



Council
22 November 2023
Fitness to practise committees Annual Reports 2022-23

Classification	Public
Purpose	For discussion
Issue	Each committee is required to report annually on its work to Council. These reports cover the period 1 October 2022 to 30 September 2023.
Recommendation(s)	To discuss the annual reports of the Investigating Committee, Professional Conduct Committee and Health Committee.
Financial and resourcing implications	None arising from this paper.
Equality and diversity implications	An ongoing monitoring of equality and diversity trends in the decisions made by the fitness to practise committees form part of the work of the Regulation Department.
Communications implications	None
Annex(es)	A: Annual Report of the Investigating Committee B: Annual Report of the Professional Conduct Committee C: Annual Report of the Health Committee
Authors	Brian Wroe, Chair: Investigating Committee Andrew Harvey, Chair: Professional Conduct Committee and Health Committee

Annex A to 7

Investigating Committee Annual Report 2022-2023

Introduction

1. I am delighted to present this, my fifth annual report to the Council. The period covered by this report is from 1 October 2022 to 30 September 2023. I took up the role of Chair to the Investigating Committee (IC) on 1st April 2019.
2. I have included, in bold and in brackets, figures from the 2021-22 and 2020-21 years for comparison.
3. In making this report I am conscious that there may be some repeat information which is made available to Council in other reports.

Meetings and Hearings of the Investigating Committee

4. During the twelve months covered by this report there have been 9 meetings of the IC to consider complaints **(2021/22, 13 meetings; 2020/21, 7 meetings)**. At time of writing, one 'all members' training day (in person) is planned to take place on 4 December 2023.
5. In addition, the IC has sat on 7 occasions to consider applications by the Council for the imposition of Interim Suspension Orders on registrants **(2021/22, 10 occasions; 2020/21, 6 occasions)**.

Casework

Numbers of complaints and the Committee's decisions

6. During the period covered by this report, the Committee has made decisions on 22 complaints against registrants **(2021/22, 37 complaints; 2020/21, 25 complaints)**. In 9 (41%) of these, the complaint was referred to the Professional Conduct Committee, one case was referred to the Health Committee. In 12 cases (55%), the Committee decided that there was no case for the registrant to answer **(2021/22, 21 case to answer and 12 no case to answer; 2020/21, 14 case to answer and 12 no case to answer)**. During this reporting period 1 case (4%) was closed as 'no case to answer' however the registrant was issued with advice.
7. In comparison to the last reporting period, the number of cases decided by the Committee has decreased by 15 whilst the number of meetings has decreased by 4.
8. There has been 1 adjournment in this reporting period. The reason for this was because the IC did not agree with the expert opinion and directed that a further opinion was sought. **(2021/22, 1 adjournment; 2020/21, 2 adjournments)**. The Committee will seek to keep this figure low in the interests of efficiency, while recognising that its influence in this respect is limited.
9. During this reporting period the Committee was asked on two occasions, consisting of three cases, to provide its view on whether a hearing should be held, having previously referred that case to the PCC. This procedure is followed where a complaint has been referred by the Committee to the PCC but subsequently further information comes to

Annex A to 7

light which calls into question whether a hearing should go ahead (whether the hearing does actually go ahead is a decision for the PCC, not the IC) **(2021/22, nil cases; 2020/21, nil cases)**.

Issues raised by complainants

10. The complaints considered by the Committee covered a wide variety of areas including:
 - Transgression of sexual boundaries (5)
 - Inadequate clinical treatment (8)
 - Poor health (2)
 - Lack of insurance (3)
 - Conduct not linked to treatment (1)
 - Conduct during treatment (3)
11. Areas of concern include the inappropriate transgression of professional boundaries and inadequate treatment. These have featured in 13 cases this year **(2021/22, 11 cases; 2020/21, 8 cases)**. The number of cases involving alleged transgression of sexual boundaries remains a concern, along with allegations relating to poor or inadequate treatment which have also featured prominently. The slight reduction in lack of insurance cases (down from 5 to 3) is to be welcomed and it is with some satisfaction that we can report that the Committee has not been called upon to consider cases involving the alleged misuse of social media.
12. Of the cases considered in the reporting year, 20 of the 22 have involved allegations of Unacceptable Professional Conduct.

Interim suspension orders

13. There has been a decrease in the number of Interim Suspension Order hearings compared to last year (7 during this reporting period compared to 10 last year).
14. During the period of this report, the Committee was asked to consider whether to impose an Interim Suspension Order in 7 cases. It imposed 2 orders, accepted undertakings in 2 cases and made no order in the other 3 cases **(2021/22, 10 applications, 2 orders made, 2 undertakings and 6 no orders made; 2020/21, 6 applications; 2 orders made, 1 undertakings and 3 no orders made)**.

All members meeting and Annual Performance Appraisal

15. An all-members meeting and training day is scheduled to take place on 4 December 2023.
16. I can also report that Annual Performance Review reports for all members of the Committee have been completed and submitted within the identified time frame.

Composition of the Investigating Committee

17. The current strength of the Investigating Committee is 7 lay members (including the Chair) and 8 osteopaths. It would be appropriate, at this point, to inform the Council that the IC is currently undertaking a recruitment campaign. On 31st March 2024, 2 lay

Annex A to 7

members will complete their maximum 8 years on the committee. Similarly, 2 registrant members will complete their 8 years on the committee. On 19th September 2023, a recruitment webinar was held to launch our campaign and to answer questions from potential committee members. The webinar was "attended" by 126 people and subsequent feedback from attendees has been extremely positive. Applications are currently being considered with interviews planned for January 2024. The new appointment of 2 lay members and 2 registrant committee members is scheduled to commence from 1st April 2024.

Other changes in the year

18. Members of the IC are all fully aware of the Osteopathic Practice Standards and ensure that they are referred to and utilised as appropriate.
19. The Committee has continued to meet remotely during the past year although I can report that its November meeting is currently scheduled to take place 'in person' at Osteopathy House. The All-Members Training Day (4th December) is also scheduled to take place at Osteopathy House. It is envisaged that the majority of meetings will, however, continue to be held remotely. The Committee is extremely familiar with conducting its business remotely in most instances. Issues or delays with technology are now few and far between. The Committee continues to make use of Caselines to access case files in a safe and confidential manner for all meetings and ISO hearings.

Support to the Committee

20. Once again, I wish to express my sincere thanks for the excellent administrative support provided to the IC and its Chair during this period. Staff members are invariably responsive, supportive and ensure that matters are addressed promptly.

General Comments

21. Members of Council will note that the number of IC meetings has reduced (9, down from 13) along with the number of complaints considered (22, down from 37). There may be various reasons to explain this reduction. It would appear that there have been less concerns raised during this reporting period in comparison to recent years. Furthermore, less concerns have been progressed to a 'formal' stage. Remote meetings continue to take longer to complete, which is perhaps inevitable given our reliance upon technology. The GOsC remains prepared to arrange additional meetings where necessary in order to ensure that complaints are considered in a timely fashion.
22. It is appropriate to highlight the number of cases involving the crossing of professional boundaries and sexual misconduct. That number remains high at 5 although this represents a reduction on the last year.
23. Although there have been two cases where the health of the registrant has been considered, there still appears to be a lack of health referrals appearing before the IC. While, on the face of it, this is to be welcomed, I am mindful of previous advice from the PSA in that investigating committees must remain aware of, and should identify,

Annex A to 7

potential underlying health issues when considering cases. Members of the IC will keep this in mind when they consider allegations.

24. Council can be reassured that adequacy of reasons remains at the forefront of the minds of members of the Committee whether that is at IC meetings, ISO applications or during the screening procedure. Members of the committee are reminded on a regular basis of the importance of recording adequacy of reasons in their reports.
25. The Chair of Council has underlined the need for the IC to guard its independence. As Chair of the Investigating Committee, I wish to reassure Council that I have found nothing to suggest that the IC acts in any way other than independently of the Executive. The IC will continue to reach its decisions in a fair and independent manner and will ensure that the reputation of the GOsC is, at all times, maintained to the highest standard.

Brian Wroe
Chair, Investigating Committee
November 2023

Professional Conduct Committee Annual Report 2022-2023

Introduction

1. This is my third report to Council as Chair of the Professional Conduct Committee (PCC), covering the period October 2022 to September 2023. There are currently 15 members of the PCC (the maximum number set down in the rules being 18), 6 of whom are osteopaths and 9 lay (6 being appointed as chairs). There is a further, lay chair member, co-opted by Council at the request of the Committee to cover an immediate short-term need. Their appointment ends on 31 October 2023.
2. Council will appreciate that Committee composition is a particularly important consideration at present, addressed later in this report.
3. The PCC's purpose and statutory terms of reference are unchanged since my last report to Council. The Committee hears cases concerning serious unacceptable conduct, incompetence or criminal convictions. If it finds any such case proved, it imposes a proportionate and appropriate sanction on the osteopath.
4. In its work, the PCC must apply the overarching objective of the Council – that is to protect patients, to sustain professional standards (including those of conduct and behaviour), to uphold the reputation of the profession and to maintain that of the Council as regulator.
5. At the same time, as members of Council appreciate, the Committee must approach its decision making from a position of independence. My view is that the objectives and need for independence are both well understood by all PCC members.

Hearings and workload

6. There are no particular features of the caseload in 2022/23 to report to Council; the raw data is set out at Appendix 1 to this paper. The PCC considered 11 cases in 2022/23 (2021/22: 14).
7. There is no single reason for this fall in workload (there had been 32 cases considered in 2019/20), although referrals from the Investigating Committee reflect the decisions that it makes and, alongside that, a slightly reduced number of initial concerns raised during the pandemic. Some referrals were joined (so, to illustrate, the 14 cases encompassed 19 referrals). Council will want to keep the overall activity levels under review both to reassure itself that patients remain willing and able to make referrals when appropriate.

Annex B to 7

8. As an alternative measure of workload, the PCC sat on 31 days in respect of substantive hearings in the year (2021/22: 65, 2020/21: 91).
9. I would remind the Council again that, whilst timely decision making is a valuable KPI for the GOsC fitness to practice function, it is not something that is more than partially under the control of the PCC (indeed, elements of that measure are not under the control of the Regulation team either). That having been said, PCC members are keen to play their part in the Council achieving a performance deemed acceptable by the PSA. I have no evidence that PCC performance, or delays in it hearing cases, are a matter of concern.
10. I know that the Council is aware that there is a proportion of cases that are in the regulatory process, but not yet ready for the PCC to consider at a substantive hearing. This has led to historically low levels of hearing activity in the second half of the reporting period and is a concern, from the Committee's perspective, as to both matters of public protection and the currency of skills of its members.
11. The need for hearings to adjourn part-heard has fallen, that having happened on 2 occasions in 2022/2023 (2011/22: 5). This may suggest that post COVID-19, it has been possible again to be more accurate in listing hearings for an appropriate number of days.
12. The number of cases where an allegation was 'not well founded' (i.e. not proven) remained at 2. It may be suggested that this implies that cases are appropriately managed at earlier stages in the process, albeit the numbers involved are small.

PCC composition and ways of working

13. In my last report to Council, I reflected on the fact that, in the two-year period from April 2024, no fewer than 12 members will demit office. Since then, three members of the Committee have resigned (an osteopathic colleague who retired and came off the register and two lay chairs, one for health reasons and another due to a change in circumstances).
14. Taken together, this means a need to recruit six new members to take up office from 1 April 2024 and a further seven from 1 April 2025.
15. All of this led to recruitment being a significant activity in the reporting period. As Council is aware, with the support of HR and Communications colleagues, we have taken a robust approach to the recruitment cycle, including running the process earlier than usual, strong plans for induction and careful specification of the skill and competence requirements.

Annex B to 7

16. Such change in membership of the Committee has also allowed a focus on the diversity of membership – both in terms of the protected characteristics and, also, the diversity of thought and the professional background of members.
17. As Council is also aware, the response to the recruitment campaign (both in terms of quantity but, more importantly, quality of candidates) has been outstanding. Not only have we been able to make some excellent appointments, but we have reserve candidates, in the event that any are needed.
18. It is my intention to ensure that there is a robust programme in place, not only to induct new members, but to ensure that their wider welcome as members of the Committee is effective and engaging. Work on this is underway.
19. Since my last report, three lay members have been appointed as further panel chairs (Rama Krishnan, Pamela Ormerod and Sue Ware). The approach of, over time, moving all lay members to chairs (with appropriate training and development support) offers greater flexibility in listing.
20. The PCC's annual development day took place in December 2022 with a similar event planned for January 2024. Each of these focuses on a mix of hearings skills and case law.
21. PCC members continue to meet digitally on an informal basis, twice a year. Most members attend each meeting, which (with the development day) give the Committee three occasions a year on which its members can exchange good practice, seek answers to questions and share concerns.
22. Issues covered in our communications have included the volume of work, shared learning about hearings and questions about GOsC's approach to listing.
23. To assist, in-between such sessions, I send an occasional newsletter to members. This helps in pulling into one place important, but non-urgent, communication and has been well received.
24. Between May and July, I held the annual review conversation with each member of the Committee. Each of these was a very positive experience, with members preparing well for the session and offering their candid views about their own performance and wider issues.
25. Brian Wroe and I continue to meet on an occasional basis to share information between us and identify issues and ideas that may be equally relevant to members of the IC and PCC.
26. It is clear to me that an important element of my work is to provide

Annex B to 7

occasional support to PCC members, across any and all topics related to their role. I am in regular contact with members and do what I can to assist, whilst remaining careful in respect of the importance of a panel's independence, limiting any advice I give to the generic.

Conclusion

27. I am grateful to my fellow PCC members and to members of the staff team for their support, in a period of further change.

28. Council is invited to:

- Note the contents of this report
- Ask questions of the author in respect of the work of the PCC, both related to the contents of this paper and any other matter

Andrew Q Harvey
Chair, Professional Conduct Committee
20 October 2023

Annex B to 7

PCC Substantive Hearings	Q3 (2022- 2023)	Q4 (2022- 2023)	Q1 (2023- 2024)	Q2 (2023- 2024)	TOTAL
Total cases considered	7	2	5	0	14
Allegation not 'well founded'	1	0	1	0	2
Admonished	1	1	1	0	3
Conditions of Practice	1	0	0	0	1
Suspension	1	0	0	0	1
Removal	1	1	0	0	2
Adjourned/Part heard	2	0	0	0	2
Conditions/Suspension to expire	0	0	0	0	0
Disposal via Rule 19	0	0	2	0	2
Rule 8 admonishment	0	0	1	0	1

PCC ISO Hearings	Q3 (2022- 2023)	Q4 (2022- 2023)	Q1 (2023- 2024)	Q2 (2023- 2024)	TOTAL
ISO Application Hearings	1	1	1	0	3
ISO Imposed	1	1	0	0	2
Undertaking	0	0	0	0	0
ISO not imposed	0	0	1	0	1
ISO Review Hearings	0	0	0	0	0
ISO Order to Continue	0	0	0	0	0

Annex B to 7

PCC Activity Last Three Years	01/10/20 to 30/09/21	01/10/21 to 30/09/22	01/10/22 to 30/09/23
Full hearings	24	11	9
Rule 8 decisions [1]	1	2	1
Reviews of Suspension Orders and Conditions of Practice Orders	3	1	2
Interim Suspension Order applications	2	3	3
Rule 19 applications to cancel a hearing	0	1	2

PCC Outcomes Last Three Years	01/10/20 to 30/09/21	01/10/21 to 30/09/22	01/10/22 to 30/09/23
Admonishment	5	6	3
Conditions of Practice Order	1	1	1
Suspension Order	0	3	1
Removal from the Register	4	1	2

PCC Outcomes Last Three years	01/10/20 to 30/09/21	01/10/21 to 30/09/22	01/10/22 to 30/09/23
Unacceptable Professional Conduct found not proved	4	1	1
Of which -			
Some of the facts alleged found proved	4	0	1
None of the facts alleged found proved	0	1	0
Successful half-time submissions under rule 27(2)[1]	0	0	0

Annex B to 7

Successful Half-time submissions under rule 27(6)	1	0	0
Conviction not found to be materially relevant	0	0	0
Adjournments	7	5	2

Health Committee Annual Report 2022/23

Introduction

1. This is my third report to Council in respect of the Health Committee (HC), covering the period October 2022 to September 2023.
2. As the membership of the HC is identical and, except where prescribed otherwise by statute or rules, it works in the same manner as the Professional Conduct Committee (PCC); I only comment in this report about the specific aspects of the work of the HC.
3. Accordingly, this report should be read in conjunction with the annual report of the PCC.

Caseload

4. During 2022/23 three HC events have been held.
5. Data for the year and for the preceding two years is set out below.
6. Given the low level of Health Committee work in the reporting year it is not proposed to draw out any themes or observations in this report.

Health Committee	01/10/2020 to 30/09/2021	01/10/2021 to 30/09/2022	01/10/2022 to 30/09/2023
Rule 6 Directions hearings	0	0	0
Rule 8 meetings	0	0	0
Applications to cancel a hearing under rule 36	0	0	0
Full hearings	0	0	1
Reviews of Suspension Orders	1	1	2
Interim Suspension Order applications	0	0	1

Annex C to 9

Health Committee Hearing outcomes	01/10/2020 to 30/09/2021	01/10/2021 to 30/09/2022	01/10/2022 to 30/09/2023
Findings of impairment of fitness to practise	0	0	1
Conditions of Practice Orders	0	0	1
Suspension	0	1	0
Interim Suspension Order imposed	0	0	0

7. The nature of ill-health and the degree of regulatory intervention required can vary enormously but will often give rise to matters of sensitivity requiring careful handling. As a general rule, regulatory hearings are heard in public as a means of promoting transparency and public confidence. Health issues are a ground for departing from that general rule with hearings held in private so that evidence of a personal nature can be fully shared with the Committee, thereby enabling the best decisions to be made in the public interest.
8. The Committee is very alive to the fact that witnesses in such cases, specifically registrants themselves, are more likely to be vulnerable by nature of the health matters under discussion. HC members seek to reflect that vulnerability in the way in which hearings are managed.

Conclusion

9. Council is invited to:
- Note the contents of this report.
 - Ask questions of the author in respect of the work of the HC, both related to the contents of this paper and any other matter

Andrew Q Harvey
Chair, Health Committee
20 October 2023