

GENERAL OSTEOPATHIC COUNCIL
PROFESSIONAL CONDUCT COMMITTEE

Case No: 463/1977

Interim Suspension Order Hearing

DECISION

Case of: Mr Malcolm Mayer

Committee: Ms Richard Davies (Chair)
Mr Rod Varley
Ms Jackie Salter

Legal Assessor: Mr Andrew Davies

Representation for Council: Mr Jamie Hunt

Representation for Osteopath: Mr Jonathan Davies
Ms Susana Spencer

Clerk to the Committee: Ms Vanessa Tailor

Date of Hearing: Friday 16 May 2014

Decision:

The Committee has decided to make an order under section 24 (2) of the Osteopaths Act 1993 (an Interim Suspension Order) for a period of 7 months from today. In the absence of a final decision or the order otherwise being revoked within that period, arrangements will be made, towards the end of the period, for the Professional Conduct Committee to consider whether a further period of suspension should be imposed.

The Committee carefully considered the bundle of documents produced on behalf of the Council. The Committee heard from Mr Hunt on behalf of the Council, and Mr Davies on behalf of Mr Mayer. It accepted the advice of the legal assessor. The Committee has applied the statutory test for making an Interim Suspension Order provided by section 24 (2) of the Act, and has considered and applied the guidance provided in the Council's Guidance on Interim Suspension Orders (July 2012).

Mr Hunt applied for an Interim Suspension Order for a period of 7 months. Mr Davies, on instructions from Mr Mayer, indicated that the application for an Interim Suspension Order was not opposed, but contended that the order should be made for a significantly shorter period.

The allegations in this case are very serious. Patient A states that she was a patient of Mr Mayer for over 3 years, between August 2010 and October 2013. She alleges that, throughout this period, he regularly crossed professional boundaries by means of language, personal comments, and exchanging gifts. Patient A also alleges that Mr Mayer repeatedly transgressed sexual boundaries, including touching her vagina, clitoris, and breasts, by requiring her to remove her bra, and by placing his hand inside her knickers. The Council allege that Mr Mayer's behaviour was sexually motivated, and amounts to a gross breach of his professional position.

Mr Mayer has provided a response in which he denies the allegations of sexual motivation and inappropriate touching. The Committee reminded itself that its role today is not to determine facts; rather, it is carrying out a risk assessment. However, Mr Mayer's attitude to issues of personal modesty, inappropriate touching, and obtaining consent, as demonstrated in that statement, cause the Committee serious concern. Taken together with the nature and seriousness of the allegations, which cover a significant period of time, the Committee is satisfied that there is a real risk of repetition of conduct of the type alleged, should an order not be made today. Repetition of conduct of the nature alleged is likely to result in serious harm to patients. Accordingly, the Committee is satisfied that, should an order not be made, there would be a real risk of significant harm to the health, safety, or well being of patients.

The Committee gave careful consideration to the principle of proportionality. The Committee was told that the application for an order was not opposed, as Mr Mayer was in semi-retirement, and was unable to work for other reasons. The Committee is satisfied that the consequences of an Interim Suspension Order would not be disproportionate to the risk from which it is seeking to protect the public.

The Committee has decided that it should specify the period of the Interim Suspension Order, and that the appropriate and proportionate period is 7 months. The Committee is not in a position today to direct how and when this case should be brought to a conclusion, or how long that process might eventually take. It notes, however, that should the case be concluded within the period specified, the interim suspension order will automatically terminate, unless it is replaced with another order. As has already been indicated, in the absence of a final decision or the order otherwise being revoked within that period, arrangements will be made, towards the end of the period, for the Professional Conduct Committee to consider whether a further period of suspension should be imposed.

There is a right of appeal in accordance with section 24 (6) of the Osteopaths Act 1993. Any such appeal must be brought within the period of 28 days beginning with the date on which the order appealed against is made.