subject of consent were the true facts known and the criminal court Judge stated that the distress of the realisation of what had happened must therefore have affected those concerned.

There was a clear degree of preparation and planning behind a number of these offences illustrated, for example, by the way in which he issued false analysis results for blood samples taken from patients using templates on his computer.

In addition, on two occasions Mr Oakes sought to mislead the police after speeding offences came to light. On one occasion he falsely claimed that he was attending a veterinary emergency. On the other occasion he sent a letter to the police purporting to be from a consultant physician claiming that the woman driving was exceeding the speed limit due to a medical emergency.

The offending in Mr Oakes' case was aggravated by the fact that the deceptions were perpetrated over a lengthy period of time on a number of different people. There was a clear degree of planning and a significant sum of money involved. The people involved entrusted their animals and in some instances themselves to Mr Oakes on the basis that they believed he was professionally qualified.

In light of this it is apparent to us that there have been repeated and serious breaches of the Code of Practice in particular and also in one regard of the Standard of Proficiency as follows:

In respect of the Code of Practice:

Introduction on page 3: The principle that osteopaths must be "honest and trustworthy".

Conclusion on page 22: The principle that "... osteopathic practice is founded on trust".

Clause 1: "Trust is an essential part of the osteopath/patient relationship".

Clause 2: "Patients must be put first".

Clause 9: "In all financial and commercial activities you must be honest and reliable".

Clause 62: "It is fundamental to good osteopathic practice that you treat patients with respect."

Clause 66: Duty to provide patient with “good quality care”.

Clause 84: “Proper personal standards are essential”. Particular reference is made in this clause to “acts of dishonesty” and “conviction in a court of law” “even if not directly connected with your professional practice”.

Clause 87: “You must act within the law at all times”.

Clause 92: “The law prohibits you as an osteopath from doing a number of things, including ... treating animals, except on referral by a registered veterinary surgeon”.

Clause 93: “You may practise as a member of another health care profession only if you are recognised by that profession as competent to do so...”

In respect of the Standard of Proficiency:

H6: Ability to demonstrate “a commitment to maintaining the integrity of the profession and not bringing it into disrepute by claiming qualifications, skills, experience or knowledge not possessed or with no right to use.”

Some of the behaviour we have found proved relates to occasions when Mr Oakes passed himself off as a medical practitioner and/or veterinary surgeon. On each of these occasions the dishonesty, deception, abuse of the patient’s trust and lack of respect for a patient in our judgement makes his behaviour directly relevant to his conduct as an osteopath.

For these reasons we find Mr Russell Oakes guilty of unacceptable professional conduct.

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**Sanction:**

The Committee has decided that Mr Oakes’ name should be removed from the register.

**Reasons:**

The Committee has considered the submissions of Mr Leale on behalf of the GOsC. We have had regard to the GOsC’s Indicative Sanctions Guidance and borne in mind that any sanction must be proportionate to the level of unacceptable professional conduct and that we must seek not to be punitive. We have accepted the advice of our legal assessor. The Committee has borne in mind its duty to protect the public interest and in this regard has reminded itself of the provisions of paragraphs 18 and 19 of the Indicative Sanctions Guidance.

We accept that Mr Oakes has no criminal convictions prior to those of which he was found guilty in October 2009. He appears to have a record of some years of successful and trouble free practice as a registered osteopath. The Crown Court received a number of references as to his good character. The Judge found that there was no evidence of harm to his osteopathic patients and that some had benefited from his legitimate treatment as an osteopath.

On the other hand we note a number of aggravating factors including a lack of insight and understanding of the impact and effects of this behaviour and a failure to recognize the risks of potential harm to members of the public. These aggravating factors also include the systematic, planned, calculated and prolonged serious nature of the dishonesty and deception practised by Mr Oakes. It is undeniable that time and again his conduct involved a breach of the trust placed in him by members of the public who believed Mr Oakes to be a professional man.

The Committee has considered the sanctions available to it in ascending order of seriousness.

#### Admonishment

The breaches of Mr Oakes' professional duty are so great that they cannot be considered to be at the lower end of the spectrum. The only one of the eight factors listed in paragraph 31 of the Indicative Sanctions Guidance to apply to Mr Oakes was that he had a previous good history as an osteopath. Therefore an admonishment is clearly insufficient to protect the public interest.

#### Conditions of Practice Order

The Committee concluded that the breaches of professional duty by Mr Oakes related to fundamental aspects of conduct and behaviour which were not amenable to remedy through the application of a Conditions of Practice Order. We took the view that none of the factors listed in paragraph 33 of the Indicative Sanctions Guidance are apparent. Therefore a Conditions of Practice Order is clearly not appropriate.

#### Suspension Order

We are dealing with a case where there was evidence of repeated adverse behaviour, with a lack of insight and a significant risk of further infraction. However, a suspension would not deal adequately with the identified issues because there is evidence of harmful deep seated professional attitudinal problems, patients interests have been disrespected and subordinated to his own, and we considered it impossible to formulate appropriate action to be undertaken during a period of suspension.

#### Removal

The Committee concluded that Mr Oakes behaviour was fundamentally incompatible with being an osteopath and that there was no other means of protecting the public interest short of removal. In particular we noted –

A serious departure from relevant professional standards as outlined in our reasons above

Serious and repeated abuse of position and trust and violation of the rights of patients

A persistent and serious level of dishonesty which was covered up, and

A persistent lack of insight into the seriousness of his actions and their consequences.

Accordingly, we have concluded that removal is the only appropriate and proportionate sanction.

The Committee has been invited to consider the case for applying an Interim Suspension Order. For all of the reasons above and to protect the public interest during the time allowed for appeal, we order the Registrar to implement such an Order with immediate effect.

Mr Oakes has a right of appeal against this decision in accordance with section 31 of the Osteopaths Act 1993.

He will be notified of this decision in writing in due course.

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

That concludes the hearing.