

GENERAL OSTEOPATHIC COUNCIL
INVESTIGATING COMMITTEE

Case No: 703/8950

Interim Suspension Order Hearing

DECISION

Case of:	Mr Christopher Willis
Committee:	Ms Jacqueline Telfer (Lay Chair) Ms Linda Hawkins (Lay) Mr Adam Fiske (Osteopath) Mr Jim Hurden (Osteopath) Ms Tamsyn Webb (Osteopath)
Legal Assessor:	Mr Alastair McFarlane
Representation for Council:	Ms Laura Stephenson
Representation for Registrant:	Registrant was not present or represented
Clerk to the Committee:	Mrs Sheena Wynn
Date of Hearing:	18 December 2018

Hearing

1. This is an application by Ms Stephenson on behalf of the Council for an Interim Suspension Order. Mr Willis did not attend and was not represented.

Service

2. The Committee was satisfied that notice, dated 12 December 2018 had been served in accordance with Rule 22 and Rule 27 of the Rules. The GOsC demonstrated that a notice was sent by recorded postal delivery, to the Registrant's address as it appears on the register, on 12 December 2018, but that no-one was there to receive it and it was thereafter available for collection.

Proceeding in the Absence of the Registrant

3. Ms Stephenson, on behalf of the GOsC, applied for the review hearing to proceed in the absence of the Registrant pursuant to Rule 22(4) of the Rules. She submitted that the Registrant had voluntarily waived his right to attend as he had failed to engage with the GOsC since 14 November 2018 and relied upon the fact that there had been no application for an adjournment by the Registrant, who was aware of the proceedings.
4. The Committee accepted the advice of the Legal Assessor, that the decision to proceed in the absence of the Registrant is a decision to be taken with the utmost care and caution. The Committee had regard to the the criteria set out in *R v Jones [2002] UKHL 5* and the guidance given by Sir Brian Levenson in *General Medical Council v Adeogba [2016] EWCA Civ 162*.
5. The Committee noted that the Registrant had engaged with the Council about his insurance between 6 and 14 November 2018, but there had been no engagement since then. Further, the Committee noted that the notice was sent by email to the Registrant's e-mail address from which he has corresponded on 17 December 2018 and that attempts have been made to telephone him on 17 and 18 December 2018 and each time an answerphone message was left.
6. The Committee was satisfied that the Registrant had voluntarily absented himself from the proceedings. It noted he had been in contact with the GOsC in November 2018 but was satisfied that he was now ignoring correspondence from his regulator. He had not applied for an adjournment, and the Committee considered that he was unlikely to attend if the matter were to be adjourned. The Committee considered the nature of an interim order hearing and the need to determine matters expeditiously and therefore determined that it was in the public interest to proceed in the absence of the Registrant today. The Committee reminded itself not to draw any adverse inference from the Registrant's absence.

Particulars of Concern

7. *The allegation is that Mr Christopher Willis has been guilty of*

Unacceptable Professional Conduct, contrary to Section 20(1)(a) of the Osteopaths Act 1993 in that:

- 1. Since 15 June 2018 Mr Willis:*
 - a. has been registered and practised as an osteopath;*
 - b. has failed to obtain and maintain professional indemnity insurance cover as required by rule 3 of The General Osteopathic Council (Indemnity Arrangements) Rules Order 2015 ("the Order");*
 - c. has known that in holding himself out to the public as a registered osteopath, he is required to hold professional indemnity insurance;*
 - d. has treated patients despite not having appropriate professional indemnity insurance, thereby acting to the potential detriment of such patients and placing them at risk.*
- 2. Mr Willis failed to immediately notify the GOsC that his professional indemnity insurance cover, as required by Rule 7 of the Order.*
- 3. Since 19 September 2018 Mr Willis has failed to provide proof of his current professional indemnity cover to the GOsC, despite this being requested.*
- 4. By reason of the matters alleged at paragraphs 1 and/or 2 and/or 3 above, Mr Willis' conduct:*
 - a. was misleading; and/or*
 - b. demonstrated a lack of integrity; and / or*
 - c. was dishonest.*

Background

8. The Registrant was written to by the GOsC on 19th September 2018 as part of a random selection of the Register for an insurance audit as registrants self-declare that they are covered by professional indemnity insurance. The Registrant was asked to provide a copy of his insurance by 16th October 2018.
9. On 23rd October 2018 the Council sent a chasing letter to the Registrant

with a deadline of 5th November 2018 for him to provide a copy of his insurance. By an email dated 6th November 2018, the Registrant replied to the Council apologising for his late reply stating that he had been away for the past month and had only just seen the Council's letter. He attached his insurance certificate. The Council responded by an email of the same date indicating that his insurance provider, "Simply Business", did not provide medical malpractice cover to cover the risks set out in *The General Osteopathic Council (Indemnity Arrangements) Rules Order of Council 2015*. He was advised to cease practising immediately until he obtained insurance cover, which met the GOsC's requirements.

10. The Registrant responded further by an email dated 7th November 2018 in which he stated that he assumed that Simply Business' policy met the criteria, that he had only been with them for a "few months" and that "in all honesty I haven't been treating anyway". He added that he was "only just getting back into treating as I have another business which has taken me away from it." He indicated that he had called a few of the GOsC's preferred insurers to get his insurance "set up" and "wasn't planning on treating for now anyway so there's no problem." By a further email, dated 7th November 2018, the GOsC advised the Registrant that his registration status was "fully practising" and "therefore you must hold continuous professional indemnity insurance." He was advised that he ought to have been in touch with the GOsC when he went non-practising and that he would need to provide a copy of his previous professional indemnity insurance ending 14th June 2018 and complete and return the Non-Practising form as soon as possible. The Registrant responded by a further email of 7th November 2018 to the GOsC indicating that he had in fact been practising but "doing much less osteopathy over the summer". He assumed that the insurance he obtained provided the appropriate cover and was "awaiting information from balens insurance and will set it up as soon as possible."(sic). The GOsC, by a letter dated 7th November 2018, sent the Registrant a "Non-practising Application Form". However, the Registrant completed the GOsC's "Leaving the Statutory Register of Osteopaths request form" on 14th November 2018 and this was received by the Council on 19th November 2018. The Council responded to the Registrant, by an email dated 19th November 2018, advising him that the Council would not be able to process his resignation request because the insurance issue was still outstanding and he was requested to provide

confirmation of his insurance by the close of business on 20th November 2018. The GOsC wrote to the Registrant by letter dated 27th November 2018 indicating that a formal complaint had now been made by the Registrar and providing him with the Particulars of Concern. He was again asked for a copy of his current professional indemnity insurance as a matter of urgency and no later than 30th November 2018. The GOsC indicated that there has been no further communication from the Registrant.

Decision

11. The Committee has carefully considered the submissions of Ms Stephenson, Counsel for the GOsC. It had regard to the GOsC's "*Guidance for the Fitness to Practise Committees on imposing Interim Suspension Orders (12 November 2015)*". It accepted the advice of the Legal Assessor.
12. The Committee reminded itself that it did not have a fact-finding role but is undertaking a risk assessment and exercising its judgment as to whether it is necessary on the sole statutory ground of public protection to impose an interim suspension order. The Committee reminded itself that it can assess the weight of the information before it but should be extremely cautious about rejecting or discounting evidence on the basis that it is incredible or implausible. The Committee had particular regard to the principle of proportionality, balancing any risks identified to the public with the consequences of a suspension order for the Registrant.
13. The Committee had regard to its Guidance on Interim Suspension Orders and in particular, paragraphs 19 to 23. It reminded itself of the principle of proportionality and the need to balance the duty to ensure public protection and the need for an Order against the consequences for the Registrant. It also had regard to the observations of Sir Stanley Burnton in *Perry v. Nursing and Midwifery Council [2013] 1WLR 3423*.
14. The Committee considered the allegations of practising without insurance to self evidently be serious ones which had the potential to

cause the public real harm in that the absence of appropriate insurance could mean that patients could go uncompensated for any clinical failings. It had no hesitation that were the alleged conduct to be repeated, severe harm would be likely to result.

15. The Committee specifically considered the question of risk of repetition, which was a key issue for the Committee. It identified the risk as being the risk of the Registrant continuing to practise without appropriate insurance. It noted that he had still not provided a compliant certificate of insurance despite repeated requests from the GOsC and that although he had submitted an application to leave the statutory register, he had been informed that this could not be done while these issues were outstanding.
16. The Committee was persuaded that there was a real risk of repetition if an order were not made. There had been no engagement from the Registrant from November 2018 and no reassurance from him before the Committee to indicate that he understood the seriousness of practising without insurance. The Committee considered that the Registrant's apparent lack of realisation as to the seriousness of practising without insurance, suggested by his rather blasé comments about the matter, heightens the risk of repetition. There was no indication that he had rectified the alleged absence of professional indemnity insurance.
17. Balancing all these factors the Committee was persuaded for the reasons set out above that the statutory threshold for the imposition of an interim suspension order was met and that an order was necessary for public protection. The Committee was satisfied that a suspension order for the maximum period of 2 months was proportionate to the level of risk it has identified and the stage of the investigation.

18. Accordingly, for these reasons the Committee is satisfied that an interim order of suspension is necessary in order to protect the public.
19. The Committee would add that it did not consider that an order was necessary on the basis of the dishonesty/lack of integrity allegations.