

GENERAL OSTEOPATHIC COUNCIL
PROFESSIONAL CONDUCT COMMITTEE

Case No: 895/7678

Professional Conduct Committee Hearing

DECISION

Case of: **Poonam Shah**

Committee: Andrew Harvey (Chair)
Sarah Cant (Lay)
Yinka Fabusuyi (Osteopath)

Legal Assessor: Jon Whitfield KC

Representation for Council: Scott Ivill

Representation for Osteopath: Stephen McCaffrey

Clerk to the Committee: Sajinee Padhiar

Date of Hearing: 6 May 2025 (Adjourned)
13, 14, 16, 17 October 2025

Summary of Decision:

Case Number

The Committee found proved
Allegation 1, 2, 3a, 3b, 3c

UPC: Found proved
Sanction: Suspension Order for 9 months duration

Allegation

The allegation is that Poonam Shah (the Registrant) has been guilty of unacceptable professional conduct, contrary to section 20(1)(a) of the Osteopaths Act 1993, in that:

1. On 22 March 2023 at 11.59am the General Osteopathic Council (GOSC) emailed the Registrant's husband (Osteopath A) in relation to concerns raised by Patient A about Osteopath A
Admitted. Found proved
2. During a telephone call with Patient A in the evening of 22 March 2023, the Registrant made comments to Patient A as set out in Schedules 1 to 57, or words to that effect.
Admitted. Found proved
3. The Registrant's conduct as set out in paragraph 2 above taken as a whole:
 - a. was inappropriate
Admitted. Found proved
 - b. lacked integrity
Denied. Found proved
 - c. sought to dissuade and/or intimidate Patient A from taking forward her concerns with Osteopath A with the GOSC
Denied. Found proved

Preliminary Matters:

1. This case was originally listed to be heard in May 2025 [REDACTED] the case was adjourned. The reasons for the adjournment are recorded in a separate determination dated 6 May 2025.

Applications

2. Mr Ivill, Counsel for the GOSC applied to amend the Allegation to correct two errors in the transcription of a telephone conversation between the Registrant and Patient A as set out in Schedules 1 – 57. Mr McCaffrey, Counsel for the Registrant, did not object to the application.
3. Following advice from the Legal assessor the Committee allowed the application. The Committee was of the view that the amendments caused no injustice to either party, they clarified the evidence and corrected two typographical errors.
4. Mr Ivill applied for special measures to assist Patient A to give her best evidence. The application was for Patient A to be able to turn off her camera when she gave evidence. Mr McCaffrey did not object to the application.

5. The Committee accepted the advice of the Legal Adviser.
6. The Committee was of the view that the overarching objective of public protection requires hearings such as this to be conducted in such a way as to assist any witness to provide their best evidence. This approach enables the Committee to make the most appropriate decision regarding the facts and subsequently on the case as a whole.
7. The Committee received evidence from which it was satisfied that Patient A may be discomforted and/or potentially prevented from providing her best evidence if she were required to do so in the absence of the special measure requested. That being the case the Committee determined that the application should be granted.
8. In coming to this conclusion the Committee expressly observes that no inference adverse to the Registrant (or indeed the witness) can or will be drawn from the fact that special measures are in place.

Summary & Opening

9. Mr Ivill read the Allegation into the record.
10. Mr McCaffrey advised that Allegations 1, 2, and 3a were admitted but Allegations 3b and 3c were denied.
11. Mr Ivill referred the Committee to the written documentation and outlined the case in brief. He said that the Registrant was an Osteopath who practised alongside her husband referred to as Osteopath A. Osteopath A saw and treated Patient A on 25 October and 26 November 2022 when she complained of a whiplash injury. The Registrant did not treat Patient A.
12. On 17 March 2023 Patient A complained to GOsC regarding Osteopath A's treatment of her. Following this on 22 March the Registrant contacted Patient A and then spoke to her in a lengthy telephone conversation.
13. Mr Ivill asserted that during this conversation the Registrant sought to intimidate Patient A and persuade her to drop the complaint to GOsC. The Registrant did so by making comments such as it was a serious matter to make a complaint and that Patient A had no prospects of succeeding. The Registrant spoke of getting lawyers involved, the case would be lengthy and cause stress to Patient A and she referenced Patient A's personal circumstances. Mr Ivill asserted that through these and all the other comments set out in the transcript the Registrant made a conscious effort to intimidate Patient A to persuade her not to continue with her allegation against Osteopath A.
14. Regarding other comments in the transcript relied on by Mr Ivill, these included the Registrant saying they could battle back and forth with lawyers but she was

confident the case would go nowhere, they had a very good lawyer who they had spoken to, Patient A did not need the extra stress, she was confident they would win, Patient A had signed a consent form accepting the treatment complained of, she had waited too long to complain, she implied that [REDACTED], GOsC would not do anything about her complaint, she could reverse any pain Patient A felt and she offered her free treatment.

15. When formally answering the Allegations Mr McCaffrey made it clear that the Registrant accepted the phone call and some of the comments made were inappropriate (Allegation 3a) but she denied it demonstrated a lack of integrity (Allegation 3b) or that she sought to influence Patient A regarding her complaint about Osteopath A (Allegation 3c). He said it was the Registrant's case that she feared Patient A would bring a civil claim against Osteopath A and/or the practice and that her intention was to prevent or minimise this. She did not seek to stop the complaint before the GOsC.

Evidence

Evidence for the GOsC

16. Patient A was shown her witness statement and exhibits. She confirmed that the contents of her statement were true to the best of her knowledge and belief. In answer to Mr Ivill, Patient A said that she did not tell the Registrant or Osteopath A that she intended to bring a civil claim against them.
17. Mr McCaffrey then asked questions in cross-examination. He commenced by asking Patient A about her relationship with the Registrant. Patient A said there was no relationship and that she had never met the Registrant or been treated by her. She explained that she followed Osteopath A on Instagram and thereafter she followed the Registrant or the Registrant followed her. Patient A said that she had posted about a medical condition and the Registrant messaged her on Instagram. They also shared their views on childcare and the educational needs of children. She could not recall if they had shared views about arts and crafts. Patient A did not accept the suggestion that there had been many Instagram conversations between herself and the Registrant. She said that she did not remember a lot of conversations about private issues but that people talk on Instagram all the time and she did not recall such detail.
18. Patient A confirmed that she sought treatment from Osteopath A due to a whiplash injury to her neck and upper back. She rejected the suggestion that she was making a compensation claim and said there was never any compensation because the vehicles did not make contact. She agreed that she had spoken to an insurance company for advice but they said there was no claim. She said she had been in a cab and the driver hit the brakes very hard.
19. Patient A agreed that her communication with the practice was about the after effects she felt following treatment by Osteopath A. She had experienced pain

and it had worsened. She said that she had contacted Osteopath A but he was on holiday at the time and she spoke to someone else at the clinic called W. She did not recall if Osteopath A invited her to return to the clinic but agreed she did not go back. It was put to her that she did not complain to the practice or Osteopath A and she said she was not familiar with the procedures. She said that a friend told her about GOsC so she contacted them. She said that anytime she called the practice she was met with the response that everyone was busy and they would call later. It was put to her that she had not said this before and she said she had just remembered it. She said she was sure that she had made contact with Osteopath A and with the clinic and she made the complaint against Osteopath A after this. Her subsequent complaint about the Registrant was made on 4 May 2023.

20. Patient A said that she followed Osteopath A's Instagram account which was the clinic account but she could not remember how long she had followed it for. She could not recall how long she had interacted with the Registrant on Instagram nor what was said between them. Mr McCaffrey suggested that she was downplaying her contact with the Registrant to which Patient A said they were not friends, she had never met the Registrant all that had happened was she had posted information on Instagram and the Registrant had 'liked' things. She repeated that there was no personal relationship between them.
21. When asked about the term 'GOsC' Patient A said that is what GOsC called themselves when she phoned them. Patient A was shown an e-mail she sent to GOsC after the Registrant had first called her. [*The lengthy conversation complained of occurred in a second call.*] She said her complaint against Osteopath A had nothing to do with the Registrant but she was involving herself. Patient A said that she was warning GOsC that she had received a call from the Registrant and she did not feel comfortable about this. She went on to explain that she received one call from the Registrant but did not answer. The Registrant then messaged her on Instagram and then called again. This time she answered the call and said she was ready to record it because she did not know what the Registrant was going to say.
22. Patient A said the Registrant was going on and on saying she would try to help and was explaining this as an Osteopath but she felt intimidated. She listened to what the Registrant said even though she did not want to be on the call. She said she would prefer to have communication in writing.
23. Patient A said she felt the Registrant was trying to get her to drop her complaint with GOsC regarding her husband. She believed that was all the Registrant cared or worried about. She said the Registrant was persistent in calling twice, messaging on Instagram and then Patient A called the Registrant. Patient A agreed with the suggestion that the Registrant had offered to treat her for free but said that she did not believe what she was saying. She agreed she could not get inside the mind of the Registrant and could not say what her motive was but added 'let's be realistic it is her business, it was disgusting and

unacceptable.' Patient A confirmed that someone from GOsC typed up what she said and put that into her statement.

24. [REDACTED] and accusing her of lying. She said it was painful to talk. She felt that the Registrant was saying she was making a complaint to make money. She said she did not mention any financial complaint and did not even ask for her money back. She said the Registrant judged her as a single parent seeking free treatment. Patient A confirmed that she rejected offers of free treatment and said, 'why would she go back to the clinic that had a damaged her.' She said she had no interest in the offers being made however the Registrant was very persuasive so she said she would think about the Registrant's offer but she only said this because she felt intimidated. Patient A confirmed that the complaint against Osteopath A was closed with no case to answer.
25. In re-examination Mr Ivill asked Patient A why she had asked the Registrant to e-mail her in future. She said she felt the Registrant really wanted the conversation with her and she felt harassed and pushed into having the conversation. She said she felt intimidated, belittled and upset with the comments about being a single parent and other personal things. She described the Registrant's comments as inappropriate, unacceptable and disgusting. She said she was very upset.
26. In response to questions from the Committee Patient A described the Registrant as 'going on' and being very persuasive. She said the Registrant asked her for a time frame to respond and was very insistent. She said she felt intimidated. When asked why she recorded the call, Patient A said it was just herself and the Registrant and from past experience of phone conversations there was no evidence. She said that she always wondered 'why did the Registrant get involved?' since she was not treated by her and she wanted to have something recorded because she did not have anything in writing. She said it was like company phone calls which are recorded and it was the right thing to do at the time. She said at no point did she start a compensation claim nor did she mention or hint at this in any form of communication. She confirmed that the GOsC did not ask her to record the phone call.

Evidence for the Registrant

27. The Registrant took the oath and confirmed that her statement was correct to the best of her knowledge and belief. She briefly outlined the contents of her statement and confirmed that she admitted Allegations 1 and 2. Regarding Allegation 3a she accepted that the phone call was inappropriate and said that in hindsight she should have stuck to a short communication. She said some of her language was inappropriate. Regarding allegations 3b and 3c she said that her call was not intended to dissuade Patient A from taking her complaint forward with GOsC. She said that case was already on in process. She repeated that her intention had nothing to do with GOsC but was to resolve matters without going through further civil litigation or proceedings. She confirmed that

Patient A did not mention taking them to court or seeking compensation in the phone call but she nonetheless thought this was her motivation since she had mentioned seeking compensation when she had initially presented with a whiplash injury. The Registrant said that as the call progressed her intention was to see where it was going. She said she offered to rectify Patient A's issues because of her obligation of care and, as the manager of the practice, she felt obliged to try and rectify the situation but Patient A was not interested or receptive. She said that her instinct was that Patient A was not interested in treatment but in litigation. She said 'the GOsC boat had sailed' and again said that she had no intention of causing conflict with that. She confirmed that Osteopath A was already in discussion with his lawyers and that a statement was being drawn up. She said she had no intention of stopping that process, it was with the GOsC and was already a couple of months on.

28. When asked why the phone call went from helping to being inappropriate the Registrant said it was the frustration that she was not getting any answer from Patient A despite her calling out of hours when she had her own child present and offering different solutions. She said that she offered a different osteopathic approach to Patient A but it was rejected. She said that she should have stopped very early on in the call and she completely held responsibility for not doing so.
29. Mr Ivill then asked questions in cross-examination taking the Registrants to various areas within the transcript. These are referred to by page in part A of the bundle
30. Page A55 of the transcript includes the comment '*when you complain about something like that to someone that's, you know, a governing body, that's quite serious, [...] and that's basically playing with someone's job.*' The Registrant agreed that she was saying a complaint to a regulator was serious and that it was playing with someone's job. However she rejected the suggestion that it could mean the loss of Osteopath A's job since she had full confidence in him as a competent practitioner. She said that if one listened to the audio her intentions were made clear. She said that Patient A did not have a conversation with anyone before going to GOsC except when they were on holiday. She said this was where she was coming from, it was their responsibility and their jobs were at stake. She said it was natural that she was concerned about income to the family but she was concerned about Osteopath A as an osteopath not as her husband.
31. The Registrant accepted that if a patient had concerns they had every right to report them to GOsC and it would be inappropriate to try and persuade them not to pursue a complaint. She denied she was doing this and said the complaint had already been made, nothing she could do would discourage this and it would continue until its conclusion.
32. At page A56 Patient A says '*in future if you wanna talk to me then you need to email me because I don't wish to discuss anything anymore over the telephone.*

You can do it all via email. Mr Ivill pointed this out to the Registrant and asked her why she did not respect this and end the call. The Registrant said in retrospect she should have done so and was accountable for that. She said at the time she wanted to find a resolution and wanted to see what she could do to help Patient A. She agreed she could have emailed her but said that offering other treatment was better done in person. The Registrant rejected the suggestion that she was trying to dissuade Patient A from complaining to GOsC. When asked why she said Patient A had consented to treatment the Registrant said from the notes Patient A was provided with a full list of potential side effects and consented to the treatment. She rejected the suggestion that what she was actually saying was there was no legitimate basis for the complaint. She reiterated that what she was saying was there had been no written correspondence prior to this. The first they heard about it was three months after the treatment. Mr Ivill suggested that the Registrant could not say whether consent was properly obtained and she agreed she was not present during Patient A's treatment. However, she said that she had seen Patient A's clinical notes.

33. The Registrant agreed that Patient A's complaint was founded in her belief that treatment had caused her harm. She said she was not trying to say the treatment had not harmed her, rather she was saying that whatever treatment she had did not cause the reaction she now complained of. She repeated that the reaction complained of 2-3 months after the treatment did not correlate with the treatment that was undertaken. She denied that she was seeking to dissuade Patient A from complaining.
34. At page A59 the Registrant says *'what you're experiencing now is not related to the blading and we can get lawyers involved. . . We can get lawyers involved, we can make this into a legal case and battle back and forth, back and forth and I can tell you 100 per cent with confidence that this case will not go any further because there's no evidence to say that what you're explaining is related to the blading, okay?'* Mr Ivill suggested that the only case going on at the time of the phone call was the case with GOsC and the Registrant was saying that this would go no further. She again denied this and said her concerns was that Patient A was not agreeing to anything that would help her and so she (the Registrant) was now thinking of civil proceedings. She said the GOsC case was going on but the indications she was receiving was that there would be a civil claim albeit she agreed there was not one at the present time. She said that Osteopath A was in discussion with his barrister who had said the case against him would go no further and that is where she was coming from. She agreed that the comment about 'getting lawyers involved' could be perceived as intimidating but said that was not her intention. She said this was Patient A's perception and not what she intended to say. She denied trying to bend Patient A's resolve and said, 'no absolutely not'. She said that 'the GOsC case had sailed' and she could not try to dissuade Patient A from that since she did not believe there was anything she could do.

35. At page A63 the Registrant says *'what you're experiencing now is not related to the blading and we can get lawyers involved. (Speaks to child). We can get lawyers involved, we can make this into a legal case and battle back and forth, back and forth and I can tell you 100 per cent with confidence that this case will not go any further because there's no evidence to say that what you're explaining is related to the blading, okay?'* When asked about this the Registrant agreed that she was telling Patient A that the concerns she raised would not succeed because Osteopath A had a good lawyer. When asked why she said this she said that her husband and the barrister had initiated the draft statement and what she said was true. Again she said she was not trying to intimidate Patient A and this was reflected in the recording.
36. It was put to her that she was saying Patient A would be stressed by proceedings and she replied that she had offered to assist multiple times but Patient A had rejected this. She described herself as a mother and a caring osteopath and no one needed this type of stress in their lives. She accepted that she should not have said Patient A would be stressed if she continued to make a complaint but she denied that her intention was to intimidate her. She said this was not in her. She said that she had referred to being a mother and to children because they had exchanged Instagram messages regarding children and their early years education. She said she was coming from a place of empathy and she was not trying to dissuade her from making a complaint to GOsC.
37. At page A67 the Registrant states *'We feel confident, 100 per cent confident. Like I said, we've got a very good solicitor who deals with the highest medical claims, okay. This for him is a bit like, well, this is a bit of a joke really because she consented and this treatment has not 100 per cent created your (symptoms?) okay.'* Mr Ivill suggested that the Registrant told Patient A that her claim was a joke and had no merit and she was ridiculing it. The Registrant said no absolutely not. She said that she had used the wrong terminology and she regretted the phrase but she did not have concerns about the claim because she had full confidence in Osteopath A having received advice from a barrister.
38. When asked why she mentioned consent the Registrant said she was not present but she knew what protocol was followed with every patient. It was put to her that she's that she had said Patient A's claim was not true and she said she knew that Osteopath A would not proceed without consent. She said that her emotions were heightened and that she now regretted saying this because she accepted that signing a consent form does not always mean that consent was actually obtained. However she reiterated that she had full confidence in Osteopath A and she did not believe Patient A. She said that what she had meant to say was that she had full confidence in Osteopath A's abilities and he did not cause the symptoms complained of. She explained that she had said things would go on for a long time because she was coming from a place of empathy and this would be clear if one listened to the recording. She said that stress exacerbated symptoms generally not just Patient A's symptoms, she

was reflecting medical advice and providing this to Patient A. She again denied the intention suggested to her but accepted that what she said was inappropriate. She said this was now a long time into the call, there was frustration on both sides and emotions get the better of everyone eventually. She reiterated that she accepted what she had said was inappropriate, had reflected upon it and had moved on from this which was 2½ years ago.

39. At page A69 the Registrant says *'so in terms of evidence, you know, there's nothing really for this case and you're not going to end up anywhere, right. Taking it to a very senior level without coming to -- maybe even me.'* A little further on she says *'the fact that you've left it three months does not work in your favour and that's exactly what our lawyer said, this will not go anywhere at all. In fact it's a waste of GOSc's time to be honest, they've got other things on their plate. So I'm saying to you let me help you rectify this and let's basically try and get you back to normal'.*
40. Regarding the above, the Registrant conceded that she made reference to the complaint and to GOSc but said what she was thinking about was civil litigation. She denied that her comment about 'going senior' was a reference to GOSc albeit she conceded that she was talking about GOSc at the time. Mr Ivill referred to the Registrant's comment to Patient A that she had left it for three months and she was wasting GOSc's time. The Registrant said that they had received no communication in three months and Patient A had gone straight to GOSc. She then said that she had full confidence in Osteopath A's case and she said she knew that boat had sailed. Mr Ivill said that the Registrant saying the complaint was a waste of GOSc's time was inappropriate and it was put to her that she was saying the case had no merit. The Registrant said she did not remember what she meant and that she may have said these things through heightened emotion. She conceded that to try and stop a patient from making a complaint was inappropriate but said that was not what she meant to do. In addition she said she did not know what she meant when she said that they would get in contact with Patient A's GP or make matters quite complicated.
41. Mr Ivill again put that she was attempting to dissuade Patient A from making her complaint but the Registrant rejected this and said that Osteopath A had already made his statement in response with his barrister so she could not dissuade Patient A. [REDACTED], the Registrant said that she was referring to her concerns about Patient A. She did not recall now what she meant by the term 'making it complicated'.
42. At page A70 (and immediately before this) the Registrant refers to anxiety and hypochondria. [REDACTED] and said that by this time she had made several attempts to rectify the situation and she was frustrated at Patient A's response. She denied that her reference to 'jeopardising a job' was a reference to Osteopath A's position, that she had full confidence in him and indeed the case was eventually dropped. The Registrant said that she thought Patient A's intentions were clear from the fact that she went straight to GOSc without contacting them and then making a

recording of the phone call. She said it was unfair that Patient A had not contacted them first and questioned why she did not do so. She suggested that Patient A had a duty of care to contact the practice first. When asked who she meant by the figure in authority the Registrant said this was both GOsC and civil litigation. She again denied that she thought Osteopath A was in jeopardy but said that any such complaint jeopardises someone's career and if Patient A's intentions had been pure why did she go to the authority first. It was put to the Registrant that she was telling Patient A her complaint was a waste of time but she denied this and said that she could do nothing about it and she offered complimentary treatment but this was rejected. She said that she would have reached out in respect of any such complaint to try and rectify the situation regardless of who the complaint was about.

43. At A73 the Registrant says *'the frustration on our part is I'll tell you 100 per cent (inaudible) this isn't going to get anywhere. The fact that you -- I mean our professional body is not going to do anything and if you're asked -- Like I don't know what you want as an outcome.'* The Registrant maintained that she thought this was all about civil litigation albeit that she was referencing GOsC.
44. When asked why she did not make specific reference to a civil claim getting nowhere, the Registrant said she did not know. She maintained this was not about GOsC and she knew the case would go further. The Registrant agreed that it was inappropriate for her to say what GOsC would or wouldn't do but she said her integrity was to offer help and time but this was rejected.
45. The Registrant conceded that she should have ended the call and to continue it was inappropriate on her part. However she maintained that she was trying to help resolve the situation and Patient A would not help herself. She said it was clear that Patient A did not want a resolution and she was firmly of the view that there was nothing she could do that would deter her. She suggested that the Committee would hear this from the tone of her voice when she was offering help as a mother and an osteopath to a patient. She said this was her motivation all along.
46. At A78 the Registrant says *'So, yeah, we have full access to that. If we wanted to we can get in contact with your GP.'* Mr Ivill suggested that the Registrant was saying they would have full access to Patient A's medical records and this was not true. The Registrant said Patient A had complained of not being able to speak or swallow and yet she had left messages on their answering service. She said Patient A had been disingenuous. She agreed that she did not have full access to medical records but said that Patient A was being dishonest and they could access medical records if they needed to do so. She agreed that it was not correct to say this at the time but they could apply to get medical records if needed. She denied that this was an attempt to intimidate Patient A.
47. When asked why she said that she would contact the GP, the Registrant said that Patient A had said she had experienced other health issues and they would need the GP records to see the timeline of these events. She conceded that she

may ask for the records but she may not get them. She denied this was an example of her trying to intimidate Patient A.

48. At page A81 the Registrant says *'and we don't want to make your life difficult and I don't want you to make our lives difficult by extending this. And if it's going to GOSC, right, that's very serious and I'm not here because of - I'm not calling you because of that, but I want you to know the consequences and to go that senior without discussing this with myself first.'* She denied that her reference to GOSC was about the complaint before the regulator. [REDACTED]

[REDACTED]. She said she was seeking to offer a solution despite the case before GOSC. She denied that her reference to making lives difficult and extending the process was a reference to the complaint to GOSC. She said that the complaint was already being dealt with and she was not worried about GOSC. She repeated that Osteopath A had already drafted a statement and his barrister had advised upon the merits of the case. She said that she was concerned about the ill motive of Patient A. She said it was clear that Patient A was going to go beyond GOSC and she did not need the stress. She said that she had tried to help Patient A.

49. When asked why she referred to GOSC the Registrant said it was because she could reference this but she was not going to set out her fears. She said she could see where this was all going to end up and Patient A was not genuine. She said that Patient A was not listening and that going straight to GOSC and recording a conversation was not normal behaviour for a patient, it was disingenuous. Mr Ivill took the Registrant through the probable process of a complaint but the Registrant said that there was nothing she could do to stop that complaint from going forward. She confirmed that even today once a complaint was made nothing she could do could stop that complaint. She denied that she had attempted to do so.

50. Following the above Mr Ivill took the Registrant to pages A96 – 101 which are representations made on behalf of Osteopath A to the effect that his case should be discontinued. Mr Ivill pointed this out to the Registrant and implied she knew of the fact that representations could be made. The Registrant said she did not have an answer to that point.

51. Mr Ivill pointed out that in her initial response to the allegations. the Registrant had denied that her conduct was inappropriate. She responded by saying that she now conceded this point because she had grown as a person and as a practitioner in the intervening 2½ years. She said that some of the things she said were inappropriate and she regretted them but there were other things where she was clearly trying to help. She said that her intention was true, why else would she offer free treatment.

52. At page A84 the Registrant says *'you're going to be left feeling the way you are for a long time because no one's going to be able to help your symptoms and you're gonna make yourself even more stressed by it because we can take this*

further, legally we can and we have the funds to do so, but I don't want you to go through that stress. And I can tell you one thing, stress exacerbates pain.' Subsequently she says *'I don't know how long you have or how long we've got but we've already spoken to a legal person, you know, and we have to take action straightaway and close this once and for all. But that also means that you won't get any treatment so let me know. It's Wednesday today; if you can let me know by Friday that will be really good and we can start kind of getting you in for a treatment...'*

53. When asked why she referred to Patient A feeling stress and pain the Registrant agreed that she was saying that she would feel bad for quite some time unless she received treatment. She said that she had offered help in resolution but it had been refused. She said that Patient A had shown an ill intent and the call confirmed that. She did not want resolution rather the complaint was based on something else or dishonesty not the treatment she had received at the clinic. The Registrant denied that what she was saying was things will get worse because they had the money to take it further. She said the case was already before the GOsC and they were already dealing with that; she was not attempting to dissuade her.
54. When asked what she meant by taking action and closing things once and for all the Registrant said she was referring to how long the process might take in terms of the complimentary treatment that she was offering. She said she wanted to find out how much time she should allocate in her diary to treat Patient A. She agreed the reference to process was to making a first draft or a second draft response to the allegations. [REDACTED] and she did not need this stress at a vulnerable time in her own life. She denied that what she was saying was closing the GOsC complaint since that was already between GOsC and Osteopath A. She said it was nothing to do with her and she was unaware of the process that that would be involved. She agreed that making a response was a reference to the GOsC case but said she was looking at the bigger picture of how long it would take to treat Patient A.
55. At page A85 the Registrant states *'I mean they've basically said that we have to just basically fill out a few questions and then that can take another six to eight weeks and then -- because they're really slow. I'm gonna be honest with you, they're very slow, they've got a backlog since Covid so for them this isn't priority. So, yeah, it's just, you know, it can go on forever, it can on till summer and we won't even hear anything from them and then they'll decide to do something, whether it's write you a letter, write us a letter, whatever it is.'*
56. The Registrant denied the above was a reference to the GOsC case and said that she assumed matters would take 6 to 8 weeks. She said that Patient A had hidden motives. She said that while she referred to GOsC it went beyond GOsC and went to the issue of a court case. She said this was Patient A's intention all along. She denied having any concerns about the issue before GOsC and repeated that she had full confidence in Osteopath A. It was suggested that

the Registrant was saying the GOsC would give Patient A's case minimal priority however she denied this and said that it was clear if one listened to the recording. She said if it was a minimal concern they would not have drafted a statement to protect themselves. She said they had already taken advice the case had already started and nothing could be done to stop it.

57. The Registrant was asked about a comment at page F8 in her own bundle where she says, *'I had no intention to dissuade her even though the terminology used may question that'*. She said that she was attempting to reflect the fact that some of what she said was inappropriate and that whilst it may look like she was attempting to dissuade Patient A from making a complaint this was not what she intended. The Registrant conceded that it was a long telephone conversation and she had childcare duties. She said that this showed how diligent and careful she was. She rejected the suggestion that she made contact because what she wanted to do was get rid of Patient A's complaint. She said that she was committed despite her personal circumstances. Mr Ivill suggested that she was dressing this all up and she was there to help herself. The Registrant denied this and said that she did not have to offer help but she did so as part of her obligation and duty of care.
58. In re-examination the Registrant said the case against Osteopath A was stopped following advice from an expert panel before the GOsC. She said that no one could stop the case and even if Patient A did not want to go ahead she cannot close the case down. She explained the term that ship has sailed has meaning the complaint had already taken place and the paperwork had been drafted. She said she did not think there was anything she could do to close that case down. She reiterated that although the term GOsC appeared in the transcript her mind was on what was coming next. Regarding the comment about going to GOsC playing with someone's job, she said that what she was worried about was Patient A's motive. She said that she wished Patient A had come to them first when they returned from holiday but she did not make any further contact with them and went straight to GOsC. She denied there were any coded messages to say drop the complaint.
59. At page A63 in the transcript the Registrant said that the reference to going back and forth and not succeeding further was a reference to civil litigation and taking the case further than the GOsC. At page A67 she said the reference to medical claims was a reference to a compensation claim because of whiplash. She said that she was talking about Patient A taking the practice to court or civil proceedings and taking it further. At page A73 the Registrant agreed that the reference to a professional body was GOsC but her comments about the outcome was referencing whether Patient A wanted monetary compensation or a payout. At page A69 the Registrant repeated that she was not concerned about GOsC, she was concerned about Patient A's motive which was taking the matter to court. At pages A80-81 the Registrant said that this passage made it clear that what she was always talking about was the court not GOsC she said it was never her intention to intimidate or dissuade Patient A and she never thought she could do that.

60. In answer to questions from the Committee the Registrant said she was unclear why her bundle included Patient A's record dated April 2023 and which showed her as the treating clinician. She confirmed that the practice had a complaint procedure and it was evident on the website. She said that communications by email or Instagram contained references to this part of the website. She said that if a patient complained the practice had a duty to reach out to see what was wrong and try to provide a solution. She said this was the right thing to do and although they could not stop a complaint they would try to ensure everyone was happy. She felt it would be considerate if a patient were to bring a complaint to the practice first. The Registrant said that what Patient A was telling her W had said was different to what W reported to the Registrant. She said Patient A was dishonest.
61. The Registrant said that she felt it was part of her duty of care to reach out and try to resolve a complaint once received. Her instinct was to reach out and it might resolve but she would not try to stop it. She said this was in fact the first complaint they had received. Regarding the concern of a civil claim, she said that any claim can jeopardise a career since it has to be notified to GOsC and to any insurer. She said it was her strong gut feeling and instinct from the beginning that the case would go to court. The Registrant said that she was not sure whether a complaint had to be current to be valid but if it was not made on the day it should at least be made within six months. She said that there were other things going on regarding Patient A's health. She repeated that it was her instinct to try and resolve the matter. The Registrant said that if a patient did not bring an initial complaint to the practise this was not a sign of dishonesty. A patient was entitled to go to GOsC but she said that they had no idea what was going on and it came as a shock.
62. The Registrant said that she now understood as the business partner and life partner of Osteopath A she may not be perceived as independent of him. She said that looking back now she probably was not the best person to deal with Patient A and that they now have a designated person to deal with such matters. She said that having reflected she was not the best person to deal with this. She said that it was a thin line but she accepted that despite the previous communication Patient A may not see her as independent and may view her with some suspicion. The Registrant felt that Patient A should be able to trust her but now she could see that she may not.
63. When asked about the practise of 'blading', the Registrant said she was familiar with this and with its side effects and she was competent to comment upon it. She said that this was distinct in her own mind from the matters for which Patient A was admitted to hospital. When asked why she continued the call when Patient A said this was not about money, the Registrant said that she should have terminated it earlier. She said a lot of it was frustration at not getting anywhere despite reaching out to Patient A and Patient A not getting where she was coming from. [REDACTED]. The Registrant said that during [REDACTED].

the call she was trying to be reassuring but she had now reflected on how she would come across. She accepted that she may have come across as intimidating but her intention was pure. She said her intention was never to intimidate and she stood strongly by that. She said that she understood Patient A had vulnerabilities and may have felt vulnerable. The Registrant said she wanted to help, wanted to get her back into work and she came from a position of love and care and wanted to put it right.

64. Regarding her comments about the stress or anxiety that Patient A may feel the Registrant said that she had treated many anxious patients and she felt comfortable discussing this. However she agreed this was not part of her core training. Regarding an earlier voice message left by Patient A the Registrant said Patient A claimed that she could not speak or swallow or was choking. None of this was evident in the voice message and she was putting these two things together. She said that being unable to swallow for three months was a long time and if the symptoms had really persisted for that long why did Patient A not come to the practise to try and rectify it? She said this was what she was referring to. The Registrant said it was not her view that a patient must come to speak to them before speaking to GOsC but she would have liked that to have been done. Instead it went from 0 to 100 very quickly and they didn't know anything about it .
65. The Registrant said that her view concerning civil litigation stemmed from the fact that Patient A was asking about compensation when discussing the whiplash incident with an insurer. The Registrant said Patient A claimed to have an enormous adverse reaction after the second session of treatment with Osteopath A, and she said she was trying to discover what had in fact occurred. She said her instinct was that this was not about resolution it was about complaining and she wanted more than resolution. The Registrant agreed there was no mention of compensation or civil litigation within the documentation but said that at her initial consultation and 'from the get-go' Patient A was asking for an assessment to make a claim. She agreed that she had said the practice could make things quite complicated. When asked about hypochondria and anxiety the Registrant said she was not saying Patient A had this but was providing information about the symptoms she reported. She said similarly Patient A had dysphasia but she was not saying she had multiple sclerosis.
66. Regarding her offer of complimentary treatment, the Registrant said Patient A had said she would think about this. She understood why she might not accept it from Osteopath A but said that she was a separate practitioner and was trying to make her happy. Regarding her comment about 'we can take you to court' the Registrant said this was not about them taking Patient A to court rather it was a comment about protecting themselves because that is where she thought it was going. She said that she was no longer sure what she meant since it was too long ago. When she said the GOsC was not supportive of registrants she said that the GOsC's duty was to protect the public.

67. When asked about her feelings regarding Patient A the Registrant said [REDACTED] and she was reaching out a helping hand. She said that she was frustrated at Patient A not accepting help and her actions were almost as if she had an ulterior motive. She said that she was at a loss why this was happening and she was frustrated but not angry. She said she was doing something to help but that help had not been accepted.
68. The Registrant said that after Patient A had been admitted to hospital she made a complaint and what she said was dishonest. She did not communicate with the practice but went straight to GOsC.
69. The Registrant agreed that she did not ask Patient A if she was going to start a civil claim and said perhaps she should have done but there were other things on her mind. She felt that she did not want to vocalise it but perhaps she should have done.

Submissions of the Parties

70. Both Counsel provided written submissions regarding the facts.
71. Mr Ivill adopted his written document in which he asserted that the outstanding allegations were both proved.
72. Mr Ivill added some further short commentary. He said that the burden of proving the case was up on the Council and the standard of proof was the balance of probabilities. Mr Ivill said that the best evidence in the case was the telephone recording. He suggested that it was no coincidence the Registrant was on the phone to Patient A for 40 minutes on the very day that a complaint had been received. He said that at that time there was no civil claim, the only complaint was the one before GOsC, and it was clear that the Registrant was calling to try and dissuade Patient A from continuing that complaint. Mr Ivill submitted this was the Registrant's dominant purpose. He then referred the Committee to various examples within the recording and suggested it was plain that the preponderance of the recording referred to GOsC. He said the representations made by the Registrant went far beyond simply asking how she could assist Patient A. He said that her intention was clearly to dissuade Patient A from her complaint. Mr Ivill described the conduct as inappropriate intimidating and lacking integrity as the Registrant put her own interests first. He submitted that her overarching objective was to stop the complaint and that she did so by reference to Patient A's health, personal life, contacting the GP, obtaining medical records and all of what was recorded.
73. Mr Ivill submitted that the Committee was entitled to draw inferences and that it should assess the Registrant's evidence. He said there were times when her account was marked by repeated unwillingness to answer questions in a straightforward way. He suggested that her account lacked credibility and was on occasion implausible. He submitted that she consciously and deliberately sought to dissuade Patient A from making her complaint to GOsC. He reminded

the Committee that Patient A said she felt intimidated and said this was what the Registrant intended

74. Regarding the interconnection between Allegations 3b and 3c Mr Ivill said that they were separate as a matter of law but that if 3c was found proved this plainly demonstrated a lack of integrity on the part of the Registrant. However he asserted that even without allegation 3c, allegation 3b was capable of proof. He referred to the higher standards of conduct expected from professionals and said the Registrant failed to meet them. The Registrant's assertion that the complaint was a waste of time, GOsC would not do anything or had other things on its plate, asserting they could access full medical records or saying no one else could help Patient A's symptoms, all of this illustrated a lack of integrity.
75. Mr McCaffrey also provided written submission to the Committee. In these he asserted that the Registrant had conceded that her actions were inappropriate but that there was evidence from which to conclude her real concerns were about civil litigation not GOsC. In brief oral submissions Mr McCaffrey said that neither life nor the phone call were binary and that the phone conversation may have started in one way but ended in another. He said that the Registrant's admissions were intended to accept this. Mr McCaffrey also asserted that Allegation 3b stood or fell with Allegation 3c. He submitted that without Allegation 3c being proved there was no conduct upon which 3b could be based.

Advice

76. The Committee accepted the advice of the Legal Assessor. It recognised that the burden of proving the case was upon the GOsC and the standard of proof was on the balance of probability. It understood that it may draw inferences as to facts and/or states of mind from facts found proved. These included the meaning of integrity and that the term "sought" implied an intention on the part of the Registrant.

Determination on the Facts

77. The Committee considered all the written and oral evidence and it again specifically listened to the recording of the telephone call alongside the transcript, having been invited to do so by the Registrant and her Counsel. It took account of the representations by both Counsel and, having done so the Committee came to the following determination on the facts.

Allegation One

On 22 March 2023 at 11.59am the General Osteopathic Council (GOSC) emailed the Registrant's husband (Osteopath A) in relation to concerns raised by Patient A about Osteopath A
Admitted. Found proved

Allegation Two

During a telephone call with Patient A in the evening of 22 March 2023, the Registrant made comments to Patient A as set out in Schedules 1 to 57, or words to that effect.

Admitted. Found proved

Allegation Three

The Registrant's conduct as set out in paragraph 2 above taken as a whole:

a. was inappropriate

Admitted. Found proved

b. lacked integrity

Denied. Found proved

c. sought to dissuade and/or intimidate Patient A from taking forward her concerns with Osteopath A with the GOSC

Denied. Found proved

Reasons for Determination on the Facts

78. The Committee first considered the context of the phone call which is central to the evidence in this case.

79. On 25 October and 27 November 2022 Patient A was treated by Osteopath A. In December 2022 Patient A was admitted to hospital for an unrelated issue. At some point before her complaint to GOSC Patient A contacted the clinic and/or Osteopath A. This was whilst Osteopath A and the Registrant were on holiday. The concern or complaint she then voiced was not resolved. Nor was it resolved subsequently.

80. On 17 March 2023 Patient A contacted GOSC to make a complaint about Osteopath A. At 11.59hrs on 22 March GOSC emailed Osteopath A to advise him of that complaint. At 16.23hrs that day the Registrant called Patient A but Patient A could not talk. They arranged to talk at 18.00hrs but Patient A did not pick up the Registrant's call. The Registrant then sent an Instagram message to Patient A at 19.24hrs and Patient A subsequently called the Registrant. Patient A states that in the initial short conversation the Registrant had said she wanted to talk about the treatment she had received. Patient A was not comfortable about this and, not only did she phone and email GOSC to say so, but she recorded the subsequent telephone conversation with the Registrant. The Committee has listened to that conversation several times.

81. In her description of the phone call Patient A refers to the Registrant as 'going on' and intimidating her and she expressed the view that the Registrant was trying to get her to drop her complaint against Osteopath A. She described the Registrant's conduct as disgusting and unacceptable. On the other hand, the Registrant said that whilst she may have on occasion used inappropriate

language or phrases (which is why she admitted Allegation 3a) she was at all times trying to help Patient A and/or seeking to prevent a civil claim against the practice. Whilst she accepted the transcript was accurate, her intention was, she said, evidenced by her tone and offers to treat Patient A without charge.

82. The Registrant said her concern was really confined to the worry of a civil claim. When referring to the GOsC and/or the complaint to GOsC the Registrant repeatedly said, 'that boat had sailed' and she did not think she could have any impact on whether the case continued or not. She said that Osteopath A had already been in contact with his barrister, the first draft of the defence was in hand and she would not affect the process. She referred to the process as being some months on.
83. As can be seen from the above timeline, Osteopath A was first notified and the Registrant was first aware of the complaint at or about 11.59hrs on 22 March. The Registrant made the point that this came out of the blue and it was the first they heard of it. It would appear that within 4½ hours of this notification she was anxious to contact Patient A and she did so. The Committee considered it most unlikely that in the 4½ hours between notification of the complaint and the first call, or in the 3 or 4 hours before the second call, Osteopath A had instructed his solicitor and barrister, fully discussed his potential defence, drafted a defence statement and that all of this would be known to the Registrant.
84. It was apparent to the Committee that the Registrant contacted Patient A to discuss the complaint to GOsC. Patient A reports this as regards the first call and the Registrant says so at the start (within 30 seconds) and at the end of the second call. In addition both GOsC, regulator/regulation and a complaint are mentioned throughout. The only complaint at the time was the one to GOsC and the Committee concluded that any mention of a complaint was a reference to this.
85. Whilst the Registrant may have convinced herself that she had concerns about litigation there was no reasonable basis for her to assert as she did that she feared Patient A was dishonest and after money. The Committee was of the view that there was no threat of civil litigation at the time of the call. Patient A specifically said that she did not want to complain and it was not about money. It is the Registrant who repeatedly brings in the issue of lawyers and going to court.
86. The Committee considered the Registrant's tone in the call and it noted that there were points within the phone call at which the Registrant spoke reasonably and appropriately concerning the clinical aspects of treatment received by Patient A. The Committee accepted that her offer to provide treatment to Patient A may have been genuine and that had Patient A accepted she would have treated her. However, the Committee was also of the view that the offer was made at least in part with a view to closing down the complaint.

87. The Committee also considered that the Registrant's repeated rejection of fault at the practice, her reference to Patient A consenting to treatment, her criticism of the time of the complaint and her reference to lawyers etc was both patronising and defensive. It was apparent to the Committee that when the Registrant's offer to help was rejected she became irritated and defensive. It was also notable that she undermined Patient A and her complaint suggesting it had no merit, would be dismissed, and had nothing to do with anything that occurred at the practice.
88. The Registrant referenced [REDACTED] [REDACTED] None of this was appropriate, it lacked empathy and had the clear potential to undermine Patient A. The reference to accessing to Patient A's medical notes was, in the view of the Committee, not only inaccurate but sounded like an ominous threat. If the Registrant genuinely held these concerns it would be entirely inappropriate to raise them in a 40 minute phone call the evening of hearing about a complaint rather than by way of calm measured advice and a professional referral to medical services at a more appropriate time.
89. It was quite apparent to the Committee that the tone and content of the Registrant's speech was likely to have an impact upon Patient A. Furthermore, the Registrant's belittling of the complaint, referring to it as a joke, bringing in lawyers, the case being long and stressful etc all had a tone of belligerence and intimidation. The threat of bringing in the lawyers and making a battle of things was a pro-active statement by the Registrant it was not a response to anything Patient A said. As such it sounded like a threat.
90. Whilst the Committee accepted that the Registrant's own health/circumstances may have contributed to her heightened emotion this did not explain or excuse what she did. It was plain to the Committee that having received a complaint the Registrant contacted Patient A to see if the complaint could be stopped in its tracks. She may have initiated contact with some good intention but it quickly degenerated into an emotional response that should not have occurred. The Committee was also of the view that if the Registrant genuinely held the view that Patient A was dishonest and litigious she would not have made contact at all, or that it is the Registrant who would have made a note of the call not Patient A.
91. Having come to the above conclusions the Committee considered the specific allegations.
92. Regarding Allegation 3b, the Committee determined that the Registrant's conduct demonstrated a lack of integrity. Her communication was inappropriate and, it was all about the impact on them, not about the Patient. It was plain that she put her and Osteopath A's interests above that of Patient A. She did so for her own purposes without proper regard to Patient A's vulnerability. Her tone and language were inappropriate and unprofessional. Those are not the actions expected of a registered Osteopath. The Committee makes this finding

irrespective of the finding on Allegation 3c. However it is reinforced in this decision when those findings are taken into account.

93. As to Allegation 3c, the Committee determined that the Registrant did intend to dissuade Patient A from continuing with her complaint to GOsC. The complaint had just been received by Osteopath A and the Registrant. Almost the first thing the Registrant did was make contact with Patient A regarding the treatment she received. It was plain from the start of the call that the Registrant sought to discuss the complaint made to GOsC and she did so with a view to closing it down.
94. Whilst the Registrant's initial intention may in part have been to act in what she thought was the spirit of compromise, when her concerns and/or offers of help were rejected she quickly became defensive of the practise and critical of Patient A. The Registrant's attitude and communication descended into patronising and intimidatory language making references to what she perceived to be Patient A's vulnerability, the merits of her complaint and the consequences to both Patient A and Osteopath A.
95. In addition, whilst the Registrant may have thought to start from a position of empathy there was little evident in her actions or the recording or in her evidence where she repeatedly described Patient A as dishonest and seeking money. The Committee concluded that the Registrant intimidated Patient A and that she intended to do so to try and stop the case before GOsC going any further.

Unacceptable Professional Conduct (UPC)

Submissions

96. Mr Ivill reminded the Committee that there is no burden and standard of proof to be considered rather the issue of UPC is a matter for the collective judgement of the Committee bearing in mind the overarching objective to protect the public. Mr Ivill said that public interest is at the heart of healthcare regulation and this included protecting the public from harm, maintaining confidence in the profession and declaring and upholding standards of conduct.
97. Mr Ivill said that UPC was defined as conduct which falls short of expected standards and which would attract moral blameworthiness or opprobrium. He further submitted that a failure to meet the requirements of the OPS may be taken into account. He then drew the Committee's attention to Standards D1 and D7 of the OPS which deal with the issues of integrity and the reputation of the profession respectively. He submitted that there had been a failure to comply with either of these standards. Mr Ivill said that it was undoubtedly serious for a practitioner to attempt to dissuade a patient from bringing forward concerns since this subverted the whole purpose of regulatory proceedings.

98. Mr Ivill submitted that the Registrant's actions lacked integrity, damaged public trust in the profession and brought the profession into disrepute. He reminded the Committee of the power-differential between a patient and a practitioner. He said that the use of intimidation put patients at risk and that there was a significant degree of UPC.
99. Mr McCaffrey said that the Registrant had in effect conceded the matter of UPC when she acknowledged that her conduct had been inappropriate but in any event he conceded the matter now.

Decision on UPC

100. The Committee accepted the advice of the Legal Assessor which included that UPC is comprised of conduct that is serious and falls below the standards expected of a registered osteopath. Breaches of the OPS may indicate UPC but do not determine this rather UPC is a matter for the Committee's own judgement. A lack of integrity is not simply to be equated to dishonesty.
101. The Committee carefully considered the submissions made by both representatives and took note of the fact that the Registrant has no previous regulatory findings against her.
102. The Committee concluded that the Registrant's conduct fell far short of that expected of a registered osteopath and did amount to UPC.
103. In coming to the above conclusion the Committee accepted Mr Ivill's submission that the Registrant's conduct undermined confidence in the profession and in its regulation. In addition the Committee considered that the Registrant's conduct fell far short of several standards as set out in the OPS and at the least caused emotional harm to Patient A.
104. The Committee considered that the following standards were engaged and that they had been breached:
- A1 You must listen to patients and respect their individuality, concerns and preferences. You must be polite and considerate with patients and treat them with dignity and courtesy.*
 - A7 You must make sure your beliefs and values do not prejudice your patients' care.*
 - A7. Para 2 . You should maintain a professional manner at all times*
 - D1 You must act with honesty and integrity in your professional practice*
 - D2 You must establish and maintain clear professional boundaries with patients and must not abuse your professional standing and the position of trust which you have as an osteopath.*
 - D3 You must be open and honest with patients, fulfilling your duty of candour*
 - D7 You must uphold the reputation of the profession at all times through your conduct, in and out of the workplace.*

105. It was evident to the Committee that the Registrant did not listen to Patient A nor did she respect her concerns, act politely, considerately or courteously (A1). It was also clear that the Registrant allowed her belief that Patient A had an ulterior motive to cloud her judgement and this contributed to her unprofessional actions (A7 & Para 2). Whilst the Committee was not invited to make a finding of dishonesty and does not do so there is a finding of a lack of integrity (D1). The Registrant did not maintain her professionalism or professional boundaries in her communication with Patient A and abused the power imbalance in their relationship to her own ends (D2). Again whilst the Committee does not make a finding of dishonesty it was notable that the Registrant's comments such as having access to medical records were not open and accurate (D3). Finally and self-evidently the Registrant's actions were adverse to the interests and reputation of the profession (D7).

Sanction

Submissions on Sanction

106. Mr Ivill made no positive submission as to the appropriate sanction but said that the Committee should consider the published guidance and keep the principle of proportionality in mind. He said the Committee must consider sanction in ascending order taking account of the Registrant's serious departure from expected standards. He said the Registrant's conduct was deliberate, she showed no remorse and only limited insight. He said there had been no apology, instead the Registrant made unsubstantiated claims of dishonesty against Patient A and put her own interests first. He submitted there was a real risk of repetition in the future. He said the Committee should look at the Registrant's attitude during the hearing which was to place blame on Patient A rather than apologise and he said the Registrant was seriously lacking in empathy. He observed that a regulatory system must not be subject to interference and any attempt to do so was particularly serious. In that respect he said that the wider public interest was engaged and he reminded the Committee that the reputation of and public confidence in a profession are its most precious assets.

107. Mr McCaffrey began his address by emphasising two important issues. First, that sanctions are intended to protect the public not punish the practitioner. Second, that any sanction must be proportionate to the risk, taking account of all the factors in the case. He reiterated the concession regarding UPC and said that there had plainly been a serious departure from professional standards but that the Registrant's actions were not fundamentally incompatible with continued presence on the register. He submitted any risk to the public was minimal or non-existent bearing in mind the Registrant's good character before these events and her conduct since, when she had practised without restriction.

108. Mr McCaffrey said that the events occurred a significant time ago and that the circumstances were unusual. He submitted that the Registrant's actions were born of panic, concern and a human emotive response to difficult circumstances. He reminded the Committee that it found the Registrant's own health and personal circumstances may have contributed to her actions. Furthermore that her conduct may have been initiated with good intent but it degenerated. He conceded this did not excuse her conduct but this set it apart from those cases where there was a deliberate action rather than an emotive response. He said that since then the Registrant had engaged over a significant period and whilst it was inevitable that insight and reflection would appear to be limited in a case where allegations were denied, nonetheless the Registrant had expressed some remorse and shown some insight. He said this was evident when the Registrant admitted what she had previously denied, namely that her actions were inappropriate. In addition he said the Registrant had stated she could now understand what Patient A felt. Finally, while he said that the Committee had found a lack of integrity that was not the same as a finding of dishonesty and he reminded the committee of the testimonials in the bundle.

109. Turning specifically to the available sanctions Mr McCaffrey urged the Committee not to simply disregard the first sanction of admonishment. He said that most if not all of the factors were present and it was worthy of consideration. Concerning a conditions of practice order he said that such an order was generally more appropriate in cases of clinical competence. He said that he understood if the Committee moved to consider the more punitive sanctions but strongly asserted that it should not go beyond suspension. He submitted that removal from the register would be punitive and disproportionate.

110. Mr McCaffrey suggested that a short period of suspension was a fair and proportionate disposal of the case. He suggested that a period of two to four months was appropriate and said this would satisfy the purpose of sanction and strike a balance between the public interest and the personal interest. He reminded the panel that the Registrant worked in a two person practice and that she and her husband had two children. He said that any sanction would have a punitive effect but reiterated that removing the Registrant from the register would be entirely disproportionate and nothing but punitive.

Decision on Sanction

111. The Committee determined that the appropriate level of sanction was a Suspension Order of nine months duration.

112. In coming to the above conclusion the Committee considered the Hearings and Sanctions Guidance (HSG) produced by the GOsC, the submissions by both advocates and it accepted the advice of the legal assessor. The latter included consideration of the overarching objective, the order in which sanction should be considered and issues such as good character, insight, remediation and/or the capacity to gain insight or to remediate.

113. Concerning aggravating and mitigating factors, the Committee did not consider that there were specific aggravating features having already determined that the Registrant's actions were serious, caused emotional harm to Patient A and harmed the reputation of the profession. As to mitigating features, the Registrant made limited admissions and has no previous regulatory findings against her nor have there been any complaints since these events. The Committee also noted that the Registrant demonstrated a willingness to undertake learning opportunities albeit she did not appear yet to have grasped the seriousness of her unprofessional conduct nor did she demonstrate any significant remorse or empathy for Patient A. As to the issue of risk, the Registrant's continued denial of responsibility and placing blame on Patient A remains a concern.
114. Concerning the issue of insight, which goes to the issue of continued risk, the Committee had observed the Registrant during the hearing and had heard from Mr McCaffrey on her behalf. The Committee was of the view that the Registrant had demonstrated little insight but it did not conclude that she was incapable of gaining insight. Considering the above, an important question for the Committee was whether the Registrant was unwilling or unable to remediate the faults found proved. Her otherwise good character and the complimentary testimonials shed some light onto this and the issue of risk. The Committee was not persuaded that the risk of repetition was as minimal as Mr McCaffrey suggested.
115. Having come to the above conclusions the committee next considered the appropriate sanction in order of ascending gravity, taking account of the factors set out in the HSG
116. The Committee first considered the question of whether Admonishing the Registrant was an appropriate and sufficient sanction. It concluded that it was not. In coming to this decision the Committee noted that despite the Registrant's otherwise good character, this case involved a serious departure from expected standards that had caused harm to a patient and the profession. The Registrant had not yet demonstrated insight into this nor had she demonstrated self-awareness, empathy or an understanding of the power-differential between herself and Patient A. Whilst the allegations related to one patient it was the Registrant's evidence that Patient A was at fault not her. The Committee rejected this and it was unable to conclude that the risk of repetition by the Registrant was low.
117. The Committee next considered a Conditions of Practice Order. It noted that Mr McCaffrey did not suggest such an order was appropriate to this case and the Committee regarded it to be more appropriate in cases of clinical failings. Whilst there was some early signs of remediation within the Registrant's bundle there was little to address the risk identified in this case. Her evidence emphasised her lack of progress in understanding what had occurred and its impact on Patient A and the profession. The Committee determined that a Conditions of Practice Order was insufficient to meet the

gravity of the case and that it would be extremely difficult to set out workable, measurable conditions.

118. The Committee moved on to consider a Suspension Order and noted that many of the factors set out in the HSG were met. The conduct found proved involved serious breaches of the OPS but the Committee did not conclude that the Registrant could not or would not remediate. The Committee was of the view that a period of suspension would provide a period of time during which the Registrant could analyse herself, her reaction to events and her lack of empathy. It would enable her to reflect, evaluate, gain insight and consider how she may grow as a person and return as a practitioner.
119. The Committee emphasises that the Registrant's conduct is not incompatible with being on the register provided she is capable of change and does change. This Suspension Order may facilitate this. In addition it will mark the gravity of her conduct and demonstrate to the public and the wider profession that such conduct will not be tolerated.
120. To test the above findings the Committee moved on to consider the question of removing the Registrant from the register. It noted that several of the criteria are met such that there was a reckless disregard for the OPS, a serious departure from standards, an abuse of trust, little insight and the potential for repetition. Balanced against this the Committee was not persuaded that the Registrant could not remediate. It was also of the view that this ultimate sanction may be punitive rather than protective of the public.
121. The Committee determined that the appropriate sanction was a Suspension Order for 9 months. It was satisfied that a shorter period would be insufficient to meet the gravity of the case and would give the Registrant insufficient time to remediate her failings. Conversely a longer order would be punitive. The order will be reviewed toward the end of that period and a reviewing committee would doubtless be assisted by the Registrant providing evidence of insight, empathy, greatly improved communication and an awareness of professional boundaries (particularly with patients who are vulnerable) and acceptance of her unprofessional conduct.

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.

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.