



Council
31 January 2018
Rule 8 Practice Note

Classification Public

Purpose For decision

Issue This paper proposes an updated and modified Rule 8 Practice Note. This modified Practice Note provides a framework for decision making which is focused on the GOSC's overarching objective to protect the public and will assist Committees to dispose of appropriate cases proportionately.

Recommendation To agree the draft Consensual Disposal: Rule 8 Practice Note at Annex B

Financial and resourcing implications The modified Rule 8 Practice Note has the potential to make minor cost savings.

Equality and diversity implications An equality and diversity statement has been included in the draft Practice Note.

Communications implications The GOSC has undertaken a three month consultation on the draft guidance from 2017 – 2017. If approved, the Practice Note will be published on the GOSC website.

Annexes

- A. Responses to the Consultation
- B. Draft Rule 8 Practice Note

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Background

1. At its meeting on 2 November 2016, Council noted there appeared to be few cases being disposed of by way of the consensual disposal provisions contained within Rule 8 of General Osteopathic Council (Professional Conduct Committee) (Procedure) Rules (the Rule 8 Procedure). Council suggested that a review of this practice note be undertaken to assess whether greater use could be made of the Rule 8 procedure. A review of the Rule 8 procedure has subsequently been incorporated into the GOSC Business Plan for 2017-18.
2. In October 2013, Council agreed the Disposal of Proceedings using the Procedure Set out in Rule 8 of the of General Osteopathic Council (Professional Conduct Committee) (Procedure) Rules together with an accompanying Practice Note and guidance for registrants on how the procedure operates (the Rule 8 Practice Note).
3. In order for the Rule 8 Procedure to apply, the case against the registrant must have previously been considered by the Investigating Committee; a case to answer must have been found by that Committee; and the case then referred to the PCC.
4. In summary, Rule 8 enables cases which have been referred to the Professional Conduct Committee (PCC) to be disposed of by the PCC without a hearing, where:
 - a. the Registrant admits all the facts set out in the complaint;
 - b. the Registrant accepts that those facts amount to unacceptable professional conduct (UPC), professional incompetence or that they have been convicted of a criminal offence in the UK which has a material relevance to their fitness to practise osteopathy; and
 - c. the PCC considers that the complaint should be dealt with by way of admonishment.
5. In seeking to operationalise the Rule 8 procedure, detailed guidance was developed to assist case workers and registrants (and their representatives) to identify cases that would be suitable for consideration by the PCC under the procedure. A number of 'suitability criteria' were identified from previous decisions of the PCC and from the GOSC's Indicative Sanctions Guidance. The aim of the guidance was only those cases which meet these criteria could be processed under the Rule 8 Procedure. To date, only six cases have been dealt with under the Rule 8 Procedure since it was implemented in October 2013.

Discussion

6. In practice the procedure laid down within the existing Rule 8 Practice Note has been found to be overly prescriptive in several key respects which may prevent the potential benefits arising from consensual disposal being fully realised. For

example: the decision making process requires the PCC to consider the same case twice. This has proved to be cumbersome and creates an additional meeting of the PCC in the decision making process which is not envisaged within the Rules. Additionally, the existing suitability criteria set out a long list of cases which may be suitable for the Rule 8 procedure. However, suitability criteria represent an additional hurdle not required in the Rule 8 Procedure as laid down within the PCC Rules.

7. The Rule 8 process has been streamlined and represents a shift away from a long list of cases that may be suitable for disposal under Rule 8 with the focus instead on a proportionate and sufficient outcome that provides more flexibility in the type of cases which can be considered under Rule 8, most notably, to include cases of failure to have in place professional indemnity insurance.
8. Instead the modified Practice Note provides a framework for decision making which is focused on the GOsC's overarching objective to protect the public. However, in achieving the above objective the Practice Note will not impact upon the Committees reaching independent decisions.
9. Amendments have been made in the following key respects:
 - a. The title of the Practice Note has been simplified and less technical so its purpose is more readily identified to the reader.
 - b. The function of determining whether a case is appropriate to be dealt with under the Rule 8 procedure has now been delegated to a PCC Panel Chair. This change aligns the Rule 8 procedure more closely to the process followed for determining whether an interim order should be applied for as prescribed within the current interim suspension order guidance. However, the decision of whether to apply Rule 8 is appropriate still sits with the PCC.
 - c. The suitability criteria have been stripped away and replaced with terminology consistent with the nomenclature within the rules.
 - d. The list of cases which may be considered suitable for the Rule 8 procedure has been removed as these are no longer relevant and are inconsistent with the threshold criteria for unacceptable professional conduct introduced in May 2015. Reference to the GOsC Hearings and Sanctions Guidance, setting out factors where an admonishment may be sufficient and appropriate is retained within the draft note.
 - e. As part of the current Rule 8 Procedure, there is a separate flow chart document. The flowchart has been simplified to make the process clearer to Registrants.

Consideration by Council

9. Council considered the draft policy at its meeting in May 2017. Members commented that communication about the changes to Rule 8 would be

important to avoid any perception that the amendments were not about cost savings but simplifying procedures and systems. It was agreed that Rule 8 was the correct channel under the appropriate circumstances and would reduce outcomes of hearings concluding with 'no case to answer'.

The consultation

10. The GOsC undertook a three month consultation from 8 July to 4 September 2017. In addition to being published on our website, an article relating to the consultation was featured in the August/September 2017 issue of *the osteopath* and in news e-bulletins sent to osteopaths.
11. The GOsC received ten responses, including a detailed response from the PSA. The full response from the PSA can found at:
<https://www.professionalstandards.org.uk/publications/detail/professional-standards-authority-response-to-the-general-osteopathic-council-rule-8-consultation>
12. In light of the PSA response the Head of Regulation and Senior Regulation Officer met with the PSA on 28 September 2017. In essence, the PSA expressed concerned that removing the exclusion criteria and making the guidance less prescriptive would 'give decision-makers almost complete freedom over which cases can be disposed of under Rule 8'. We agreed the draft practice note was less prescriptive but argued it was more agile and had built in safeguards that protected patients and the public interest. The Rules envisage a very prescriptive procedure. The Rule 8 document is not designed to be read in isolation of other documents and specifically guides decision makers to the Hearings and Sanction Guidance (HSG). The process adopted by GOsC staff and decision makers (members of the PCC) accords with what is laid down within the Rules and is approached in conjunction with other relevant Practice Notes (for example, The Duty to Act in the Public Interest <http://www.osteopathy.org.uk/news-and-resources/document-library/fitness-to-practise/pcc-hc-practice-note-duty-to-act-in-public-interest>). The PSA accepted this view but confirmed they could not alter or change their response to the consultation.
13. While we consider that no detriment to public protection or the public interest arises from the changes we proposed, on reflection, we did consider that removing exclusionary criteria may give rise to the perception that it may be detrimental to the public interest. As such, the draft practice note has been modified to incorporate exclusion criteria while retaining its flexibility.
14. A summary of the formal consultation responses we received are set out in Annex A.

Recommendation: to agree the draft Consensual Disposal: Rule 8 Practice Note at Annex B.

Consultation Question	Yes	No	Consultation response ¹	GOsC Response (where relevant)
<p>Did you find the draft Practice Note helpful and informative?</p> <p>If not, please provide any suggestions about how the Practice Note could be improved</p>			<p>I entirely agree with consensual disposal. Of course the public should be protected and of course an osteopath guilty of breaching professional standards should be challenged and where reasonable, disciplined. However it is a misuse of time and money to progress complaints where there is no possibility that they will be proved.</p> <p>I feel very reassured that if the PCC reviews the evidence and feels that it is not proportionate to progress the case this means that a complainant does not have the power to make a complaint that is without grounds or legitimacy. I think it will give all osteopaths more confidence and reassurance that they are treated fairly as part of the complaints process.</p> <p>Section 17 mentions 'bundle of documents', give the link to section 20 where these are listed. Section 29a should read 'the documents considered by the PCC Panel Chair'.</p>	<p>This change has been made.</p>
<p>After reading the draft Practice Note, did you get a clear understanding of</p>			<p>I found it unclear as to where in the process the registrant is informed of the sanction of admonishment. Is this before or after agreeing to the rule 8 procedure? This seems relevant to section 12, has the registrant been provided with</p>	<p>This is covered in section 24.</p> <p>The Registrant will be provided with the details of the admonishment before agreeing.</p>

¹ Some responses have been shortened

<p>how the Rule 8 procedure will work?</p> <p>If not, please provide any suggestions about how the draft Practice Note could be improved</p>		<p>the details of the admonishment before agreeing? Also relevant to the decision in section 17. Section 23 suggests that the PCC has determined the admonishment but does not state whether the registrant has been informed of this.</p> <p>Paras 29-31 don't set out that the PCC can reject the rule 8 decision and instead remit the case to a hearing (as the flowchart does)?</p> <p>I assume that in cases where the PCC has rejected the rule 8 sanction of admonishment at its meeting those members of the PCC are ineligible to hear the case at the subsequent hearing?</p> <p>The reference at Appendix B, "Any admissions that you make on the Rule 8 Statement will form part of the evidence against you." - is that intended to apply only to the rule 8 meeting or to both the meeting and any subsequent hearing?</p> <p>Paragraph 34 – The Registrant’s insight is listed as a consideration. In other jurisdictions, consensual disposal procedures require that the Registrant prepare a reflective note so that insight can be assessed. Might the same requirement apply here? If not, there is a risk that the Registrant will simply tick the boxes to</p>	<p>Further wording has been added to section 29 to make this clearer.</p> <p>Further wording has been added to section 29 to make this clear.</p> <p>This has been added to paragraph 20.</p>
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		<p>put the regulatory discomfort aside with the least possible professional engagement.</p> <p>In the heading after paragraph 12, I found the term 'identification' a shade misleading - suggesting that identification leads ineluctably to Rule 8 approval or otherwise that the matter is settled before reaching a Chair. The heading might better read 'Possible use of Rule 8 Procedure - initial consideration' with the first words of paragraphs 13 and 14 to read 'Cases for possible consideration. .. ' That would help to distinguish action by the Regulatory Department from that of a PCC Chair. ...</p> <p>In the heading after paragraph 17, again 'identification' suggests that a case is to take a settled course. Might be better for the heading to read 'Case Management' and for the first line of paragraph 18 to read ' ... Registrant considers that the case may be appropriate.... '</p> <p>In paragraph 20, I suggest - ' before a PCC Chair who will determine whether the case may be dealt with under the Rule 8 procedure.... '</p> <p>In paragraph 26, the Chair is not asked to give written reasons - where he or she signs an Appendix B. That conveniently avoids awkwardness where the PCC ultimately decides that Rule 8 procedure should not apply - but is it</p>	<p>It is specified in paragraph 14 that cases for consideration under the Rule 8 Procedure may be identified by the Regulation Department of the GOsC, or by the Registrant.</p> <p>Paragraph 17 has been amended.</p> <p>This is included in paragraph 21.</p> <p>This is deliberate so as not to bind or influence the PCC who ultimately considers the case.</p>
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		<p>deliberate? Might there be a case for requiring the relevant chair to give reasons for issuing an Appendix B so as to be of assistance to the PCC itself?</p> <p>In paragraph 33, the difficulty here is that unacceptable professional conduct or professional incompetence will probably have featured one or more of the factors listed in the bullet points. That in turn may well lead chairs and the PCC to conclude against a Rule 8 application. It would certainly be better if the first bullet were to read 'demonstrate a major failure...' and if the second were to read 'substantially undermined ..' The key thing for a chair or the PCC will be to consider how far the Registrant understands the effect of his or her shortcomings - to weigh the depth and quality of insight. Hence the virtue of requiring a reflective statement as suggested above. Without it there remains a possibility that a chair or the PCC will maintain an impossibly high bar for Rule 8.</p>	<p>Amendments have been made to paragraph 32 to include these suggestions.</p>
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<p>APPENDIX A – GUIDANCE FOR REGISTRANTS</p> <p>Did you find the draft guidance helpful and informative?: Yes</p> <p>After reading the draft guidance, did you get a clear understanding of the matters that a registrant should think about, before deciding whether or not to use the Rule 8 procedure?</p>		<p>States 'you accept that the PCC will impose an admonishment'. If I was the registrant concerned I would need to know the likely admonishment before agreeing.</p> <p>Yes, but there is nothing to prompt the submission of a reflective note.</p> <p>It would be better if the first sentence were to read `... (including the material submitted by you) I consider the complaint/allegations against you to be appropriate for disposal under....</p>	<p>We interpret this to mean – how likely it is that the PCC will follow the Rule 8 Procedure and impose an admonishment. In response, it is not possible for the GOsC to predict or comment upon what the PCC may or may not decide to do.</p> <p>This has been added to paragraph 20.</p> <p>This has been added to Appendix A.</p>
<p>Please provide us with any other comments you may have about the draft Practice Note for the PCC and/or the draft Guidance for registrants</p>		<p>Would a complainant be questioned pre PCC in order to corroborate as to whether they were truthful in their original statement or could this only be addressed at a full hearing?</p> <p>I understand that the drive for this is an aim to save money, reduce lengthy process and reduce the need for complainants to attend stressful hearings but the need for fairness and support</p>	<p>A complainant would only be cross examined at a full PCC hearing.</p>

		<p>for Osteopaths brought under scrutiny cannot be forgotten. I have read the document regarding the guidance of FTP cases and feel that it is fair and appropriate, based on the intent of the changes.</p> <p>One consideration I had, was why a candidate who is clearly innocent (say where a patient simply dislikes the osteopath and has used this vehicle to cause disruption in the osteopath's professional lives), would not be deemed acceptable for this process too. This is unclear to me. I assume it is because it is a legal requirement that such cases go to a hearing, because the PCC do not have the power to make such a judgment of their own volition. Is that the case?</p> <p>Problems which may arise from physical or mental health issues.</p> <p>First, I remain unclear as to why the note describes Registrants needing to waive their right to a hearing, as if this were a benefit being surrendered. I suppose I consider the imposition of a hearing as being a great stress, rather than something to be savoured.</p>	<p>The PCC does not have the power to take action against anyone who is not on the GOsC Register. In the circumstances outlined, a Registrant could take action in the Civil Courts.</p> <p>The General Osteopathic Council (Health Committee) Rules Order of Council 2000 do not contain any provision for health cases to be dealt with under a procedure similar to the Rule 8 Procedure.</p> <p>This is a requirement specified in Rule 8 of the PCC Rules.</p>
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		<p>Secondly, if Registrants are required to admit guilt in order to qualify for a Rule 8 procedure, it is not clear to me how a subsequent decision to hold a hearing can maintain the obligation of fairness and proportionality. Surely the Registrants admission prejudices their chances of being anything other than condemned out of their own mouths. This strikes me as giving the PCC an open goal and a blank cheque. The guidance does not explain how the interests of the Registrant may be considered in that event.</p> <p>Para 33 - I think that the phrase "may not" here is slightly ambiguous. The way it is worded could mean either "might not" or "should not". Is what is intended here, "should not, other than in exceptional circumstances," ?</p> <p>Para 34 might perhaps be a little clearer if factors (a) and (d) contained a "no" and a "not" respectively (rather than there being a note at the end of the list indicating that these two are factors which suggest that Rule 8 would not apply)</p> <p>Appendix A (Guidance of Registrants) - first bullet point. I am not sure that it is clear which criteria are being referred to here. Might this bullet point read something along the lines of: "it is appropriate to do so having taken into account all the criteria and factors set out in the Practice</p>	<p>This was considered and the wording remains as 'may not'.</p> <p>This was considered and the amendment was not made.</p> <p>This is clear now that amendments have been made to paragraph 31.</p>
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		<p>Note"?</p> <p>Isn't paragraph 34 in the wrong place? Ought it not be given a separate heading relating to what may be appropriate for disposal under Rule 8, and positioned after the existing paragraph 31 - possibly with some specific guidance on the preparation of a reflective note?</p> <p>How can 34a be reconciled with paragraph 33 (first bullet). Is the point that there should be evidence to suggest that the Registrant poses no current and on-going danger to patients and the public?</p> <p>The sentence highlighted at the end of paragraph 34 is confusing. The paragraph should best major on what is appropriate for Rule 8 disposal. It is not clear why 34a and d are specifically mentioned when substantial shortcomings under any criterion could render Rule 8 inappropriate.</p> <p>We support the proposal to allow initial Rule 8 decisions to be made by the Chair of the PCC rather than a full panel. Cases would already have been considered by the Investigating Committee, and would then be referred for consideration by a full PCC whether under Rule 8 or not. We agree that such a measure could streamline the process without posing any risks</p>	<p>If there is evidence to suggest that the Registrant poses any danger to patients or the public, then a disposal under Rule 8 would not be appropriate.</p> <p>This has been deleted.</p>
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		<p>to public protection or the wider public interest. We would expect the quality and consistency of these decisions to be monitored to ensure that the new process is fair and protecting the public.</p> <p>Broadly speaking, the amendments to the decision-making framework constitute a move from specific categories of case that are excluded from consideration under Rule 8, to an entirely discretionary framework with neither exclusion nor inclusion criteria. It could lead to decisions that fail to protect the public, maintain public confidence in the profession, and declare and uphold professional standards.</p> <p>The list in paragraph 32, which contains some very serious types of allegation, is of concern to us – to move from excluding these cases from Rule 8 consideration to including them is a significant change in policy. We would like to see the evidence supporting the decision that these types of allegation could be suitable for consensual disposal by admonishment, and under what circumstances. We are also concerned about the potential loss of public confidence in the regulatory process resulting from the use of the list in paragraph 32.</p>	<p>We do not agree. Decisions are taken by independent Panellists appointed to sit on the PCC assisted by the advice of a legal assessor. The Rule 8 document is not designed to be read in isolation of other documents and specifically guides decision makers to the Hearings and Sanction Guidance (HSG). The process adopted by GOsC staff and decision makers (members of the PCC) accords with what is laid down within the Rules and is approached in conjunction with other relevant Practice Notes (for example, The Duty to Act in the Public Interest http://www.osteopathy.org.uk/news-and-resources/document-library/fitness-to-practise/pcc-hc-practice-note-duty-to-act-in-public-interest).</p> <p>We have made changes to paragraph 31 to exclude certain categories of case.</p> <p>We have made changes to paragraph 31 to exclude certain categories of case. Paragraph 34 includes risk of repetition in subparagraph a and insight in subparagraph b.</p>
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		<p>We are concerned that failure to have appropriate indemnity cover does not appear in the list of allegations that are unlikely to be appropriate for Rule 8 disposal – particularly as it features in the list of firm exclusion criteria in the current version of the Practice Note. We are aware that some cases involving indemnity cover are not serious, however some are, particularly if the failure is deliberate and therefore involves an element of dishonesty, or if it covers a long period of time.³ We would be concerned both about the impact on decisions on individual cases, and about the message being sent to registrants and patients, if the guidance downplayed the importance of being appropriately insured.</p> <p>Overall, with this redrafted Practice Note, the GOsC would be moving from a clear set of criteria, to an entirely discretionary decision-making framework that would be too broad to operate safely, consistently, and in the wider public interest.</p> <p>It is not clear to us why the draft Practice Note makes no mention of the statement of reasons for recommending a case for Rule 8, which in the current version forms part of the bundle for the first PCC consideration of a case. Given that greater discretion would be afforded to the PCC Chair and Panel, the reasons for the initial</p>	<p>If the failure to maintain appropriate indemnity cover was serious and involved an element of dishonesty, this would be caught by the exclusion criteria, as amended, in paragraph 31.</p> <p>Registrants, particularly those Registrants who are unrepresented, have struggled in preparing a statement of reasons.</p>
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			<p>recommendation might be helpful to decision-makers later in the process.</p>	
<p>CASES WHICH ARE UNLIKELY TO BE APPROPRIATE FOR DISPOSAL UNDER THE CONSENSUAL DISPOSAL: RULE 8 PROCEDURE (PARAGRAPH 31)</p> <p>Do you think that there are more types of complaints and allegations which should be included as unlikely to be appropriate for disposal under the Consensual Disposal: Rule 8 procedure?</p> <p>If yes, please give examples</p>				

<p>CASES WHICH MAY NOT BE APPROPRIATE FOR DISPOSAL UNDER THE CONSENSUAL DISPOSAL: RULE 8 PROCEDURE (PARAGRAPH 32)</p> <p>Do you think that there are more types of complaints and allegations which should be included as may not be appropriate for disposal under the Consensual Disposal: Rule 8 procedure?</p> <p>If yes, please give examples</p>				
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General Osteopathic Council

Professional Conduct Committee Practice Note:

Consensual Disposal: Rule 8

Effective:

Introduction

1. This practice note covers the limited categories of cases in which the Professional Conduct Committee (PCC) of the General Osteopathic Council (GOsC) may decide to dispose of proceedings against a registrant without holding a hearing.
2. The procedure governing these categories of case is set out in Rule 8 of the General Osteopathic Council (Professional Conduct Committee) (Procedure) Rules 2000² ('the PCC Rules').
3. In this Practice Note, the procedure shall be referred to as the Rule 8 Procedure.
4. Within the framework established by legislation, the GOsC seeks to address concerns about the fitness to practise of its registrants in a fair and proportionate manner. In doing so, it has regard to the need to: protect patients and the public; maintain public confidence in the osteopathy profession; and declare and uphold proper standards of conduct and competence amongst osteopathic professionals. In achieving these objectives, this Practice Note has been designed to provide a framework for decision making by Fitness to Practise Committees but it does not impact upon how Committees reach independent decisions.
5. The GOsC considers that decisions made by the PCC under the Rule 8 Procedure, are a cost-effective and proportionate way of achieving this aim.

Equality and Diversity Statement

6. The GOsC is committed to ensuring that processes of dealing with concerns about osteopaths are just and fair. All those involved in our processes are required to be aware of and observe equality and human rights legislation.

² Scheduled to S.I. 2000/241

Decision making of the Committee should be consistent and impartial, and comply with the aims of the public sector equality duty.

The circumstances in which the Rule 8 Procedure applies

7. The Rule 8 Procedure only applies to an allegation that a registrant:
 - a. is guilty of unacceptable professional conduct;
 - b. is guilty of professional incompetence; or
 - c. has been convicted in the UK of a criminal offence which has a material relevance to the registrant's fitness to practise osteopathy.
8. In order for the Rule 8 Procedure to apply, the case against the registrant must have previously been considered by the Investigating Committee ('IC'); a case to answer must have been found by that Committee; and the case then referred to the PCC.
9. The Rule 8 Procedure will only apply to those cases which a PCC Panel Chair considers appropriate. The criteria for identifying cases that may be appropriate for disposal under the Rule 8 Procedure are set out in this Practice Note.
10. The Rule 8 Procedure will only apply where the registrant is prepared to admit the facts set out in the complaint or allegation; and to admit that such facts amount to the relevant allegation (either unacceptable professional conduct, professional incompetence, or a conviction in the UK for a criminal offence which has a material relevance to the registrant's fitness to practise osteopathy).
11. The registrant must also agree to dispense with the requirement to hold a hearing before the PCC and to accept the sanction of an admonishment.

Identification of cases for consideration under the Rule 8 Procedure

12. Cases for consideration under the Rule 8 Procedure shall normally be identified before the registrant is served with a Notice of Hearing under Rule 7 of the PCC Rules. This is because once the Notice has been served, the GOsC will have already incurred costs and made arrangements for the hearing.
13. Where a Notice of Hearing has already been served, the PCC shall only consider a case under the Rule 8 Procedure in exceptional circumstances.
14. Cases for consideration under the Rule 8 Procedure may be identified by the Regulation Department of the GOsC, or by the Registrant (or the Registrant's representative). However, there is no compulsion on the GOsC or its case workers to negotiate about the use of the Rule 8 Procedure or to agree to seek disposal of a case in accordance with this Practice Note.

15. The registrant will be informed of the Rule 8 Procedure and provided with guidance (Appendix A).
16. The Registrant has a right to have the allegations against him or her determined at a hearing. The Rule 8 Procedure can only be followed where the Registrant provides written confirmation to the Regulation Department of the GOsC that he or she agrees to waive this right, and intends to admit the facts and the allegations made against him or her.

Action following identification of case

17. Where the Regulation Department or the Registrant considers that the case may be appropriate for disposal under the Rule 8 Procedure, the Regulation Department and the Registrant should agree a bundle of documents to be sent to a Panel Chair of the PCC.
18. The Committee has delegated the function of deciding whether the case is appropriate to be disposed of under the Rule 8 Procedure to a Panel Chair of the PCC. When determining whether the Rule 8 Procedure is appropriate, the Panel Chair shall have regard to all the circumstances of the case including the factors set out within paragraphs 31 and 32 of this Practice Note and should provide written reasons for every decision made.
19. Where the allegation has been made by a complainant, the complainant shall be notified of the intention to place the matter before a PCC Panel Chair for consideration under the Rule 8 Procedure. The complainant shall be invited to make observations.
20. The bundle of documents sent to the PCC Panel Chair will include:-
 - a. the papers considered by the Investigating Committee;
 - b. any additional documents submitted by the Registrant (which may include testimonials, character references and a reflective statement);
 - c. the observations from the complainant (if any).

Consideration by PCC Panel Chair

21. Before deciding whether or not to use the Rule 8 Procedure, the PCC Panel Chair shall consider:
 - a. the observations of the complainant (if any);
 - b. the evidence assembled and any additional material submitted by the Registrant;
 - c. the PCC's Indicative Sanctions Guidance;

- d. the guidance set out in this Practice Note.

Action where the Rule 8 Procedure is not considered appropriate

- 22. Where the PCC Panel Chair does not consider the case is appropriate for the Rule 8 Procedure (including because it considers that the sanction of admonishment is not appropriate in the circumstances), the Panel Chair shall give reasons for that decision.
- 23. The decision and reasons shall normally be sent to the registrant within seven working days.
- 24. The case shall then be listed for a substantive hearing in the usual way. The PCC Panel Chair who considered the Rule 8 Procedure shall not form part of the PCC panel at the substantive hearing.

Action where the Rule 8 Procedure is considered appropriate

- 25. Where the PCC Panel Chair considers the case is appropriate to be disposed of under Rule 8, the Registrant shall be served with:
 - a. a Notice of Intention to use the Rule 8 Procedure (Appendix B); and
 - b. a Rule 8 Statement (Appendix C).
- 26. The admissions made by the Registrant; the Registrant's agreement to waive the right to a hearing; and the acceptance of the sanction of admonishment by the registrant, shall be recorded on a Rule 8 Statement.
- 27. The Rule 8 Statement must be signed and dated by the Registrant, and must be returned by the date stated in the Notice of Intention to use the Rule 8 Procedure.
- 28. The PCC will consider the case at a meeting. The PCC shall consider:-
 - a. the documents considered by the PCC Panel Chair;
 - b. the Notice of Intention signed by the PCC Panel Chair;
 - c. the Rule 8 Statement signed by the Registrant;
 - d. any additional documents from the GOSC or Registrant.
- 29. The PCC shall consider the case, decide whether or not the case can be disposed of under Rule 8 and give reasons for its decision (Appendix D). If the PCC determine that the Rule 8 Procedure is not appropriate, the PCC members who

made that decision shall not form part of the PCC panel at the substantive hearing.

30. The findings and sanction shall form part of the registrant's fitness to practise record held by the GOsC, and shall be published and disclosed in accordance with the GOsC's Fitness to Practise Publication Policy. This shall include publication on the GOsC's website.

Cases which are unlikely to be appropriate for disposal under the Rule 8 Procedure

31. Cases which **will not** be appropriate for the Rule 8 Procedure include, but are not limited to, serious allegations involving:
- a. violence;
 - b. sexual and/or physical abuse (including child pornography and neglect);
 - c. vulnerable persons;
 - d. dishonesty, deception or fraudulent behaviour;
 - e. criminal convictions resulting in the imposition of a sentence of imprisonment (or suspended imprisonment);
 - f. significant failings in the examination and/or treatment of one or more patients;

Cases which may not be appropriate for disposal under the Rule 8 Procedure

32. Cases which **may not** be appropriate for the Rule 8 Procedure include, but are not limited to, complaints and allegations involving actions or omissions which:
- demonstrate a significant failure to protect patients, colleagues or the wider public from the risk of harm;
 - substantially undermines public confidence in the osteopathic profession;
 - demonstrate a significant failure to uphold the standards and competence among osteopathic professionals.
33. In deciding whether the case is appropriate for disposal under the Rule 8 Procedure, the PCC will consider the Registrant's previous fitness to practise history and the GOsC's Indicative Sanctions Guidance and in particular consider the following, non-exhaustive list:

- a. there is evidence to suggest that the Registrant poses any danger to patients or the public;
 - b. the Registrant has shown insight into their failings;
 - c. the behaviour was an isolated incident;
 - d. there has been any repetition of the behaviour complained about;
 - e. the Registrant acted under duress;
 - f. the Registrant has genuinely expressed remorse;
 - g. there is evidence that the Registrant has taken rehabilitative/corrective steps; or
 - h. the Registrant has previous good history.
34. In any particular case, the PCC will exercise its discretion as to whether the complaint or allegation should be disposed of using the Rule 8 Procedure.
35. The Rule 8 Procedure Flowchart can be found at Appendix E.

For further information about the PCC's procedures and guidance, please see the GOsC's website: www.osteopathy.org.uk

Appendix A

Guidance for Registrants (to be included in the letter sent to the Registrant following an Investigating Committee referral to the Professional Conduct Committee).

You may wish to consider whether you believe that your case is appropriate to be considered under Rule 8 of the General Osteopathic Council (Professional Conduct Committee) (Procedure) Rules 2000 ('the PCC Rules'). We have enclosed a copy of those Rules and the Professional Conduct Committee Practice Note; Consensual Disposal: Rule 8.

A case will be considered by a PCC Chair under Rule 8 if:-

- the case does not fall within the criteria listed in the Practice Note;
- you admit the allegations and facts;
- you accept that the those facts amount to [unacceptable professional conduct/professional incompetence/you have been convicted of a criminal offence in the UK which has a material relevance to your fitness to practise osteopathy – **Delete as appropriate**];
- you accept that the PCC will impose an admonishment;
- you accept that you are entitled to have a hearing before the PCC but that you do not want to have a hearing.

If you consider Rule 8 to be appropriate in your case, please inform your case worker. The case worker will then contact you to see if you have any documents you wish to be considered by a PCC Chair. This may include character references, testimonials or a reflective statement. The case worker will send you a bundle of documents which will be considered by a PCC Chair. Once you have agreed this bundle, the case will be considered by a PCC Chair.

The PCC Chair will decide whether it is appropriate for your case to be considered under Rule 8. You will be informed of the Chair's decision within 7 working days. If the Chair decides that the case is not appropriate for Rule 8, the case will be listed for a hearing before the PCC. If the Chair decides that your case is appropriate to be considered under Rule 8, the Chair will sign a Notice of Intention to use Rule 8 which will be sent to you with a Rule 8 Statement for you to sign.

Once you have signed and returned the Rule 8 statement, your case will be considered by the PCC at a meeting. You will not be able to attend this meeting. If the PCC decide that the case cannot be dealt with under Rule 8, the case will be listed for a hearing before the PCC. If the PCC decide that the case can be dealt with under Rule 8, they will provide their decision and reasons in writing and you will be issued with an admonishment.

This admonishment will form part of your fitness to practise history. The decision of the PCC will appear on the GOsC website in accordance with the GOsC's Publication Policy, a copy of which is enclosed.

We recommend that you seek advice from your legal representative, professional association, professional indemnity and liability insurers or defence organisation before making a decision.

Appendix B

Notice of Intention to use the Rule 8 Procedure

To [insert name of registrant]

Having considered the evidence available (including any material submitted by you), the PCC chair considers the complaint/allegations against you is appropriate to be disposed of under the procedure set out in Rule 8 of the General Osteopathic Council (Professional Conduct Committee) (Procedure) Rules 2000 ('the PCC Rules'), a copy of which is attached.

I therefore invite you to indicate on the enclosed Rule 8 Statement, whether you accept the facts set out in the complaint/allegation made against you; and if so, whether you accept that those facts amount to [unacceptable professional conduct/professional incompetence/you have been convicted of a criminal offence in the UK which has a material relevance to your fitness to practise osteopathy – **Delete as appropriate**].

If you indicate your acceptance by signing and returning the Rule 8 Statement, the PCC will then proceed to consider whether to dispose of the matter without a hearing, and by issuing an admonishment to you.

However, if you do not indicate your acceptance, you have the right to a hearing before the PCC to argue your case and to be legally represented at such a hearing.

Any admissions that you make on the Rule 8 Statement may form part of the evidence against you. Therefore, before deciding whether or not to indicate your acceptance, you are strongly advised to read the GOsC PCC Practice Note; Consensual Disposal : Rule 8, and to seek advice from your legal representative, professional association, professional indemnity and liability insurers or defence organisation.

In the event that you do wish this matter to be dealt with under the Rule 8 Procedure, and only if you do wish to indicate your acceptance, please sign and return the enclosed Rule 8 Statement to the Regulation Department of the GOsC by **[Insert date]**

.....
Signed

Chair of the PCC

.....
Dated

Appendix C

Rule 8 Statement

1. I, [INSERT NAME AND REGISTRATION NUMBER OF REGISTRANT], am registered with the General Osteopathic Council (GOsC).
2. On [INSERT DATE], an allegation against me was referred by the Investigating Committee (IC) to the Professional Conduct Committee (PCC) of the GOsC.
3. I now make this Statement for the purpose of the proceedings before the PCC, in accordance with Rule 8 of the General Osteopathic Council (Professional Conduct Committee) (Procedure) Rules 2000.

ALLEGATIONS AND FACTS

4. [INSERT ALLEGATIONS AND FACTS]
5. I confirm that, having had the opportunity to seek advice about this matter, I accept the allegations and facts stated above, constitute an allegation for the purposes of section 20 of the Osteopaths Act 1993.
6. I fully admit that the allegations and facts stated above are correct.
7. I fully admit that by reason of the facts and allegations stated above [I am guilty of unacceptable professional conduct/professional incompetence/I have been convicted in the UK of a criminal offence which is materially relevant to the practise of osteopathy]

AGREEMENT TO PROCEED WITHOUT HEARING

8. I am aware that I have the right to a hearing before the PCC. However, in light of the above admissions, I confirm that I do not wish the matter to proceed to a hearing before the PCC.

ACCEPTANCE OF SANCTION

9. I confirm that, having had the opportunity to seek advice about this matter, I accept the sanction of admonishment which may be imposed by the PCC on the basis of the admissions made by me in this statement.
10. I understand that this sanction will now form part of the fitness to practise record about me which is held by the GOsC.

PUBLICATION AND DISCLOSURE

11. I understand that this document, the written determination issued by the PCC and the sanction imposed on me:
- a. will be published by the GOsC in accordance with its Fitness to Practise Publication Policy (including by publication on the GOsC’s website); and
 - b. may be disclosed to third parties, together with other information about my fitness to practise history, should the GOsC consider it to be in the public interest to do so.

SIGNATURE

DATE

[INSERT NAME OF REGISTRANT]

Appendix D

PCC Decision Page 1 of []

Case: [INSERT No.]

GENERAL OSTEOPATHIC COUNCIL

DECISION OF THE PROFESSIONAL CONDUCT COMMITTEE

In the case of:

[INSERT NAME OF REGISTRANT]

Registration Number: [INSERT REGISTRATION NO.]

[INSERT DATE]

The Panel: [INSERT NAME OF CHAIR AND PANEL MEMBERS]

This case has been considered by the Professional Conduct Committee without a hearing, under the procedure set out in Rule 8 of the General Osteopathic Council (Professional Conduct Committee) (Procedure) Rules 2000.

ALLEGATION:

[INSERT ALLEGATIONS AND FACTS]

DECISION:

The registrant has admitted both the allegation and the facts in support of the allegation. Accordingly, the allegation is found proved. The registrant accepts that s/he **[is guilty of unacceptable professional conduct/professional incompetence/has received a conviction in the UK for a criminal offence which has a material relevance to his/her fitness to practise osteopathy.]**

SANCTION:

Having regard to the Professional Conduct Committee's published Indicative Sanctions Guidance; the registrant's admissions set out in the Rule 8 Statement [and any other material submitted by the registrant], the Committee is satisfied that a sanction of admonishment is appropriate in this case.

The Committee's reasons for imposing an admonishment are as follows [].

Section 22(13) of the Osteopaths Act 1993 requires this Committee to publish a report that sets out the names of those osteopaths who have had allegations found against them. The Registrant's name will be included in this report together with details of the allegations we have found proved and the sanction that that we have applied today.