

GENERAL OSTEOPATHIC COUNCIL
PROFESSIONAL CONDUCT COMMITTEE

Case No: 374/2787

Interim Suspension Order Hearing

DECISION

Case of: Mr Mark Piraino

Committee: Dr Vicki Harris (Chair)
Mr Rodney Varley
Mr Andrew Kerr

Legal Assessor: Mr George Alliott

Representation for Council: Mr Nick Leale

Representation for Osteopath: None

Clerk to the Committee: Miss Priya Popat

Date of Hearing: Thursday 21 April 2011

Note: information in this decision that is private, has been removed from this public notice copy.

Decision:

Decision to proceed in the registrant's absence

The committee has decided to proceed in the registrant's absence.

The reasons for this decision are as follows.

The Committee received evidence that the Notice of this hearing was sent by Recorded Delivery on 14 April 2011 to the Registrant's address on the Register in accordance with Rule 65 of the GOsC (PCC)(Procedure) Rules 2000.

The Committee is satisfied that all reasonable steps have been taken to serve Notice on the Registrant.

The Registrant's Solicitors have written to the GOsC a letter dated 20 April 2011 indicating that the Registrant has decided not to attend the hearing in person, nor be represented. They confirmed that the registrant agreed that the hearing should take place in his absence. They invited the Committee to consider the written submissions made in their letter.

Pursuant to Rule 40 (5) where the Registrant does not appear at an Interim Suspension Order Hearing the provisions of Rule 20 apply and accordingly the Committee has decided that it would be in the interests of justice to proceed in the Registrant's absence.

Decision on an Interim Suspension Order

The Committee had decided to make an Interim Suspension Order and orders the Registrar to suspend the registration of Mark Piraino in accordance with Section 24 of the Osteopaths Act 1993. This suspension order will last until revoked or the PCC reaches a decision in respect of the allegations in question.

The reasons for this are as follows:

The Committee has carefully considered all the documents before it, including the transcript of the hearing of the Investigating Committee held on 28 February 2011 and the letter of 20th April 2011 from the Registrant's solicitors. The Committee has taken into account the submissions from Mr Leale. The Committee has accepted the legal advice tendered by the Legal Assessor.

The Committee has the power to make an Interim Suspension Order if it is satisfied that it is necessary to do so in order to protect members of the public. For an order to be necessary the Committee must be satisfied that there is a real risk of significant harm to the health, safety or wellbeing of a patient, visitor, colleague or other member of the public if the order is not made. The Committee recognises that it must also apply the principle of proportionality balancing the duty to protect the public against potential hardship to the Registrant.

The allegations against the Registrant are very serious. They arise from a complaint being made to the police who have referred the essence of it to the GOsC. They involve alleged criminal sexual conduct in a clinical setting against a 13 year old child. If proved, they would constitute a serious breach of trust. The registrant strenuously denies the allegations.

The Committee considered the nature of the evidence whilst reminding itself that it was not making findings of fact at this stage. The Committee noted that fundamentally this appears to be a case of one person's word against another. It

also noted there was a delay in the complaint being made between August 2009 and January 2011.

The information presented by the Council about the complaint was only in outline. It was not entirely clear when the alleged assault took place.

Further the clinical notes raise questions concerning the giving of pelvic treatment when treating a presenting complaint to the knee. There are also issues regarding consent and chaperoning. The Registrant on legal advice has decided not to inform this Committee as to what is his case or his explanation save for a blanket denial of wrong doing.

[XXX]

The Committee has taken into account the potential adverse consequences to the Registrant's practice, reputation and finances should he be suspended. However, it is noted that at the hearing on 28 February 2011 it was claimed that if he were to be suspended, within a matter of weeks he would be unable to meet his mortgage outgoings on both his personal home and on the business. In the letter from his legal representatives there is no mention of this forecast outcome. The Registrant is of previous good character.

The Committee has concluded that the necessity to protect the public in this case outweighs any hardship caused to the registrant. The Committee has decided that the nature of the allegations are such that it cannot be confident that the conduct would not be repeated if the Registrant is allowed to continue in practice. If such conduct were to be repeated it would be extremely harmful. The Committee has decided that if an order is not made, there is a real risk of significant harm to the health, safety and wellbeing of patients, visitors, colleagues or other members of the public.

[XXX]

There is a right of appeal in accordance with Section 24(6) of the Osteopaths Act 1993.