In the matter of Section 22 of the Chiropractors Act 1994 (“the Act”) and
The General Chiropractic Council (Professional Conduct Committee) Rules 2000 (“the Rules”) and
The consideration of an allegation by the Professional Conduct Committee

NOTICE OF FINDING BY
THE PROFESSIONAL CONDUCT COMMITTEE
OF THE GENERAL CHIROPRACTIC COUNCIL

Name of Respondent: Mr Daniel O’Sullivan Drummond
Address of Respondent: Peterborough Chiropractic
28b Priestgate
PETERBOROUGH
PE1 1JA
UNITED KINGDOM
Registration Number of Respondent: 04262

On 11-15 October 2021 and 31 January - 1 February 2022, the Professional Conduct Committee (“the Committee”) of the General Chiropractic Council met to consider the following allegation against you, referred to it by the Investigating Committee in accordance with Section 20(12)(b)(ii) of the Chiropractors Act 1994 (“the Act”):

THE ALLEGATION:

That being a registered chiropractor you are guilty of unacceptable professional conduct.
PARTICULARS OF THE ALLEGATION:

That, being a registered chiropractor, you are guilty of unacceptable professional conduct in that:

1. At all material times, you were a registered chiropractor providing chiropractic care and/or treatment to patients at the Peterborough Chiropractic Health and Wellness Group., 28B Priestgate, Peterborough PE1 1JA ('the Clinic').

2. On or around 16 August 2018 to 20 August 2018, you failed to adequately obtain and/or record Patient A's previous history of spinal surgery.

3. On or around 20 August 2018, you stated to Patient A words to the effect that:
   a. you were critical of the decision made in Patient A's youth for her to undergo spinal surgery;
   b. if she did not do something to halt the degeneration of her neck and spine she would not be able to hold her future grandchildren.

4. Your conduct at 3 (a) and/or 3 (b) was inappropriate in that the comments were:
   i. not clinically justified;
   ii. likely to cause Patient A unnecessary distress.

5. In addition, your conduct at 3(b) was inappropriate in that the comment sought to encourage Patient A to agree to chiropractic treatment by causing her unjustified concern about her health.
DECISION

1. The Committee convened to consider an Allegation of Unacceptable Professional Conduct (“UPC”) against Mr Daniel O’Sullivan Drummond.

2. Ms Louise Culleton appeared on behalf of the General Chiropractic Council (“the GCC”).

3. Mr O’Sullivan Drummond attended and was represented by Mr Jonathan Goldring.

4. The hearing was conducted remotely using Microsoft Teams in accordance with the current guidance from HM Government in relation to the COVID-19 (Coronavirus) pandemic.

Preliminary Matters

5. Prior to and at the outset of the hearing, the Committee was provided with:
   - A redacted Hearing Bundle from the GCC (“C1”);
   - The Registrant’s Bundle (“R1”);
   - An Opening Note dated 8 October 2021 from Ms Culleton setting out the GCC’s case;
   - A Further Addendum Report from Mr Brown dated 11 October 2021 (“C2”); and
   - An Email containing a further expert opinion from Mr Brown dated 11 October 2021 (“C3”).

6. Several preliminary matters were raised at the start of the hearing. Mr Goldring expressed concern regarding part of the GCC’s the Opening Note and the further evidence from Mr Brown in C2 and C3. He submitted that it was no longer clear how the GCC puts its case in relation to Particulars 2 and 3(b) of the Allegation.

7. Mr Goldring submitted that in relation to Particular 2 of the Allegation, it appeared that the GCC was seeking to go beyond matters relating to Patient A’s previous history of spinal surgery and was now seeking to allege failings in Mr O’Sullivan Drummond’s taking of the case history. He submitted that the matter of taking an adequate case history was not in issue. Mr Goldring therefore invited the Committee to direct the GCC to clarify how it puts its case in relation to this particular.

8. In relation to Particular 3(b), Mr Goldring submitted that at a Preliminary Hearing on 27 August 2021, the GCC had applied to amend the wording of Particular 3(b) by replacing the word “would” with “may”. He submitted that this application was refused by the Committee at the Preliminary Hearing and that Mr O’Sullivan Drummond’s legal team had therefore prepared their case accordingly. Mr Goldring referred the Committee to Mr O’Sullivan Drummond’s witness statement in which he denied Particular 3(b) of the Allegation because of the use of the word “would” as opposed to the words “may” or “might”. Mr
Goldring submitted that Mr O’Sullivan Drummond’s case was that although he accepted that he may have given Patient A the impression that not being able to hold her grandchildren was a possibility if she didn’t look after her spine, he would never have suggested it as a foregone conclusion.

9. Mr Goldring submitted that it now appeared from Ms Culleton’s Opening Note and the further evidence from Mr Brown, that the GCC’s case in relation to Particular 3(b) of the Allegation was that the words “may” or “might” fell within the range of “words to the effect” of “would”. Mr Goldring therefore invited the Committee to direct the GCC to clarify how it puts its case in relation to this particular.

10. Mr Goldring also asked the Committee for time to allow their instructed expert Mr Proudman to consider the new evidence from Mr Brown in C2 and C3 and to prepare a response. Mr Goldring informed the Committee that he would then require time to take further instructions from Mr O’Sullivan Drummond in relation to these matters.

11. Ms Culleton submitted that the GCC’s case in respect of Mr O’Sullivan Drummond’s alleged failings in Particular 2 of the Allegation related to Patient A’s previous history of spinal surgery. She submitted that the GCC was not putting its case any wider on this matter and therefore this particular did not require further clarification.

12. Ms Culleton submitted that although the Committee at the Preliminary Hearing on 27 August 2021 had refused the application to amend Particular 3(b) of the Allegation, the particular as currently drafted did not preclude this Committee from finding that “may” or “might” fell within the range of “words to the effect.” Ms Culleton submitted that for this reason she was not applying to amend the wording of Particular 3(b). She submitted that, if having heard the evidence, the Committee determined that the wording should be amended to reflect those different words, then that would be within the Committee’s remit. Ms Culleton submitted that these points were set out in her Opening Note and that therefore Particular 3(b) of the Allegation did not require further clarification.

13. Ms Culleton acknowledged that Mr Brown’s further expert evidence contained in C2 and C3 had only been served on the first day of this hearing, however, she submitted that the matters raised by Mr Brown could be dealt with by Mr Goldring having a conference with Mr Proudman and Mr O’Sullivan Drummond and thereafter Mr Brown could be cross-examined about his further expert evidence. Ms Culleton submitted that the hearing should not be unnecessarily delayed.

14. The Committee accepted the advice of the Legal Assessor.

15. The Committee was satisfied that in light of the submissions made by Ms Culleton, it was clear how the GCC puts its case in relation to Particular 2 of the Allegation, namely on the basis that Mr O’Sullivan Drummond failed to adequately obtain and/or record Patient A’s previous history of spinal surgery.
The Committee therefore decided that it was not necessary to direct the GCC to provide further clarification in respect of this particular.

16. The Committee was also satisfied that it was clear how the GCC puts its case in relation to Particular 3(b) of the Allegation. In her submissions, Ms Culleton referred the Committee to her Opening Note and in particular paragraph 28, which provides:

“28. The basis upon which this allegation is bought by the GCC is that the Registrant used ‘words to the effect’ that if Patient A did not do something to halt the degeneration of her neck and spine she would not be able to hold her future grandchildren’ and that ‘would’/’may’ or ‘might’ would fall within that range of ‘words to the effect’.”

17. The Committee noted that on the basis of this reasoning, Ms Culleton did not make an application to amend the wording of Particular 3(b) of the Allegation. It decided that at the fact-finding stage, it would assess the evidence and decide whether Mr O’Sullivan Drummond used words to the effect that if she (Patient A) did not do something to halt the degeneration of her neck and spine she would not be able to hold her future grandchildren. It decided that it would be for the Committee to determine what words were used and whether they fell within the range of “words to the effect”.

18. The Committee therefore decided that it was not necessary to direct the GCC to provide further clarification in respect of Particular 3(b) of the Allegation.

19. The Committee considered that Mr Goldring’s request for time to obtain further evidence from Mr Proudman and to take further instructions from Mr O’Sullivan Drummond was reasonable. The Committee therefore decided to allow Mr Goldring the time requested to facilitate this.

20. Mr Goldring subsequently provided the Committee with two reports from Mr Proudman (“R2”) and (“R3”) addressing Mr Brown’s C2 and C3.

Admissions

21. The Allegation was put to Mr O’Sullivan Drummond and Mr Goldring made the following admissions on his behalf:

Particular 1 – Admitted.
Particular 3(a) – Admitted (but some of the context is denied).
Particular 4(i) – Admitted in relation to Particular 3(a).
Particular 4(ii) – Admitted in relation to Particular 3(a).

22. Consequently, the Committee found Particulars 1, 3(a), 4(i) in relation to Particular 3(a) and 4(ii) in relation to Particular 3(a) of the Allegation proved under the provisions of Rule 6(3)(a) of the Rules.
23. Mr O’Sullivan Drummond qualified as a chiropractor in 2015 and established his own clinic, Peterborough Chiropractic, in May 2017.

24. This case concerns Mr O’Sullivan Drummond’s assessment of, and communication with, Patient A.


26. In her complaint, Patient A stated that in August 2018, she booked an appointment with Mr O’Sullivan Drummond having seen an online advertisement from Peterborough Chiropractic online stating that they could help with sciatic pain.

27. Patient A said she suffered from sciatic nerve pain since November 2017. This caused her severe pain, from her lower back to her left foot, also resulting in numbness in her leg along the nerve. Patient A was a primary school teacher and the sciatica made it difficult for her to stand up in class, leaving her no choice but to teach sitting down.

28. Patient A’s first appointment with Mr O’Sullivan Drummond was on 16 August 2018. Prior to meeting him, Patient A was required to fill in a questionnaire about her health. Patient A disclosed that when she was aged 12, she was diagnosed with scoliosis for which she had titanium rods inserted into her spine (a procedure called a ‘Webb-Morley Correction’) when she was aged 13. During the first appointment, Mr O’Sullivan Drummond also conducted an examination of Patient A and X-rays were taken of her spine.

29. Patient A attended a second appointment with Mr O’Sullivan Drummond on 20 August 2018. Patient A understood that the purpose of the second meeting was to discuss Mr O’Sullivan Drummond’s findings from his study of the X-rays taken of her spine and to discuss a treatment plan. Patient A stated that she did not anticipate that she would have chiropractic treatment at the second appointment and had taken her 8-year old son with her to the appointment. The clinic receptionist (“Person C”) was also present during the second appointment. Mr O’Sullivan Drummond explained that she had just started to work at the clinic and was also under his care for treatment for scoliosis. Mr O’Sullivan Drummond asked Patient A if Person C could sit in on the meeting to hear the feedback.

30. It is alleged that during these two appointments on 16 and 20 August 2018, Mr O’Sullivan Drummond failed to adequately obtain and/or record Patient A’s previous history of spinal surgery. Mr O’Sullivan Drummond’s case is that the history he obtained together with the X-rays was adequate for him to provide Patient A with a care treatment plan for her sciatica. Expert opinion evidence has been obtained from Mr Brown (instructed by the GCC) and Mr Proudman (instructed by Mr O’Sullivan Drummond’s legal team) in relation to the adequacy of the history obtained and/or recorded in relation to Patient A’s
previous history of spinal surgery and whether such conduct would fall short of the standard required of a reasonable chiropractor.

31. It is also alleged that during the second appointment, Mr O’Sullivan Drummond used words to the effect of being critical of the decision made by Patient A’s parents for her to have spinal surgery in her youth. He mentioned several times that he would not be able to help with the scoliosis and that the titanium rods in Patient A’s spine would prevent him from manipulating that part of her spine. Patient A alleged that Mr O’Sullivan Drummond said things like “well, if you had come to me I could have sorted it out…” . Patient A said that on subsequent occasions, Mr O’Sullivan Drummond commented that she should not have had this operation in her youth. He explained that he thought that she should not have agreed to surgery and that she should have seen a chiropractor instead. She felt these comments were unnecessary and quite insulting as she had previously told Mr O’Sullivan Drummond that she was a child when she underwent the spinal surgery and so did not have a choice of treatment. Expert opinion evidence has also been obtained in relation to whether these comments were inappropriate in that they were not clinically justified and/or likely to cause Patient A unnecessary distress and whether such conduct would fall short of the standard required of a reasonable chiropractor.

32. It is further alleged that during the second appointment, Mr O’Sullivan Drummond used words to the effect that if Patient A did not do something to halt the degeneration of her neck and spine she would not be able to hold her future grandchildren. Patient A stated that during the second appointment, Mr O’Sullivan Drummond diagnosed her with severe degeneration of her spine that was well into the second phase of degeneration (out of three phases). She said that this comment was made in front of her 8-year old son. Patient A described feeling shocked and scared at the comment and that she burst into tears. Patient A also described how her son became distressed and tried to console her saying “Mummy, it’s going to be alright”. Patient A stated that she felt overwhelmed and shocked by Mr O’Sullivan Drummond’s prognosis and that this led her to agree to a course of treatment there and then. Mr O’Sullivan Drummond accepted that he may have given Patient A the impression that not being able to hold her grandchildren was a possibility if she did not look after her spine, but it was his case that he would never have suggested it as a foregone conclusion.

33. Expert opinion evidence has also been obtained from Mr Brown and Mr Proudman in relation to whether the comment relating to Patient A’s future grandchildren was inappropriate in that it was not clinically justified and/or likely to cause Patient A unnecessary distress and whether such conduct would fall short of the standard required of a reasonable chiropractor.

34. It is further alleged by Patient A that Mr O’Sullivan Drummond’s comments about her being unable to hold her future grandchildren caused her to agree to a course of treatment there and then. She said that she felt emotionally coerced into this. Mr O’Sullivan Drummond denies that he intentionally used emotive inappropriate words to encourage Patient A to agree to chiropractic treatment by causing her unjustified concern about her health.
Findings on the Facts

35. The Committee heard evidence from Patient A and had regard to the contents of her witness statements dated 3 August 2019 and 4 July 2021, which she confirmed to be true during her oral evidence to the Committee.

36. The Committee heard expert evidence from Mr Brown, instructed by the GCC. The Committee also had regard to the content of Mr Brown’s expert reports dated 6 October 2019 and 14 July 2021 contained within the GCC Hearing Bundle C1, to his addendum report dated 11 October 2021 (referred to as C2) and to the opinion expressed in his email dated 11 October 2021 (referred to as C3).

37. The Committee also took into consideration the other documents contained within the GCC Hearing Bundle C1, namely Patient A’s initial complaint to the GCC dated 4 February 2019, Patient A’s X-ray sheet dated 16 August 2018, Mr O’Sullivan Drummond’s observations dated 7 January 2021, which had been heavily redacted, and Patient A’s chiropractic records.

38. The Committee heard evidence from Mr O’Sullivan Drummond and had regard to the content of his witness statement dated 23 September 2021, which he adopted as his evidence in chief to the Committee.

39. The Committee heard expert evidence from Mr Proudman, instructed on behalf of Mr O’Sullivan Drummond. The Committee also had regard to the content of Mr Proudman’s expert report dated 17 September 2021 contained in the Registrant’s Hearing Bundle R1 and to the two addendum expert reports from Mr Proudman dated 11 and 12 October 2021 (referred to as R2 and R3).

40. The Committee had regard to the submissions of Ms Culleton, on behalf of the GCC and those of Mr Goldring on behalf of Mr O’Sullivan Drummond.

41. The Committee accepted the advice of the Legal Assessor.

42. In reaching its decisions on those Particulars of the Allegation which had not been admitted, the Committee reminded itself that the burden of proof was upon the GCC and the standard of proof was the civil standard, the balance of probabilities.

43. The Committee made the following findings on the facts in relation to Particulars 2, 3(b), 4(i) and 4(ii) in relation to 3(b), and 5 of the Allegation. The Committee also made findings in relation to the context of the admitted Particular 3(a).

Particular 2: Found Proved

44. The Committee had the benefit of considering the chiropractic records in respect of Patient A. The Committee noted that these included the health questionnaire completed by Patient A in which she referenced her history of spinal surgery in her answer, “Spinal correction for Scoliosis in 1987”. The
chiropractic records also included a series of X-rays of Patient A’s spine that showed the titanium rods/screws that had been inserted into her spine, and a note made by Mr O’Sullivan Drummond on the X-ray report referring to “scoliosis” and to “4 screws for scoliosis”. The Committee was satisfied that these items were the only record made by Mr O’Sullivan Drummond of Patient A’s history of previous spinal surgery.

45. The Committee noted that in her second witness statement, Patient A made reference to a brief discussion with Mr O’Sullivan Drummond about her surgery but did not provide further detail in respect of the contents of that discussion. When asked about this during her oral evidence to the Committee, she stated that she was unable to recall the detail.

46. The Committee also had regard to the expert evidence of Mr Brown and noted that in his report dated 11 October 2021 (referred to as C2), Mr Brown stated that in his opinion, no reasonable chiropractor would have failed to recognise and take into account the significance of Patient A’s past medical history in relation to her spinal surgery. This element of her history warranted due investigation in order for Mr O’Sullivan Drummond to gauge its relevance to the current presentation. In Mr Brown’s addendum report, he stated that “against a backdrop of major paediatric spinal surgery for spinal scoliosis, I disagree with the Registrant’s expressed view that it was appropriate to solely focus on Patient A’s clinical presentation of sciatica.”

47. The Committee took into account Mr O’Sullivan Drummond’s position, as expressed in his witness statement, that during his assessment of Patient A he took account of her documented history of scoliosis surgery, that he had a short discussion with Patient A about this and that he took into account the nature of the spinal surgery and its consequent impact, including observed degenerative changes visible on the X-rays. He regarded this as adequate to make a diagnosis and formulate a care treatment plan in respect of her presenting complaint of sciatica.

48. The Committee noted that during his oral evidence to the Committee, Mr O’Sullivan Drummond continued to question the necessity for taking a detailed history in respect of Patient A’s previous spinal surgery, but that he also stated that his practice at the time was not to record negative answers in his notes. He said that it was possible that he may have asked Patient A questions about her spinal surgery but not recorded them if she was unable to answer. However, he could not recall any details of questions he may have asked.

49. The Committee noted that Mr Proudman expressed a contrary opinion to Mr Brown. He stated that he disagreed with Mr Brown’s opinion that additional information regarding the circumstances of the surgery performed 31 years previously was essential, reasonable or easily available. Whilst Mr Proudman agreed that Patient A’s childhood surgical procedure was clinically relevant to her sciatica, he considered that the depth of Mr O’Sullivan Drummond’s investigation was adequate in relation to Patient A’s presenting complaint.
50. The Committee noted that in Patient A’s chiropractic records, one of Mr O’Sullivan Drummond’s objectives was to reduce and/or manage Patient A’s scoliosis symptoms. The Committee further noted that the observed areas of degenerative change in Patient A’s spine were in areas adjacent to the site of the spinal surgery. The Committee noted that having taken the X-rays of Patient A’s spine, Mr O’Sullivan Drummond decided that it was unnecessary to take a detailed history from Patient A in relation to her spinal surgery.

51. In considering all of the evidence, the Committee concluded that Mr O’Sullivan Drummond failed to obtain an adequate history from Patient A in relation to her spinal surgery. The Committee was not persuaded that the undocumented conversation referred to, even if taken together with the health questionnaire completed by Patient A, the X-rays and the note made by Mr O’Sullivan Drummond on the X-Ray record were adequate. It was cognisant of the fact that Mr O’Sullivan Drummond did not see the necessity of taking a history of previous spinal surgery. The Committee preferred the evidence of Mr Brown that further exploration of the impact of the surgery on Patient A, albeit that it occurred many years ago, was clinically relevant given the potential effect of this on her presenting condition.

52. The Committee’s was further satisfied that Mr O’Sullivan Drummond failed to adequately record Patient A’s history of spinal surgery. It considered that what had been recorded in relation to the surgery was limited to a note on the X-ray and that no information about Patient A’s history pre and post spinal surgery had been recorded. In the Committee’s view, maintaining adequate records of a past history of spinal surgery was important, particularly if future treatment were to be provided by him, another chiropractor or other clinician.

53. The Committee therefore found both limbs of Particular 2 proved.

Particular 3(a): Found Proved by Admission

54. The Committee found this Particular 3(a) of the Allegation proved by Admission. However, Mr Goldring invited the Committee to provide such reasons as it deemed appropriate in relation to the context of this part of the Allegation.

55. The Committee noted that Patient A’s account in relation to Particular 3(a) of the Allegation was not challenged. She described Mr O’Sullivan Drummond repeating the comments on more than one occasion and of feeling insulted by them. She said that she felt the comments were unnecessary as she had been a child at the time and did not have a choice as to treatment. She also said that the surgeons had told her at the time that she would have been in a wheelchair without surgery. The Committee accepted Patient A’s evidence in this regard.

56. In his witness statement, Mr O’Sullivan Drummond admitted this part of the Allegation but stated that it arose as a result of miscommunication on his part. He stated that he believed that surgery should be the last resort, and that he may have told Patient A that he had had some success in managing scoliosis in some patients. He said that he did not intend to be critical although he
accepted that it could be perceived as critical and insensitive. The Committee noted that Mr O’Sullivan Drummond also accepted that it was both inappropriate and unnecessary for him to have commented in this way and therefore offered his sincere apologies to Patient A. Notwithstanding this apology, the Committee considered that the comments were not only insensitive but also likely to cause Patient A distress. In this respect, the Committee was satisfied that Mr O’Sullivan Drummond did not treat Patient A with the appropriate level of dignity and respect.

**Particular 3(b): Found Not Proved**

57. In relation to Particular 3(b) of the Allegation, the Committee was satisfied that Patient A was a reliable and credible witness doing her best to provide the Committee with a truthful and accurate account of the comments made by Mr O’Sullivan Drummond during the second appointment on 20 August 2018. The Committee accepted her evidence that Mr O’Sullivan Drummond used an example relating to her ability to hold her future grandchildren when discussing Patient A’s prognosis as a result of the degeneration to her spine. The Committee further accepted Patient A’s evidence that this comment was a ‘pivotal’ moment during the consultation and that it caused her to feel shocked and frightened and that it caused her to burst into tears. Furthermore, the Committee accepted Patient A’s evidence that this was exacerbated by the presence of her 8-year old son.

58. In the Committee’s view, the usage by Mr O’Sullivan Drummond of such an emotive example was both unhelpful and inappropriate.

59. The Committee noted, however, that in both her written and oral evidence to the Committee, Patient A on some occasions stated that Mr O’Sullivan Drummond said that if she did not do something to halt the degeneration of her neck and spine she ‘would’ not be able to hold her future grandchildren, but that on other occasions she used the words ‘may’ or ‘might’.

60. In her oral evidence, Patient A stated that if Mr O’Sullivan Drummond had said ‘might’, then it was likely that she would have questioned him further. However, she also accepted when questioned by Mr Goldring that it was possible that Mr O’Sullivan Drummond could have used the words ‘may’ or ‘might’. Patient A made the point that whatever the exact words used, the effect on her was the same in that it caused her significant distress. The Committee noted that during her oral evidence, Patient A was also clearly distressed when recounting these events and the effect that Mr O’Sullivan Drummond’s comment had upon her.

61. The Committee also accepted Mr O’Sullivan Drummond’s evidence in relation to this matter. The Committee noted that in his witness statement and in his oral evidence, Mr O’Sullivan Drummond has always accepted that he used the example of holding or lifting grandchildren when giving examples of what people might want to be able to do or continue to do when they are older. The Committee further noted that Mr O’Sullivan Drummond has been consistent in his denial that he said ‘would’. He stated in his witness statement “I do explain that as we age, we tend to lose function which can impact on our ability to carry
on doing the things we enjoy. By taking steps now to look after our health we can help preserve our abilities to do some of these things and may see an improvement in what we can do. However, I believe it is neither possible nor acceptable to tell anyone that something would happen to them if they do not accept care and I never have or would suggest this to a patient.” In his oral evidence to the Committee, Mr O'Sullivan stated that he would therefore have used the word ‘may’ or ‘might’ when giving this example to Patient A. Further, during his oral evidence he reiterated that he definitely did not use the word ‘would’ as he recognised the impact that such a word would have.

62. Having regard to the above, the Committee therefore determined that on the balance of probabilities, it was more likely than not that Mr O’Sullivan Drummond used the word ‘may’ or ‘might’.

63. The Committee therefore had to decide whether or not this fell within the range of ‘words to the effect’ of Particular 3(b) as drafted. In reaching this decision, the Committee had careful regard to the submissions made by both Ms Culleton and by Mr Goldring. It also had regard to the fact that there had been a previous unsuccessful application at a Preliminary Hearing on 27 August 2021 by the GCC to amend the wording of Particular 3(b) from ‘would’ to ‘may’. In the Committee’s view, this suggested that at that stage it appeared to be the GCC’s position that there was a sufficient difference between the two words to justify an application to amend. The Committee interprets ‘words to the effect’ as meaning words of a similar meaning or import. In the Committee’s view ‘might’ and ‘may’, which imply a possibility, have a different meaning to ‘would’, which implies a definite outcome.

64. Accordingly, the Committee found Particular 3(b) of the Allegation not proved.

65. In reaching this decision, the Committee did give consideration as to whether it should invite submissions from the parties in relation to amending the wording of the particular. However, given the history of this matter including the previous unsuccessful application to amend the particular at the Preliminary Hearing and the GCC’s decision not to apply for an amendment before this Committee for the reasons set out in paragraph 28 of Ms Culleton’s Opening Note, it decided that it would not be appropriate or fair to do so.

Particulars 4(i) and 4(ii) in relation to Particular 3(b): Found Not Proved

66. Having found Particular 3(b) of the Allegation not proved, the Committee found Particulars 4(i) and 4(ii) of the Allegation not proved in relation to Particular 3(b) of the Allegation.

Particular 5: Found Not Proved

67. Particular 5 of the Allegation only related to the conduct alleged in Particular 3(b) of the Allegation. Accordingly, the Committee also found Particular 5 of the Allegation not proved.
UNACCEPTABLE PROFESSIONAL CONDUCT

68. The Committee was unable to conclude matters in the time available in October 2021 and, accordingly, the case was adjourned until 2022. On resuming the Chair formally handed down the Committee’s decisions on the facts before moving to the next stage in the process.

69. Having found a number of the facts proved, the Committee then considered whether Mr O’Sullivan Drummond was guilty of Unacceptable Professional Conduct (“UPC”), which is conduct falling short of the standard required of a registered Chiropractor. The Committee took into account the submissions made by both parties, together with all the evidence and accepted the advice of the Legal Assessor.

70. The Committee found there to be breaches of the following parts of The Code, Standards of conduct, performance and ethics for chiropractors (“The Code”), effective from 30 June 2016:

   A - Put the health interests of patients first

   A1 - you must show respect, compassion and care for patients by listening to them and acknowledging their views and decisions.

   C1 - you must obtain and document the case history of each patient, using suitable methods to draw out the necessary information.

   F - you must communicate properly and effectively with patients, colleagues and other healthcare professionals.

   F5 - you must listen to, be polite and considerate at all times with patients.

71. The Committee first considered the failings identified in its findings in relation to Particular 2. It noted that when finding this matter proved the Committee had not been persuaded that the undocumented conversation referred to, even if taken together with the health questionnaire completed by Patient A, the X-rays and the note made by Mr O’Sullivan Drummond on the X-Ray record, were adequate. It also noted, with a degree of concern, that Mr O’Sullivan Drummond did not see the necessity of taking a history of previous spinal surgery which, even though it occurred many years ago, was, according to Mr Brown, clinically relevant given the potential effect of this on Patient A’s presenting condition. Furthermore, in the Committee’s view, maintaining adequate records of a past history of spinal surgery was important, particularly if future treatment were to be provided by him, another chiropractor or other clinician.

72. This then, was an important failure on Mr O’Sullivan Drummond’s part. However, when deciding whether it fell far below the standard expected of a reasonable chiropractor, and thus amounted to UPC, the Committee was guided by the evidence of the two expert chiropractic witnesses, Mr Brown and
Mr Proudman. Although Mr Brown did initially take the view that this failure fell far below, he subsequently modified this stance and agreed that, in his expert opinion, this isolated failure to obtain and record details fell below, rather than far below, the standard required. Mr Proudman did not consider there to be a failure in the first instance.

73. Accordingly, given the isolated incident of this information obtaining and record keeping matter, together with the expert evidence that it did not fall far below the standard expected of a reasonable chiropractor, the Committee concluded that Particular 2 did not amount to UPC. This was so whether considered in isolation or in conjunction with the other facts found proved in this case.

74. The Committee then considered whether Mr O'Sullivan Drummond’s criticisms of Patient A’s parents’ decision for her to undergo spinal surgery when a child amounted to UPC. It noted that Mr O'Sullivan Drummond accepted he had made the critical remarks attributed to him by Patient A. He had also accepted that the remarks were not clinically justified and were likely to cause Patient A unnecessary distress. He had openly apologised to Patient A for making the remarks.

75. The Committee considered what it was Patient A had complained of. In her statement, which was not challenged on this point, Patient A said:

“During this discussion, Mr O'Sullivan-Drummond told me that I should not have had my operation in my youth. I was 12 years old when I had this operation because I had a curvature in my spine. The operation was to put a titanium rod in my spine to help straighten my spine and to prevent it curving again. I had included this operation on my medical history questionnaire and we had discussed it briefly during my initial appointments. Mr O'Sullivan-Drummond then said "well if you had come to me I could have sorted that out or words to that effect. Mr O'Sullivan-Drummond then went on to explain that he thought I should not have agreed to surgery and that I should have seen a chiropractor instead. Mr O'Sullivan-Drummond kept saying this to me and to the receptionist, Chelsea. Eventually I felt that this became unnecessary and quite insulting as I had previously told Mr O'Sullivan-Drummond that I was a child and so did not have a choice of treatment. Similarly, when I had the operation the surgeons had told me that, if I hadn't had the operation, I would have been in a wheelchair. I do not recall how many times Mr O'Sullivan-Drummond said this or made comments similar to it but it was more than once. Mr O'Sullivan-Drummond started explaining that he would have been able to fix this. Mr O'Sullivan-Drummond then started to say that the titanium rod in my spine was getting in the way of his adjustments and that it was limiting what he was able to do. This concerned me as it seemed as though Mr O'Sullivan-Drummond was saying he would struggle to treat me.”
76. In its findings on the facts, the Committee concluded that these comments were not only insensitive but also likely to cause Patient A distress and that, in this respect, Mr O’Sullivan Drummond had not treated Patient A with an appropriate level of dignity and respect. The Committee further noted that the comments were made not just once, but repeatedly, Patient A saying that on subsequent occasions Mr O’Sullivan Drummond commented that she should not have had this operation in her youth, giving the clear impression that Mr O’Sullivan Drummond had made a decision to pursue this issue, rather than it being a one-off, unfortunate remark.

77. As a chiropractor registered with the GCC, Mr O’Sullivan Drummond has agreed to abide by the Code of Conduct required to be followed by all such registrants. By repeatedly making remarks that were emotive, clinically unjustified, insensitive and distressing to Patient A, Mr O’Sullivan Drummond failed to abide by that Code. Mr Brown characterised that behaviour as falling far below the standard expected of a reasonable chiropractor. That is the standard by which Mr O’Sullivan Drummond must be judged and, by that standard the Committee agreed he had fallen far below. The Committee was satisfied that other members of the profession and the public, would find his behaviour towards Patient A in this specific regard to have been deplorable. The Committee noted the GCC regulatory scheme is one that looks back at the time of the behaviour rather than forward to what may have occurred since.

78. The Committee thus concluded that the facts found proved in Particulars 3(a) and 4(i) and (ii), insofar as they related to 3(a), amount to UPC.

79. Having provided its decision to the parties in writing, both Miss Culleton and Mr Goldring noted the reference in paragraph 84 to Mr Brown having opined that the facts of 3(a), and 4(i) and (ii), insofar as they related to 3(a), fell far below the standard required of a reasonable chiropractor, when in fact his evidence had been that it fell below, rather than far below. This error was pointed out to the Committee.

80. Both parties invited the Committee to revisit its decision on UPC in relation to 3(a) and 4(i) and (ii), insofar as they relate to 3(a).

81. The Committee would like to apologise to Mr O’Sullivan Drummond for this error and its misunderstanding of what Mr Brown’s final position was in relation to these Particulars. As is only right, the Committee considered the matter afresh with Mr Brown’s correct conclusion in mind.

82. In revisiting its decision the Committee took into account the submissions made by the parties yesterday on UPC and those made today on this particular issue and it accepted the advice of the Legal Assessor.

83. Notwithstanding Mr Brown’s opinion, the Committee noted that when dealing with matters such as the distress caused to a patient, expert evidence was of assistance, but ultimately the decision was something for the Committee to make based on its own judgement. The Committee remains firmly of the view that Mr O’Sullivan Drummond’s behaviour fell far short of the standard expected and this view is not influenced by its earlier misunderstanding of Mr Brown’s
stance on this Particular. As stated before, as a chiropractor registered with the GCC, Mr O’Sullivan Drummond has agreed to abide by the Code of Conduct required to be followed by all such registrants. By repeatedly making remarks that were emotive, clinically unjustified, insensitive and distressing to Patient A, Mr O’Sullivan Drummond failed to abide by that Code. That is the standard by which Mr O’Sullivan Drummond must be judged and, by that standard the Committee was of the view that he had fallen far below. Mr Brown’s opinion was an additional factor but not the sole reason for reaching its decision. The Committee noted Mr Brown’s opinion that the conduct fell below, and took that into account. However, because of the repeated nature of the emotive remarks, that were distressing for Patient A, the Committee considered the conduct fell far below the standard required of a reasonable chiropractor. The Committee was satisfied that other members of the profession and the public would find his behaviour towards Patient A, in this specific regard, to have been deplorable.

84. The Committee thus remained of the view that the facts found proved in Particulars 3(a) and 4(i) and (ii), insofar as they related to 3(a), amount to UPC.

SANCTION

85. On deciding the appropriate and proportionate sanction, the Committee took into account all the evidence and material provided, together with the submissions made by Mr Goldring and those made by Ms Culleton.

86. In determining the appropriate sanction, the Committee accepted the advice of the Legal Assessor and considered the Guidance on Sanctions issued by the Council. The Committee was cognisant of the fact that the purpose of sanctions is not to punish, but to protect the public, maintain public confidence in the profession and maintain proper standards of conduct. The Committee considered the sanctions in ascending order starting with the least restrictive and concluding with the minimum sanction that it considered necessary for the protection of members of the public. Protection of the public includes the need to uphold proper standards of conduct and performance within the chiropractic profession and also maintaining public confidence in the profession of chiropractic and the GCC as its regulator.

87. In reaching its decision on sanction, the Committee considered what aggravating and mitigating factors were present in this case. However the Committee found there to be no aggravating factors.

88. The Committee found the following mitigating factors: a previously unblemished professional career, albeit short; admissions from the outset to the matters now under consideration at the sanction stage; genuine insight and remorse with an apology made to Patient A; several positive testimonials as to how he works routinely without issue.

89. The Committee first considered an admonishment. An admonishment is appropriate when the behaviour is at the lower end of the spectrum of UPC and the Committee considered that this conduct, although serious, could be
considered to be at the lower end of the spectrum, when viewed in the specific context of this case.

90. The Committee noted the factors listed in the Guidance on Sanctions where an admonishment is appropriate, namely:

   a) evidence that the behaviour did not and would not have caused direct or indirect patient harm;
   b) evidence of sufficient insight into the matters found proved;
   c) the behaviour was an isolated incident, which was not deliberate;
   d) a genuine expression of regret or apologies;
   e) … (not applicable)
   f) previous good history;
   g) no repetition of the behaviour since the incident;
   h) evidence that effective rehabilitative or corrective steps have been taken.

91. Apart from (a) above, since emotional harm was caused to Patient A, the Committee considered all these factors to be present. Importantly, Mr O’Sullivan Drummond has shown insight, the matter was an isolated incident in that it related to one patient, it was not in any way malicious and he did not set out to cause distress, albeit that was the net result of his comments. He has demonstrated genuine expressions of regret and apologised to Patient A. He has a previous good history, there has been no repetition of the behaviour in the four years since this conduct occurred.

92. Taking into account the nature of the UPC found, the lack of aggravating and the extensive mitigating factors, the Committee concluded that an admonishment is the appropriate and proportionate sanction in this case. A finding of UPC is a serious matter in itself and the Committee was satisfied that an admonishment for that UPC would send a clear message to the public and the chiropractic profession that this type of behaviour is not to be tolerated.

93. The Committee did not consider that a Conditions of Practice Order would be appropriate because Mr O’Sullivan Drummond did not, in the Committee’s view, pose a risk to the public. There was no part of his practice that required further remediation. Furthermore, the Committee considered such a sanction would be disproportionate in all the circumstances.

94. The order of this Committee, therefore, is that Mr O’Sullivan Drummond be admonished. He should be in no doubt that any finding of unacceptable professional conduct by his regulatory body is a serious matter and he should not take this admonishment lightly.

In accordance with Section 31 of the Chiropractors Act 1994, this decision will not have effect until the expiry of 28 days from the date on which notification is served on you or, where an appeal is made, until the appeal is withdrawn or otherwise disposed of.
That concludes this case.

Chair of the Professional Conduct Committee

In accordance with provision of Rule 18(1)(a) of the General Chiropractic Council (Professional Conduct Committee) Rules 2000, we must remind you of your right of appeal under Section 31 of the Chiropractors Act 1994, as amended by Section 34 of the National Health Service Reform and Health Care Provisions Act 2002, to the High Court of Justice in England and Wales against this decision of the Committee. Any such appeal must be made before the end of the period of 28 days, beginning with the date upon which this notice is served upon you.

Please note that the decision of this Committee is a relevant decision for the purposes of Section 29 of the National Health Service Reform and Health Care Professions Act 2002.

The Professional Standards Authority has a period of 40 days, in addition to any appeal period provided to the chiropractor, in which to lodge an appeal.

Signed: Dated: 1 February 2022

Satpal Singh Bansal
On behalf of the Professional Conduct Committee

Explanatory Notes:

Notices of Finding are normally divided into three sections, which reflect different stages of the hearing process:

1. **The Allegation:** This section contains the full allegations as drafted by the Investigating Committee and as considered by the Professional Conduct Committee.

2. **The Decision:** This section contains the findings of fact reached by the Professional Conduct Committee on the allegation and the reasons therefore. In particularly complex cases the reasons may be given separately from the findings of fact for purposes of clarity.

3. **The Sanction:** This section contains details of the sanction applied by the Professional Conduct Committee. In certain cases the section may be sub-divided for the purposes of clarity.