

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: **Mark Morrison**

Address of Respondent: **Fownhope
Hereford
Herefordshire
HR1 4PE**

Registration Number of Respondent: **03150**

On 28 April 2014 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 have been convicted in the United Kingdom of a criminal offence as follows:

On 12 December 2013, in the Crown Court at Worcester, you were convicted on Indictment, upon your own confession, of 25 Counts of Voyeurism, 5 Counts of Sexual Assault on a female and 2 Counts of Doing an act tending and intended to pervert the course of justice.

In accordance with the provisions of Rule 18(1) (a) of the General Chiropractic Council (Professional Conduct Committee) Rules 2000 (“the Rules”), notice is hereby given of the decision of the Committee.

DECISION

PRELIMINARY MATTER

The Committee first considered whether it should proceed to hear this case as two members of the Committee had sat on an Interim Suspension Hearing with regard to Mr Morrison.

The Committee has taken account of Ms Kinch’s submissions on behalf of the General Chiropractic Council (the GCC), that there were no grounds that she could put forward as to why the Committee should not proceed to hear the case. She also drew the Committee’s attention to a document signed by Mr Morrison, dated 25th April 2014, in which he stated that he had no objection to the Committee members who had sat on the Interim Suspension Hearing proceeding to hear this case.

The Committee accepted the advice of the legal assessor.

The Committee first noted that there was no information which had been before the Committee at the Interim Suspension Hearing which was not before this Committee. In fact, there was further material before this Committee, in the form of the final Certificate of Conviction which included details as to the sentence passed on Mr Morrison. The Committee considered that applying the test of the fair minded and informed observer as set out in the case of *Porter v Magill* [2001] UKHL 67, it considered it unlikely that such a person would conclude that the Committee was biased. Further, the Committee reminded itself that it was a quasi-professional tribunal as referred to by Sir Dennis Henry in the case of *Subramanian v GMC* Privy Council Appeal No 16 of 2002 and was well able to put out of its mind matters not relevant to its decision. Further, on the basis that neither party objected to the Committee hearing the matter, it concluded that there could be no prejudice in the Committee proceeding to hear this case.

NOTICE AND PROCEEDING IN ABSENCE

The Committee was first required to consider whether Notice of this hearing had been served upon Mr Morrison in accordance with the Rules. Further, it had to consider whether to proceed in the absence of Mr Morrison. The Committee had regard to Ms Kinch’s submissions and it noted that Mr Morrison had signed a document, dated 15th April 2014, in which he waived his right to attend this hearing. The Committee accepted the advice of the legal assessor.

The Committee noted that Notice of this hearing had been served upon Mr Morrison both at his registered address and also at his then current address at HMP Hewell. The Committee was satisfied that Notice had been served in accordance with Rule 21 of the GCC

(Professional Conduct Committee) Rules 2000. It went on to consider whether to proceed to hear this matter in Mr Morrison's absence. It reminded itself that it had a discretion as to whether to proceed with the hearing, but that it must exercise that discretion with great care. It concluded that Mr Morrison was aware of the hearing and had voluntarily waived his right to attend. Further, it considered that even if it were to adjourn the hearing, it would be unlikely that Mr Morrison would attend. The Committee determined that it was in the public interest to hear this case expeditiously and that the hearing should go ahead today.

FINDING ON FACTS

The Committee had regard to all the evidence placed before it and the submissions of Ms Kinch. The Committee heard that Mr Morrison had pleaded guilty, on 12th December 2013 at Worcester Crown Court, to an indictment containing twenty five counts of voyeurism, five counts of sexual assault on a female and two counts of doing an act tending and intended to pervert the course of justice. On 21st February 2014 he was sentenced to a total of thirty seven months' imprisonment and was placed on the Sexual Offenders Register indefinitely. He was made the subject of a Sexual Offences Prevention Orders until further order under Sections 104 and 106 of the Sexual Offences Act 2003 and "is prohibited from working as a Chiropractor or Masseur in respect of female clients".

The Committee noted that these matters came to light following a complaint to the police by Patient A that Mr Morrison had sexually assaulted her whilst treating her on the 26th August 2013. The police investigation established that Mr Morrison had sexually assaulted other female patients in the course of their treatment. On the 27th August 2013, Mr Morrison was interviewed with regard to his conduct towards Patient A and denied any wrongdoing. On that day his mobile phone was seized by the police. Subsequently, Mr Morrison spoke to two police officers whom he knew, seeking their assistance in retrieving the SIM card from the phone on the basis that he knew the SIM card contained inappropriate material. Both officers declined to assist him and reported the matter. When interviewed, Mr Morrison admitted approaching the officers and accepted that he should not have done so, explaining that he had panicked. Inspection of the SIM card showed that it contained a quantity of still photographs and videos of the buttocks of female patients taken during the course of treatment without their knowledge or consent. In the course of interview, Mr Morrison admitted that he had taken these photographs and videos without the knowledge or consent of the patients but could give no reason for his conduct.

The Committee accepted the advice of the legal assessor. It noted that under Rule 7 (1) of the Rules a certificate of conviction shall be conclusive evidence of the offence committed, the only defence being that the chiropractor is not the person named in the Certificate. Mr Morrison has not suggested that he is not the person named in the Certificate of Conviction. Consequently, the Committee finds the Particulars of the Allegation proved.

FINDING ON THE ALLEGATION

The Committee went on to consider whether the Allegation is well founded. The Committee was satisfied that Mr Morrison is a registered chiropractor and was so at the time of the conviction. On the basis of its finding on the Particulars of the Allegation, the Committee was satisfied that, based upon its finding that Mr Morrison was convicted of criminal offences at the Worcester Crown Court, the allegation is well founded.

SANCTION

The Committee had regard to all the evidence placed before it. Ms Kinch made no formal submissions on sanction but reminded the Committee that it was a matter for it to decide upon, having regard to the GCC's Guidance on Sanctions November 2010. Ms Kinch reminded the Committee that Mr Morrison had signed a waiver, dated 15th April 2014, indicating that he did not wish to make representations on the issue of sanction.

The Committee accepted the advice of the legal assessor.

The Committee first considered whether the convictions had a material relevance to Mr Morrison's fitness to practise as a chiropractor under Section 22 (3) of the Chiropractors Act 1994. If the offences had no material relevance to Mr Morrison's practise as a chiropractor, then the Committee could decide to take no further action. It concluded that the offences of which Mr Morrison was convicted did have a material relevance to his fitness to practise as a chiropractor. The offences of sexual assault and voyeurism were committed because he was able to take advantage of his position as a chiropractor. They involved a breach of trust. The Committee also considered that the convictions for attempting to pervert the course of justice called into question his integrity and were of material relevance to his fitness to practise as a chiropractor. The Committee concluded that it would not be appropriate for it to take no further action under Section 22 (3) of the Act.

In its deliberations on Sanction, the Committee had regard to the GCC's Guidance on Sanctions, and to the Council for Healthcare Regulatory Excellence (Professional Standards Authority) guidance "Clear sexual boundaries between healthcare professionals and patients – responsibilities of healthcare professionals", January 2008. It also had regard to the GCC's Code of Practice and Standard of Proficiency 2010, in particular, chiropractors must:

- A1 "*respect patients' privacy, dignity and cultural differences*";
- C1 "*act with integrity and not abuse their professional standing*";
- C3 "*establish and maintain clear sexual boundaries with patients*".

It reminded itself that any sanction imposed must be proportionate and that the purpose of a sanction is not to be punitive but to protect the public although it may have the effect of being punitive.

The Committee also took account of the public interest which includes the protection of patients and the wider public, the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct.

The Committee considered the sanctions available to it, starting with the least restrictive.

The Committee first considered whether to admonish Mr Morrison. It concluded that these matters, which included twenty five cases of voyeurism as well as five cases of sexual assault and two cases of attempting to pervert the course of justice, were too serious to be dealt with in such a manner.

The Committee next considered whether it could formulate conditions which would be both appropriate and proportionate in the circumstances of this case. It concluded that no relevant, workable or measureable conditions could be formulated which would protect the public or

the public interest. The Committee noted that Mr Morrison had recently commenced serving a thirty seven month custodial sentence and therefore would not be in a position to abide by any conditions. Further, by reason of the terms of the Sexual Offences Prevention Order imposed upon him, he is prevented indefinitely from treating female patients as a chiropractor.

The Committee next considered whether an order of suspension should be imposed in this case. It had regard to the seriousness of these offences, which the Committee considered involved a clear and fundamental departure from the standards of conduct expected of a registered chiropractor. It noted that all these offences arose directly from his work as a chiropractor or from the investigation of those offences. It further considered that there had been a number of serious departures from the standards set out in the Code of Conduct and the Standard of Proficiency.

In acting as he did, the Committee concluded that Mr Morrison had caused serious harm to his patients. He had abused his position of trust and violated his female patients' rights by exploiting their vulnerability. He had sexually assaulted them and invaded their privacy by both photographing and recording them without their consent whilst they were in a state of undress and in the course of undergoing treatment. The Committee considered that Mr Morrison committed these offences for his own sexual gratification over a long period of time. Further, in acting as he did in attempting to pervert the course of justice on two occasions, Mr Morrison acted without the integrity expected of a chiropractor.

In all the circumstances, the Committee determined that an order of suspension would not be the appropriate sanction in this case and that, consequently, the Committee orders that the Registrar remove Mr Morrison's name from the register. The Committee was satisfied that removal from the register was the appropriate and proportionate sanction in this case. In reaching this decision the Committee took account of paragraph 51 of the GCC's Guidance on Sanctions which states:

"Sexual misconduct seriously undermines the public trust in the profession...The misconduct is particularly serious if there is an abuse of the special position of trust that a chiropractor has, or when a chiropractor has been required to register as a sex offender. The risk to patients is important. In these cases removal from the register has been judged the appropriate sanction."

CONSIDERATION OF AN INTERIM SUSPENSION ORDER

In considering whether to impose an Interim Suspension Order, the Committee took into account the advice of the legal assessor that the Committee may only do so if it is satisfied that it is necessary for the protection of members of the public. Ms Kinch submitted that an immediate order of suspension is necessary to protect patients in the light of the Committee's findings.

The Committee noted Section 24(4) of the Act which provides that the Committee 'shall' give Mr Morrison an opportunity to appear before it and to argue his case. However, it determined that the waiver that Mr Morrison signed dated 15th April 2014, would also apply to this stage of the proceedings.

The Committee concluded that it is necessary for the protection of members of the public to suspend Mr Morrison's registration immediately. It has already determined that Mr Morrison poses a risk to patients. Whilst Mr Morrison is unable to practise at the moment, the

Committee considered that if it does not impose an Interim Suspension Order and Mr Morrison were to appeal the substantive order, on his release from prison, he would be free to practise until the conclusion of any appeal. The Committee considers that this is incompatible with public protection and therefore directs that his registration should be suspended with immediate effect.

In accordance with Section 31 of the Chiropractors Act 1994, the substantive decision will not have effect until the expiry of 28 days from the date on which notification is served on Mr Morrison 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.

As of 1 January 2009, the Council for Healthcare Regulatory Excellence has a period of 40 days, in addition to any appeal period provided to the chiropractor, in which to lodge an appeal.

Signed:

Dated: 28 April 2014



Richard Kavanagh

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.