

**GENERAL OSTEOPATHIC COUNCIL**  
**PROFESSIONAL CONDUCT COMMITTEE**

**Case No: 703/8950**  
**779/8950**

**Professional Conduct Committee Hearing**

**DECISION**

**Case of:** Christopher Willis

**Committee:** Richard Davies (Chair)  
Morag MacKellar (Lay)  
Tom Bedford (Osteopath)

**Legal Assessor:** Mr Jon Whitfield QC

**Representation for Council:** Mr Robert Dacre

**Representation for Osteopath:** None

**Clerk to the Committee:** Ms N Abboh

**Date of Hearing:** 1, 2, 3 December 2020

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**Summary of Decision:**

**Stage One**

**Decision on Facts (Case No.703/8950)**

The allegation is that Mr Christopher Willis (“the Registrant”) 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; and  
**Found proved**
  - 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 Insurance Rules”).  
**Found proved**

- c. has known that to holding himself out to the public as a registered osteopath, he is required to hold professional indemnity insurance; and/or  
**Found proved**
  - d. has treated patients despite not having professional indemnity insurance, thereby acting to the potential detriment of such patients and placing them at risk.  
**Found proved**
2. Mr Willis failed to immediately notify the GOsC that his professional indemnity insurance cover was no longer in force, as required by Rule 7 of the Order.  
**Found proved**
  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.  
**Found proved**
  4. By reason of the matters alleged at paragraphs 1(d) and/or 2 and/or 3 above, Mr Willis' conduct was misleading.  
**Found proved**
  4. By reason of the matters alleged at paragraphs 1(b) and/or 1(d) and/or 2 and/or 3, Mr Willis' conduct demonstrated a lack of integrity  
**Found proved**

### **Decision on Facts (Case No.779/8950)**

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

1. On 1 November 2018, Simply Business issued a certificate of insurance to the Registrant ("the Certificate").  
**Found proved**
2. Between 1 November 2018 and 6 November 2019, the Registrant edited and/or amended the issue date and/or the policy start and end dates on the Certificate.  
**Found proved**
3. On 6 November 2018, in response to requests from the GOsC for proof of his insurance dated 19 September and 23 October 2018, the Registrant knowingly provided the GOsC with the edited and/or amended Certificate.  
**Found proved**

4. The Registrant's conduct as alleged at paragraphs 2 and/or 3 was:
  - a. dishonest; and/or
  - b. misleading; and/or
  - c. demonstrated a lack of integrity.

**Found proved**

## **Stage Two**

### **Summary of Finding on Unacceptable Professional Conduct**

The Committee determined that the conduct found proved amounted to Unacceptable Professional Conduct (UPC).

## **Stage Three**

### **Sanction**

The Committee determined that the appropriate sanction was to remove the Registrant from the register.

### **Interim Suspension Order**

The above sanction will come into effect 28 days after service of this decision upon the Registrant. The Committee has imposed an interim suspension order upon the Registrant for the protection of the public during that period.

**Details of Decision:**

**Preliminary Matters:**

1. The parties and the Panel introduced themselves.

**Declarations:**

2. Prior to the commencement of a hearing each member of the Professional Conduct Committee (PCC) is required to declare that they know of no reason why they should not sit upon the case. This declaration is intended to ensure that fairness is done and is seen to be done to all parties.
3. To meet the overarching objective of public protection, when a case is referred to the General Osteopathic Council (GOsC) it is assessed to see if there is any issue of danger to the public. This assessment is a two-stage process. First the Chair to the PCC assesses whether there may be such a risk and, if he or she considers there may be they refer the case to the Interim Orders Panel (IOP) for it to assess the level of risk and decide whether an interim order is required to protect the public pending a full hearing.
4. The above process is a risk-assessment only. At neither stage does the Chair or the IOP make any findings of fact against a Registrant. The evidence seen by the Chair and/or the IOP is less extensive than that presented to the PCC.
5. The Chair disclosed that on 30 January 2019 he undertook the preliminary assessment of risk and referred the case to the IOP. He then chaired the IOP on 7 February 2019 during which an interim order was made. He confirmed that no findings of fact were made, he held no animus toward the Registrant and was of the view that he could deal with this current case fairly. However, in the absence of the Registrant the Chair invited submissions on whether he should recuse himself.

**Submissions**

6. Mr Dacre, Counsel for the GOsC, submitted that the Chair should not recuse himself. The issues were those of bias and apparent bias. In respect of the former he submitted that the Chair's previous consideration of the case did not involve any adverse findings of fact. He submitted there was no evidence of bias and that the Chair was properly alert to any risk. In respect of the apparent bias he submitted that this was a professional committee that was able to consider the case as presented in the bundles and no more. The fair

mindful and properly informed member of the public would not consider there to be a risk of either bias or apparent bias.

### **Decision**

7. The Committee accepted the advice of the Legal Assessor.
8. The Committee considered the question of recusal and concluded that there was no prospect that the fair minded and fully informed member the public would consider there to be a risk of bias or the appearance of bias. The Chair was involved as part of an initial assessment and then at a preliminary hearing to consider whether on limited information there may be a risk to the public. This occurred nearly two years ago. No adverse findings of fact were made against the Registrant in this process. The Chair was one member only of a three-person committee and all members were alert to the fact that they should concentrate only on the evidence before them.
9. The Committee determined that the Chair should not recuse himself.

### **Bundles**

10. The Chair took the parties through the documentation to ensure everyone had the same material.

### **Proceeding in Absence**

11. The Registrant was not present. Mr Dacre invited the Committee to proceed in his absence. He outlined the evidence concerning service of the Notice of Hearing upon the Registrant stating that it had been sent to his registered address, his home address and by email.
12. The two cases against the Registrant had been proceeding for some time and on 7 June 2019 he indicated he wished to leave the register and would not engage with the proceedings at all. Nonetheless since that date all the case papers and all correspondence had been served upon him electronically and in hard-copy form.
13. The Committee accepted the advice of the Legal Assessor.
14. The Committee was satisfied that the Notice of Hearing had been served in accordance with the Rules.
15. Mr Dacre summarised the factors to be considered when an application to proceed in the absence of a registrant is made. He referred the Committee to the efforts made to engage with the Registrant and his response in June of last year. He submitted that

the Registrant's email made it clear his absence was voluntary and he was aware of the possibility of the Committee proceeding in his absence. He had not engaged since that date.

16. The Committee accepted the advice of the Legal Assessor.
17. The Committee concluded that it should proceed with the hearing in the Registrant's absence.
18. The Committee noted that the cases for the GOsC concerned insurance documentation, the assessment of that documentation, communication between the Registrant and the GOsC and the Registrant's state of mind. The latter was an inference that may be drawn from all or any facts found proved. It was satisfied that the Registrant knew the case against him and the evidence upon which it was based. The Registrant had indicated that he would not engage with the process and, true to this communication he had not responded to any communication at all. Whilst his non-attendance would put him at some disadvantage the Committee concluded this was a decision, he has taken knowing that the case may proceed in his absence.
19. The Committee considered the overarching objective of public protection which necessitated the fair consideration of cases in a timely fashion. It concluded that the Registrant had made his position clear and that an adjournment would not result in him attending and would merely delay proceedings. The Committee concluded that it would test the evidence presented to it and that it was in a position to ensure the hearing was fair.

### **Joinder**

20. Mr Dacre presented the two cases together. The Committee noted that the pre-hearing correspondence between the GOsC and the Registrant included placing him on notice that the GOsC would apply for the two cases to be heard at the same time since they covered a sequence of linked events. He raised no objection to this.
21. The Committee accepted the advice of the Legal Assessor
22. The Committee considered it was in the interests of all parties for the two cases to be heard together since they were linked both in time and subject matter. Hearing the cases together would enable one committee to come to an overall conclusion regarding the Registrant, his practice and the central issue of protection of the public.

### **Amending the Allegation and Facts in Case 703/8950**

23. Mr Dacre applied to amend the allegations as set out below. He submitted that the amendments clarified the allegations, simplified the matters in issue and dispensed with the serious allegation of dishonesty. The Registrant had been informed of this application and had raised no objection. The amendments are shown in red (deletions/replacements) and blue (additions).
24. The Committee accepted the advice of the Legal Assessor.
25. Having considered the proposed amendments and the oral representations the Committee concluded that there would be no injustice in assenting to the application. The amended allegations clarified matters, corrected an error and focused on the matters in issue. This accorded with the overarching principle of these proceedings, namely, to protect the public.
26. The full amended Allegations against the Registrant appear above in the section headed "Summary of Decision".

### ***Original Allegations***

*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.*

### **Amendments**

*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 was no longer in force, 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(d) and/or 2 and/or 3 above, Mr Willis' conduct was misleading.*
- 4.5. *By reason of the matters alleged at paragraphs 1(b) and/or 1(d) and/or 2 and/or 3, Mr Willis' conduct demonstrated a lack of integrity*

### **Admissions**

27. No admissions were made.



**Decision:**

**Background, Summary of Evidence and Submissions**

28. This case concerned a failure by the Registrant to have professional indemnity insurance ('PII') in place and his actions and state of mind thereafter when this fact came to the attention of the GOsC.
29. Mr Dacre opened the case and presented the evidence for the GOsC in some detail since it relied entirely upon documents and statements from witnesses rather than live evidence. He took the Committee to the relevant documentation in respect of each allegation.
30. Mr Dacre said that the registrant was accepted onto the Register in 2013. On 19 September 2018 he was requested by the GOsC as part of a random audit to provide evidence of his PII. The Registrant did not respond to this initial request. On 23 October 2018 he was sent a reminder, and a request that evidence be provided by 5 November 2018. On 6 November 2018 the Registrant provided an insurance policy from Simply Business that purported to show he had insurance from 15 June 2018 to 14 June 2019.
31. The GOsC responded that it was aware Simply Business do not provide PII for osteopaths. The Registrant replied that he had assumed the insurance provided by Simply Business covered him but that he was not practising nor would he do so without insurance. When it was pointed out to him that a non-practising osteopath should register as such, the Registrant altered his position, stating that he was practising but to lesser extent than previously. On 19 November 2019 the Registrant applied to be removed from the Register. To this day he has not provided PII cover as requested.
32. Mr Balen, the Managing Director of Balens Ltd (Balens) a company that offers PII for osteopaths, provided a statement in which he asserted that the Registrant obtained PII through Balens between 1 December 2014 and 30 November 2015. Following this his insurance with Balens lapsed. On 18 June 2018 the Registrant applied for PII cover with Balens but despite 'chaser communications' from the company he did not proceed with that application.
33. There was no evidence that the Registrant had PII cover in place after 30 November 2015.
34. Ms Theodoulou, General Counsel to Simply Business, a company that provided insurance other than PII to osteopaths, also provided a statement. She confirmed that the Registrant did not take out insurance with Simply Business until 1 November 2018. This policy

did not include PII cover. Ms Theodoulou stated that the dates on the certificate of cover provided by the Registrant to the GOsC namely 15 June 2018 to 14 June 2019, did not accord with the records of the company. She confirmed that cover cannot be applied retrospectively and that each contract of insurance for a specific period generates a unique identifier. If cover is required for a different set of dates then a new contract document with a new identifier would be will be issued.

35. Mr Dacre submitted that the overwhelming inference was that the Registrant did not have any insurance prior to 1 November 2018 and that he had changed the dates in the insurance certificate that he sent to the GOsC to cover up this fact.
36. In respect of the first case Mr Dacre submitted that in practising without PII the Registrant must have misled patients. He knew he did not have insurance. His patients would have assumed that since he was a registered osteopath, he would have insurance in place and, had they known he was uninsured, they would not choose to be treated by him. He continued that the position appeared to be that the Registrant did not have any insurance let alone PII from 15 June 2018 – 1 November 2018. Thus, contrary to the Registrant's assertion that he had taken out the policy with Simply Business in the erroneous belief that it covered him, there was nothing that could be misconstrued as PII. It was not until November that he obtained insurance through Simply Business. Before this he did not have any insurance at all.
37. Mr Dacre submitted that the evidence demonstrated that:
- The Registrant was registered and practiced as an osteopath
  - He failed to maintain PII
  - He knew he ought to have PII
  - He nonetheless treated patients without PII
  - He failed to notify the GOsC that his PII had lapsed
  - He failed to provide evidence of PII on request
  - His conduct was misleading and lacked integrity
38. Turning to the second case Mr Dacre submitted that the Registrant must have amended the dates in the certificate of insurance, doing so between 1 November 2018 the date from which cover with Simply Business was obtained, and 6 November 2018 the date on which the Registrant provided evidence of the Simply Business insurance). He submitted that for the Registrant to do this was dishonest, misleading and lacked integrity.
39. Following a question from the Committee Mr Dacre took the Committee to the correspondence between the GOsC and Simply Business which confirmed that the date on the policy disclosed by

the Registrant to the GOsC was different to the date on the policy issued by Simply Business. It further confirmed that there was in any event no PII cover as did the insurance documents themselves. He submitted that the Committee could therefore conclude that the document had been edited by the Registrant. He confirmed that this correspondence and the inference the GOsC sought had been provided to the Registrant.

40. As part of his address Mr Dacre confirmed and the Committee was indeed aware, that all osteopaths are required by Section 37(1) of the Osteopaths Act 1993 ('the Act') to have PII. The General Osteopathic Council (Indemnity Arrangements) Rules Order in Council 2015 ('the 2015 Rules') similarly states that an osteopath must have PII in place.

### **Evidence from the Registrant**

41. The Registrant did not provide any evidence orally or in writing.

### **Submissions of the Parties on the Facts**

42. Having opened the case on the documents and provided comment whilst so doing Mr Dacre did not make a further closing address.

### **The Committee's Determination on the Facts**

43. The Committee accepted the advice of the Legal Assessor this included the burden and standard of proof, how to approach the absence of the Registrant, the meanings of failed, misleading, lack of integrity and dishonesty.
44. The Committee considered that this case was best dealt with by considering the allegations in chronological order as to the facts and the Registrant's state of mind.

### **Overall reliability of witness-statements and documents**

45. The Committee first considered the statements of Mr Balen and Ms Theodoulou. The Committee concluded that both are professional persons in positions of trust and authority and, both produced company records and correspondence which they explained in detail.
46. The Committee concluded that the statements were provided to assist the Committee and that the business records were on balance likely to be accurate and reliable

47. The Committee had no information with which to measure the Registrant's reliability as a witness in terms of the assertions made by him in his correspondence with the GOsC. It did however note that he had altered his position regarding whether he was practising or not in the summer of 2018. The Committee took care to test the evidence relied on by the GOsC. It did not draw any adverse inference from the Registrant's non-attendance at the hearing.

### **The Allegations**

48. As an overview of the dates, the Committee first observed that the Registrant was said to have been admitted to the Register in 2013. He had not contradicted this assertion. The Committee noted that according to Mr Balen's statement the Registrant obtained insurance from Balens during which lapsed in 2015. On 18 June 2018 the Registrant enquired about obtaining insurance from Balens but he did not pursue this. Following request by the GOsC the Registrant provided a certificate of insurance issued by Simply Business that purported to provide cover for the dates 15 June 2018 – 14 June 2019. After it was pointed out to him that Simply Business did not provide PII cover the Registrant sought to come off the Register.

49. In correspondence on 7 November 2018 the Registrant first asserted that he had not been treating patients. However, when it was pointed out to him that he should therefore register as not practising he contradicted this and said that he had been practising albeit he had "been doing much less osteopathy over the summer."

50. From the above the Committee first concluded that the Registrant was registered as an osteopath and that since 15 June 2018 he had practised as such. During this time he had treated an undisclosed number of patients.

51. On the evidence presented to it the Committee considered that the last date upon which it was known the Registrant had PII cover was in 2015. There was no evidence that he had PII cover after this nor to cover him from 15 June 2018 nor to the present day. The Committee noted that he sought but did not obtain cover from Balens on 18 June 2018 and thereafter the insurance from Simply Business that he purported to rely upon did not in fact provide PII cover. This was regardless of the issue of dates. From this Committee concluded that the Registrant had failed to obtain and maintain PII as required from 15 June 2018.

52. Turning to the issue of whether the Registrant knew he was required to be insured, the Committee reminded itself that this is both a statutory requirement and a requirement under the 2015 Rules as set out above. It is an obligation required of all osteopaths.

53. In correspondence dated 7 November 2018 the Registrant stated: "*I understand that I have to hold insurance however as you can see I though [sic] I did so never knowingly went without insurance*". The Committee is of the view that the first half of this statement is clear and that the Registrant has there asserted he is aware of his obligations.
54. Whilst the second half of this statement is at first glance a little opaque, careful analysis in fairness to the Registrant suggests he is on balance likely to be saying "*...as you can see although I did so I never knowingly...*" and the confusion is a typographical or spell-check error. He is thus asserting that he thought he had obtained insurance to meet the obligation he was aware of.
55. Based upon the Registrant's prior PII cover in 2015, his application for PII to Balens on 18 June 2018 and his above assertion, the Committee concluded that he was aware of the requirement to obtain and maintain PII.
56. A Registrant is required to maintain PII for the protection of patients such that if a patient is injured during treatment, they may have recourse to an insurance claim for compensation to assist them and make reparation. The Committee was of the view that the requirement is a strict one set out in both the Statute and the Rules. It was further of the view that for the Registrant to treat patients without the necessary PII in place to protect them in the event of injury was to the potential detriment of patients and placed them at risk.
57. The Committee next considered whether the Registrant had failed to immediately notify the GOsC that his PII was no longer in force. As set out above, the Committee noted that there was no evidence to suggest that the Registrant had any PII cover after 1 December 2015. He had at least started the process of applying for PII on 18 June 2018 and latterly he purported to have PII by way of the Simply Business although this did not in fact cover him for PII. The Committee determined that it was reasonable to draw the inference that on an unknown date between 1 December 2015 and 18 June 2018 the Registrant's PII had lapsed.
58. On both 19 September and 23 October 2018, the GOsC asked the Registrant to provide evidence of PII cover. He did not and, to date has not done so. From this the Committee was satisfied that he had failed to immediately notify the GOsC that his PII was no longer in force. Furthermore, the Committee found that the Registrant had failed to provide proof of his current PII cover.

59. The Committee next considered whether the Registrant's conduct in treating patients without insurance, thereby acting to their potential detriment and putting them at risk, was misleading. The Committee concluded that it was.
60. PII is a statutory and professional requirement. The public are entitled to expect osteopaths to obtain and to maintain such PII as is required of them to protect patients from the risk of harm. By holding himself out as a registered osteopath in professional practice the Committee found that the Registrant makes the implied assertion to his patients and the public at large that he has met the necessary professional insurance safeguards required of him. To practice without insurance is to breach that clear implied assertion of professionalism and is to mislead the public.
61. Finally on this first case the Committee considered whether the Registrant's conduct in (i) failing to obtain and maintain PII, (ii) treating patients despite the lack of PII and (iii) failing in his duty to inform the GOsC that his PII cover had lapsed or to provide evidence of cover, demonstrated a lack of integrity.
62. The Committee reminded itself that integrity is a wider concept than dishonesty. It connotes moral soundness, rectitude, the steady and reliable adherence to one's professional code and standards of conduct. It is to be judged from the viewpoint of the ordinary reasonable person as to whether an osteopath had failed to meet those standards. The standards are set in order that the public may trust those whom they rely upon for advice and treatment.
63. Registrants have integrity if they are reasonably careful, measured, honest, reliable and meet their professional obligations. If they fall short, they accept their error(s), learn from them and remediate. Reasonableness was to be measured by the Committee as the reasonable osteopath which, as a member of a profession was a higher bar than may apply to the reasonable member of the public. However, it was not so high as to be unrealistic.
64. In summary, professional integrity is a way of professional life that indicates someone may, as a rule, be trusted to abide not simply by the legal requirements of practice as an osteopath but by the ethical and moral requirements thereof and, if they fall short to admit and rectify the error. The Committee observed that it is an important component of a registrant's overall character and was to be judged in that wider context.
65. The Committee concluded that drawing the specific inference of a lack of integrity from the failures found proved was dependent upon the context of the failure. It was fact-specific and culpability-specific.

66. Having considered the meaning of integrity the Committee applied this to the facts in this case. It noted that the osteopathic profession serves the public by providing safe, caring treatment. An important element of this is insuring against the risk of mistakes by an osteopath that harm a patient – PII. The Committee found that the Registrant did not meet his statutory obligation to obtain and maintain PII, he nonetheless treated patients placing them at risk. When he was required by his regulator to provide proof of insurance he failed to do so. Instead he provided an insurance certificate that did not provide PII at all and the dates of which did not accord with the records of Simply Business. The Committee concluded that the Registrant’s conduct did indeed demonstrate a lack of integrity. He did not have insurance and thus placed patients at risk. His statement that he had assumed he was covered by the Simply Business insurance demonstrated at the very least a lack of care in obtaining insurance that met his statutory obligations and his obligations to his patients. The issue of the truth or falsity of the dates in the Simply Business insurance certificate and any inferences to be drawn did not form part of this first case.
67. The Committee concluded that the ordinary member of the public would consider the Registrant had failed to meet the standards required of him in several important respects and that his conduct did indeed demonstrate a lack of integrity.
68. The Committee proceeded to consider the second case, the principal issues of which are the Registrant’s actions and state of mind as revealed by his correspondence with the GOsC.
69. For the reasons set out above the Committee has found that the Registrant did not have PII cover from 15 June 2018. Furthermore, such insurance as the Registrant obtained through Simply Business did not provide PII cover in any event.
70. Turning to the issue of dates, Ms Theodoulou provided a clear explanation of how the computerised system works at Simply Business. The Committee noted that it is a professional company with a duty to manage its affairs properly. It noted that this anomaly of dates on the certificate was described as an isolated incident which lent credence to the security of the system. The Committee saw no reason to doubt her evidence. It was coherent, credible and led to the conclusion that the company records were correct as to the date on which the insurance certificate was issued. That date was 1 November 2018. It provided cover from that date and not beforehand as the Registrant contended in his correspondence with GOsC.

71. In the above-mentioned correspondence, the insurance certificate provided by the Registrant purported to show that the Registrant was covered from 15 June 2018. Having considered the clear evidence from Ms Theodoulou as to dates and, having noted that the Registrant initiated but did not complete an application to obtain insurance on 18 June 2018, the Committee was driven to the conclusion that the Registrant did not have insurance and had been caught-out in that fact in correspondence with the GOsC.
72. The Committee concluded that rather than admit his lack of insurance the Registrant obtained insurance on 1 November 2018 and then altered the dates on the certificate to try and cover up his failure. The Committee tested the inferential thought process by considering whether there was any other reasonable explanation such as human or computer error and it found there was none. In addition, not only did the Registrant fail in his endeavour to cover his tracks, but he also compounded his error by taking insufficient care with the insurance that he did obtain. It would not have covered him for PII in any event.
73. For the reasons set out above the Committee concluded that the Registrant knowingly altered the insurance certificate and, having done so he knowingly provided what was now a false insurance certificate to the GOsC.
74. Having concluded that the Registrant altered and then submitted that altered document to the GOsC the Committee found that such an action was misleading.
75. The Committee reminded itself of the meaning of integrity as set out above and, having done so, it concluded that the Registrant's actions in falsifying an insurance certificate and providing that false document to the GOsC demonstrated a lack of integrity. It was a document that misled in that it purported to demonstrate that the Registrant had met his professional obligations when he had not.
76. Finally, the Committee considered whether the Registrant's actions in falsifying a certificate of PII and providing that to the GOsC were dishonest. The Committee concluded that there were.
77. In coming to the conclusion that the Registrant was dishonest the Committee first considered his state of knowledge as to the relevant facts. It found that the Registrant: knew he was required to have PII; knew he did not have PII and was in breach of his professional obligations; obtained insurance (albeit not PII) and then changed the dates on the certificate. Finally, he knowingly provided a falsified certificate in order to suggest to the GOsC he was covered when he knew he was not.



78. The Committee then asked itself whether a reasonable and fully informed member of the public would consider the Registrant's actions as set out above to be dishonest. The Committee had no doubt that they would.

### **Conclusion**

79. Having looked at the two cases separately the Committee then took a step back to consider an overview of the facts together. In the round the Committee concluded that the Registrant was in practice and treating patients without PII from 15 June 2018. He set about obtaining insurance on 18 June 2018 but did not proceed with this. Having been asked to provide evidence of PII he obtained insurance through Simply Business and then falsified the certificate with a view to dishonestly misleading his regulator into thinking he was insured when he was not. His dishonesty and lack of integrity was compounded by the fact that when he did obtain insurance, he paid insufficient care to what he had obtained since it did not provide PII in any event.

### **Submissions on Unacceptable Professional Conduct ("UPC")**

80. Mr Dacre on behalf of the GOsC invited the Committee to find that the facts found proved do amount to UPC. He drew upon the Committee's conclusion as above, and said that the issues for the Committee to determine were firstly, whether the Registrant had fallen short of the standards expected of an osteopath; secondly, whether such falling short was serious, morally blameworthy or attracted a degree of opprobrium as described in the various familiar cases to which he referred.

81. Mr Dacre observed that the Committee had found all the factual allegations proved and had concluded the Registrant's conduct had lacked integrity and was dishonest. He submitted that obtaining and maintaining PII was a fundamental protection afforded to the public. The Registrant had an absolute statutory duty and a professional obligation to have it in place. To fail in this regard was serious. It exposed the public to risk and damaged the standing of the profession. He submitted that this alone amounted to UPC

82. Turning to the issues of lack of integrity and dishonesty, Mr Dacre observed that the Registrant had failed to meet several of his professional obligations as set out in the Osteopathic Practice Standards, notably:

*D14 Acting with integrity in your professional practice.*

*Subparagraph 1, Acting with integrity means acting with honesty and sincerity....*

*D17 Uphold the reputation of the profession through your conduct. Subparagraph 2.7. Not falsifying records or other documents. Subparagraph 2.8. Behaving honestly in your personal and professional dealings.*

83. Mr Dacre submitted that the dishonesty was particularly serious since it involved the deliberate falsification of an important document which sits at the heart of professional practice. It was dishonesty toward his own professional regulator. It was serious misconduct and amounted to UPC.

### **Decision on UPC**

84. The Committee considered the authorities referred to by Mr Dacre and the criterion that UPC represents a serious falling short of the standards expected of a registered osteopath. It must be sufficiently serious to attract a degree or opprobrium. The Committee found it helpful to consider the questions posed by Lady Justice Smith in the Fifth Shipman Inquiry Report as amended for this regulator. These may be summarised as follows: Has the Registrant

- (a) put patients at unwarranted risk of harm and/or is he liable to do so again?
- (b) brought the profession into disrepute and/or is he liable to do so again?
- (c) breached one of the fundamental tenets of the profession and/or is he liable to do so again?
- (d) acted dishonestly and/or is he liable to do so again?

85. The Committee answered each question in the affirmative both with regard to the Registrant's conduct found proved and to his risk or liability to repeat such behaviour.

86. In respect of the Registrant's failure to obtain and maintain PII. He had departed from the expected standards and statutory obligations placed upon him. He had not adhered to the law. In respect of his integrity, probity and honesty he had set about a deliberate and dishonest course of conduct thereby breaching the above mentioned Standards D14 and D17. The dishonesty was not an isolated incident rather it was a considered course of conduct. He deliberately altered his insurance certificate and thereafter submitted it to his regulator. He deployed the misleading document in order to cover up his lack of insurance. He had done this after the GOsC had properly and repeatedly asked for proof that he had met the statutory and professional obligations integral to practice and designed to protect patients.

87. The Committee concluded that the Registrant's misconduct was very grave.
88. The Committee differentiated this Registrant's case from that of other Registrants before the Committee who may on occasion by error or mistake fail to meet their professional obligation to obtain and maintain insurance; who immediately admit their error and who rectify it. In short, to err is human, to admit and remediate that error demonstrates integrity and professionalism. This Registrant displayed no such integrity or professionalism instead he stooped to dishonesty in order to mislead his regulator. His conduct was indeed UPC.

## **Sanction**

### **Submissions on sanction**

89. Mr Dacre directed the Committee's attention to the Hearing and Sanctions Guidance document provided by the GOsC. He stressed that the document and his submissions were designed to assist and that the decision upon sanction was for the Committee alone. He said that the intention of sanctions was to protect the public rather than punish even though the effect of sanction may be punitive. The Committee should keep proportionality firmly in view as a matter of principle, balancing the interests of the Registrant against the overarching objective of protecting the public which included declaring and upholding professional standards. He submitted that all three limbs of the overarching objective were engaged – the protection of patients; maintaining standards; and upholding the reputation of the profession.
90. Mr Dacre took the Committee through factors that may be regarded as potential aggravating or mitigating circumstances. He observed that the duty of candour is central to professional practice as is the duty to act with integrity and honesty. A finding of dishonesty was necessarily serious. It was an aggravating circumstance that the Registrant appeared to have practised without insurance for a relatively lengthy period placing patients at risk. The dishonesty was particularly serious since it was an attempt to frustrate the proper function of his regulator and it breached a statutory requirement.
91. He submitted that this was one incident of dishonesty and, as regards the lack of insurance, no actual harm had actually befallen patients. He observed that time had passed, and the Registrant had not been the subject of further complaint. He submitted that the Committee had nothing from which to assess his insight. Finally, Mr Dacre took the Committee to the four options of sanction in turn by reference to the guidance and to the criteria that were or were not

met. He invited the Committee to impose a sanction and to impose an interim order if it considered this appropriate.

### **Decision on Sanction**

92. The Committee accepted the advice of the Legal Assessor.
93. The Committee recognised that the purpose of sanctions is to meet the overarching objective of public protection. It further recognised that their purpose is not to punish, even though they may have a punitive effect. Because of this it kept proportionality at the forefront of its mind. It considered the question of mitigating and/or aggravating factors, breaches of the OPS and then considered the sanctions in ascending order of seriousness.
94. In terms of mitigating factors, the Committee noted that there was no evidence to suggest patients had come to harm because of the Registrant's conduct. Nonetheless they had been put at risk. It found no other mitigating features. Whilst time had passed without further complaint against the Registrant, there was no evidence that this was because he had reflected upon his conduct and/or remediated in any way. Nor was there evidence that he was capable of remediation or of re-establishing his integrity. Rather the Registrant had abrogated his responsibilities entirely by apparently declining to reflect, remediate, engage with his regulator, or assist the regulatory process. The Committee considered his original conduct and his attitude thereafter to be indicative of a serious attitudinal problem incompatible with professional practice.
95. Regarding seriousness and aggravating factors, the Committee found that the Registrant practised without insurance for a considerable period during which time he put patients at risk. Thereafter, rather than candidly accepting his mistake and rectifying it, he dishonestly sought to mislead his regulator and frustrate the proper regulation of his practice by falsifying a document the importance of which is integral to professional practice as an osteopath. This case was not about an isolated incident but a considered course of conduct that involved the Registrant breaching his statutory duty to have PII; placing patients at risk and then miscommunicating with his regulator in a way that demonstrated an entrenched lack of integrity and serious and deliberate dishonesty.
96. The Committee was of the view that the Registrant had breached his duty of care to the public and to the profession. He had demonstrated neither remorse nor remediation. Indeed, the Committee considered that his misleading conduct, lack of integrity and such serious dishonesty were hard to remediate. In the absence

of any evidence to the contrary the Committee concluded that there was a risk he may act in this way again.

97. In light of the above findings the Committee first considered whether this case merited an Admonishment. It concluded that this was wholly insufficient to mark the gravity of the case; protect the public or uphold and declare the proper standards of the profession.

98. The Committee next considered a Conditions of Practise order. For the reasons set out above the Committee considered this too was not the appropriate sanction. In addition, since the Registrant had demonstrated neither reflection, understanding, remorse or remediation, nor had he engaged in the regulatory process. There was no evidence from which to conclude that he may abide by and remediate through such an order.

99. Next the Committee considered suspension. It regarded this as a weighty sanction merited in serious cases. However, the suspension of an osteopath carries with it the potential for restoration. It marks the seriousness of the case and the seriousness of the risk to the public but, it carries with it the implication of remediation.

100. The Committee had seen no evidence of insight or remediation, or of a potential to re-establish his professional reputation, indeed, the reverse was the case. The Registrant's attitude when caught without insurance was to behave dishonestly, to disengage from his regulatory body and, he had maintained that stance. He demonstrated a serious attitudinal problem that was unlikely to be remediated during suspension. The Committee saw no reason to expect he may reflect or change his outlook.

101. Having considered all the above the Committee contemplated removing the Registrant from the register. The Committee found the following points to be of particular importance:

- The Registrant had put patients at risk and there was no assurance he would not do so again.
- He had brought his profession into disrepute by his failure to maintain PII and his conduct toward his regulator.
- He had been dishonest and had expressed no remorse or insight or evident consideration for patients and the wider public interest.
- By his conduct he had departed from central tenets of the profession namely integrity, honesty and safe practice.

In addition, the Committee had no confidence he could re-establish his reputation and there was nothing from which the Committee could conclude he would be averse to repeating his misconduct.

102. In light of the above the Committee concluded that such was the gravity of this Registrant's conduct, and such was the risk to the public and to the profession, no lesser sanction than removal from the register would suffice. The Committee determined that the necessary and proportionate sanction in this case was to order the removal of the Registrant from the register.

### **Interim Suspension Order (ISO)**

#### **Submissions on ISO**

103. Based upon his submission on UPC and sanction which focussed on the issue of public protection Mr Dacre invited the Committee to consider imposing an interim suspension order pending expiry of the period during which the Registrant may appeal the findings and sanction indicated in this case. Not to impose an order would leave the public unprotected.

#### **Decisions on ISO.**

104. The Committee determined that an ISO was appropriate for all the reasons outlined in its findings relating to UPC and sanction. It accepted the submission that not to impose an order would leave the public at risk. It considered that an ISO was a necessary and proportionate response to that risk.

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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.

All final decisions of the Professional Conduct Committee are considered by the Professional Standards Authority for Health and Social Care (PSA). Section 29 of the NHS Reform and Healthcare Professions Act 2002 (as amended) provides that the PSA may refer a decision of the Professional Conduct Committee to the High Court if it considers that the decision is not sufficient for the protection of the public.

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 nature of the Allegations and the steps taken by the Committee in respect of the osteopaths so named.