



General Osteopathic Council

Investigating Committee, Professional Conduct Committee and Health Committee

Practice Note 2014/01

Consideration of Undertakings at Interim Suspension Order Hearings

Effective from: 1 May 2014

1. This Practice Note applies to the following statutory committees of the General Osteopathic Council: the Investigating Committee; the Professional Conduct Committee; and the Health Committee ('the fitness to practise committees').
2. Sections 21 and 24 of the Osteopaths Act 1993 provide a power for the fitness to practise committees to impose an Interim Suspension Order on a registrant.
3. The statutory test for the making of an Interim Suspension Order is whether the relevant fitness to practise committee "...is satisfied that it is necessary to do so in order to protect members of the public..."
4. The Osteopaths Act 1993 and the rules of procedure which govern proceedings before the fitness to practise committees do not provide any power for a committee to impose conditions on a registrant's practice on an interim basis. The fitness to practise committee should have regard to the Guidance for the Fitness to Practise Committees on imposing Interim Suspension Orders.
5. However, in deciding whether or not it is necessary to make an Interim Suspension Order, a fitness to practise committee may take into account Undertakings which are offered by the registrant as to the conduct of his or her practice and future behaviour, pending the further investigation and final determination of the allegations made against him or her. The fitness to practise committee has an inherent discretion to propose undertakings where it considers these would be sufficient and proportionate to address the risks it has identified in the case. Where the fitness to practise committee proposes potential undertakings, it must first invite submissions from the registrant and the GOsC before reaching a decision. Any undertakings agreed must conform with the requirements set out at paragraph 7 below.
6. For the purpose of this Practice Note, Undertakings are defined as solemn written promises which:
 - a. are made by the registrant to the fitness to practice committee considering allegations against him or her; and

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- b. set out the terms on which the registrant will voluntarily restrict his or her practice until the final determination of the allegations made against him or her.
7. A fitness to practise committee may take into account Undertakings which:
- a. are in writing;
 - b. are addressed to the fitness to practise committee considering the allegation;
 - c. are signed by the registrant;
 - d. contain an express acknowledgement that the registrant accepts that the Undertakings constitute a solemn promise to the fitness to practise committee as to the conduct of his or her practice, or behaviour;
 - e. contain an express acknowledgement by the registrant that a failure to comply with the Undertakings made by him or her may amount to Unacceptable Professional Conduct;
 - f. contain express consent by the registrant to publication of the Undertakings on the GOsC website;
 - g. contain express consent by the registrant to provision of the Undertakings to any person that the GOsC considers appropriate in the public interest;
 - h. address the nature of the allegations made against him or her and clarify how the proposed restrictions would protect the public;
 - i. set out restrictions on the registrant's practice in numbered paragraphs and without ambiguity;
 - j. set out restrictions which are measurable, and capable of being monitored;
 - k. provide a mechanism for providing objective evidence of compliance with the restrictions stated to the GOsC on a regular basis;
 - l. confirm that the restrictions will remain in place until the final determination of the allegations against him or her by the fitness to practise committee, or until such other date as may be stipulated by the fitness to practise committee;
 - m. include a requirement to notify the GOsC immediately if the registrant becomes aware that he or she may not be able to comply with the restrictions.

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8. When proposing Undertakings to a fitness to practise committee that require monitoring or the involvement of third parties such as employers, a registrant will be expected to provide evidence to the committee that any third parties are aware of the allegations that have been made against the registrant, and are content with the Undertakings being proposed.
9. Where a fitness to practise committee considers that any Undertakings:
 - a. do not comply with paragraph 7; or
 - b. are insufficient to protect the public,it should consider making an Interim Suspension Order.
10. A decision to offer Undertakings to a fitness to practise committee is a matter for the registrant. The GOsC has no power to apply for Undertakings. However, if it considers that Undertakings may be sufficient to address the risks identified, the GOsC may assist in the preparation of appropriate draft undertakings with the registrant in advance of an interim order hearing. However, this does not mean the the fitness to practise committee will automatically accept Undertakings offered. This will be a matter for the fitness to practise committee exercising its own judgement.
11. Where the GOsC becomes aware that Undertakings provided by a registrant are not being or have not been complied with, it may apply for an Interim Suspension Order to be imposed on the registrant.
12. A failure by a registrant to comply with any Undertakings offered to a fitness to practise committee may also result in the Registrar raising an allegation of misconduct against that registrant.

Further information

13. This Practice Note is part of a suite of Practice notes produced by the GOsC Council.
14. For further information about the PCC's procedures and guidance, please see the GOsC's website - www.osteopathy.org.uk – or contact the Regulation Department on 020 7357 6655 x224.