



Council
22 November 2023
Fitness to Practise report

Classification	Public
Purpose	For noting
Issue	Quarterly update to Council on the work of the Regulation department and the GOSc's Fitness to Practise committees.
Recommendation	To note the report.
Financial and resourcing implications	Financial aspects of Fitness to Practise activity are considered in Annex B of the Chief Executive and Registrar Report.
Equality and diversity implications	Ongoing monitoring of equality and diversity trends will form part of the Regulation department's future quality assurance framework.
Communications implications	None
Annex	A - Fitness to Practise Data Set
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Key messages from the paper:

- In this quarter we received a 29% decrease in the number of new concerns (15).
- We exceeded our screener KPI.
- IC (end-to-end) KPI was not met during the reporting period.
- A section 32 prosecution listed for trial on 10 October 2023, was adjourned by the magistrate's court for a second time and relisted for 20 December 2023.
- A public consultation on our amended Guidance on Imposing Interim Suspension Orders and Practice Note on Undertakings ran from July to October 2023. As part of our consultation engagement plan, we held a live webinar on 7 September 2023 with the focus of the session being Interim Suspension Orders and Undertakings.

Fitness to practise case trends

1. In this reporting period, the Regulation Department received 15 concerns and 11 formal complaints were opened. During the same period last year, the Regulation Department received 16 concerns and six formal complaints were opened.
2. Of the 15 concerns, eight related to poor clinical treatment, two related to poor communication with a patient, three related to a transgression of boundaries, one related to a lack of insurance and another concern related to poor complaints management.
3. The 11 formal complaints related to: a transgression of sexual boundaries (4), poor conduct not linked to treatment (1), conviction (1), poor clinical treatment (3), lack of insurance (1) and poor complaints management (1).
4. On 18 October 2023, we became aware of a technical issue with our IT systems, arising from the introduction of new cyber-security email protection software, which meant that from August 2023, we had not been receiving concerns submitted to us via our website. This issue was rectified quickly on 20 October 2023 and complainants are now able to submit concerns directly via the GOsC's website. We were able to retrieve the forms submitted during this period. In total seven forms were submitted via our website during this period, three of which related to FtP concerns. We triaged these concerns immediately. Despite not being able to access the concerns until 19 October, we have included them in the statistics for this quarter.
5. As previously reported to Council in July, we continue to encounter delays in the progress of some cases this is mainly because of third-party investigations (i.e., police investigations/awaiting court proceedings or health cases where we await status updates and/or documentation). However, we continue to experience challenges engaging with complainants especially in serious and complex cases. As

at 31 July 2023, 33% of our caseload was made up of third-party investigations. This figure has since increased to 46% as captured as at 30 September 2023. It is the delay in being able to progress these cases, as well as difficulties with engaging complainants in serious matters including transgression of sexual boundaries cases, that has impacted on our ability to progress cases within our current targets.

6. During this reporting period, there has been one Interim Suspension Order application to the Investigating Committee (IC). The IC did not impose an order. This application was made following further information received from the police.
7. The IC met remotely on three occasions, which included one occasion to discuss and provide their opinion on a rule 19 application (termination of hearing application). Taking into account the IC's comments on the Rule 19 application, the IC considered a total of five cases during the reporting period.
8. In this quarter, the PCC sat for one PCC Review hearing and no substantive hearings. One Case Management directions hearing took place. The Health Committee (HC) sat for one substantive hearing.

Fitness to practise case load and case progression

9. As at 30 September 2023, the Regulation Department's fitness to practise caseload was 57 cases (47 formal complaints and 10 concerns). In comparison, the Regulation Department's fitness to practise case load as of 30 September 2022, was 50 cases (38 formal complaints and 15 concerns).
10. Performance against the performance targets for this reporting period, is as follows:

Case stage	Key Performance Indicator	Performance Target	Median figures achieved this quarter
Screening	Median time from receipt of concern to the screener's decision	9 weeks	8 weeks
Investigating Committee	Median time from receipt of concern to final IC decision	26 weeks	42 weeks
Professional Conduct Committee	Median time from receipt of concern to final PCC decision	52 weeks	n/a

11. In this reporting period the Screener KPI was exceeded by three weeks. Screeners considered 16 cases in this quarter.

12. The IC KPI was not met in this quarter. This was due to complexities in one case that required we instruct another expert to provide a report before the case could be considered by the IC. In another case, delay was caused by a 3rd party providing health information to us necessary to progress the case.
13. There are currently 33 cases that have been referred to the IC by screeners but have not yet been considered. This figure has increased over the reporting period by seven cases. This increase is partly attributable to the referral of a further eleven cases to the IC over this reporting period. The number of cases is also attributable to the number of third-party cases at this stage, awaiting police and/or court conclusion or health cases where we are awaiting material and/or health reports. Third-party cases account for 45% of the cases at this stage.
14. The PCC did not consider any substantive hearings during the reporting period. The PCC considered one review case and a Case Management hearing took place to enable a complex misconduct case to be progressed to hearing. Two final hearings were postponed during the reporting period. One hearing related to us receiving further relevant material shortly before the first day of the hearing which meant the hearing had to be postponed. The other substantive hearing related to a case before the Health Committee where unfortunately the registrant fell ill in hospital shortly before the hearing was due to commence.

Working with other regulators/stakeholders

15. The Head of Fitness to Practise continues to attend quarterly inter-regulatory meetings with other healthcare regulators. The last meeting took place on 27 September 2023. At this meeting the main points of discussion related to panellist recruitment where most regulators are currently recruiting new Committee members and/or legal assessors but also that the majority of hearings are still held remotely.

Section 32 Investigations

16. Under section 32 of the Osteopaths Act 1993, it is a criminal offence for anyone who is not on the GOsC's register to describe themselves (either expressly or by implication) as an osteopath. There were 12 active Section 32 investigations as at 30 June 2023.
17. The GOsC has commenced a second prosecution against Mr Nigel Graham. By way of background, Mr Graham, a former registrant, was removed from the Register of Osteopaths in 2016 following a hearing before the Professional Conduct Committee. GOsC successfully prosecuted Mr Graham for breach of title at Willesden Magistrates Court in 2017. An initial hearing for the second prosecution took place on 7 June 2023 at Highbury Magistrates Court. Mr Graham failed to attend and the trial was adjourned to 11 August 2023. Mr Graham did not attend the hearing on this date either, however the court postponed proceedings to allow him to attend in person and a further trial date was listed for 10 October 2023. Mr Graham attended and was

represented by counsel, who applied to adjourn the trial. This application was granted. The trial has been refixed for 20 December 2023. Council will be provided with a further update at its meeting in February 2024.

Interim Orders Consultation and Webinar

18. Following Council's approval in May 2023, we have undertaken a public consultation that commenced in July 2023 and concluded in October 2023, on our current guidance on Imposing Interim Suspension Orders together with the Practice Note on Undertakings. A paper on this consultation together with the responses we received has been prepared and is presented separately to Council.
19. As part of our engagement plan during the consultation, we hosted a webinar on interim suspension orders and undertakings on 7 September 2023. The purpose of the webinar was to highlight, engage and gather views from all stakeholders on the proposed changes to our guidance and practice note. The session also covered information around the number of interim order hearings held and how many interim orders are granted. There was also an opportunity for questions to be answered by the panel. It was a well-attended evening with over 40 attendees and some interesting and thoughtful questions.

Investigating Committee and Professional Conduct Committee Annual Training Day

20. The Investigating Committee all members training day has been scheduled for 4 December 2023. The agenda for the day will encompass training arising from the amended Interim Suspensions Order Guidance following the public consultation on the changes and a bespoke session on Equality, Diversity and Inclusion.
21. The Professional Conduct Committee and Health Committee all members training day has been scheduled for 11 January 2024. Currently, the agenda will encompass a bespoke session on Equality, Diversity and Inclusion and an interactive case law update session.
22. We are intending to hold both training days in person at Osteopathy House. Legal Assessors have also been invited to attend the training days.

Recommendation: To note the report.