

Osteopaths under Investigation

Fitness to Practise Complaints Procedure

Draft Guidance for Osteopaths

Introduction

This guidance is designed to inform osteopaths about the GOSc's fitness to practise procedures.

We hope you find this information helpful, but this is only a guide and should not be used as a substitute for any legal advice or advice from your professional indemnity insurers.

When do we investigate?

Maintaining patient safety and public confidence in the osteopathic profession means that we must investigate and consider complaints about osteopaths' conduct, competence or health.

Concerns are referred to us from many different sources, including members of the public, employers, osteopaths and the police. We may also become aware of a concern through other means, such as the media or the publication of a report. We have a duty under the *Osteopaths Act* to investigate concerns about osteopaths and to identify whether the concern referred to us is a legitimate matter that needs to be investigated. Concerns may fall within one of a number of categories (called allegations) as defined by law including:

- conduct has fallen short of the standard required
- professional incompetence
- conviction of a criminal offence
- serious impairment because of physical or mental health.

What happens when we receive an enquiry or concern about an osteopath?

We conduct an initial assessment, called a triage, of every concern we receive to enable us to decide whether it is capable of falling into one or more of the categories set out above. A caseworker from the GOSc Regulation Team is then assigned to your case.

For each new concern the GOSc tries to gather information (if it has not already been provided) which is detailed enough to enable a Screener (an osteopath member of the Investigating Committee) to reach a reasonable opinion on whether or not the concern is capable of amounting to an allegation. This typically means inviting the complainant or third parties to provide further information. However, how we conduct our investigation will depend on the nature of the concerns. For example, we may need to get an expert report if the concern relates to your clinical practice or an assessment by one of our medical assessors about your health. We will show you the evidence and information we receive.

Sometimes, you will also be asked for some input before the papers are placed before a Screener.

If the Screener decides that the GOsC has no power to investigate the concern against you, the complainant will be informed of this decision and the case will be closed. The Screener is provided with a guidance document to assist them in making a decision.

How long will the investigation take?

This will depend upon the seriousness of the concerns and how quickly we can acquire the information. We set initial targets or performance indicators which gives up to 42 days to get adequate information or evidence which is then given to the Screener to decide whether the concern is an allegation that we can deal with.

Concerns we can't deal with

As part of their decision making, a Screener will be guided by threshold criteria when deciding whether the concern is one we can deal with. Concerns that would not generally amount to an allegation include:

- Complaints about note-taking and record-keeping alone
- Vexatious complaints
- Complaints that relate to employment disputes
- Complaints that relate to contractual disputes
- Complaints that relate to disputes between osteopaths and patients about fees or the costs of treatment.

What happens if the complaint is screened in?

If the Screener decides that the GOsC has the power to deal with the complaint, the case will be referred to the Investigating Committee for investigation.

The Screener will produce a report, which identifies:

- The allegation
- The relevant standards of the *Osteopathic Practice Standards*
- Any additional information that may be required.

At this point, the caseworker will notify you of the complaint. You will be provided with a copy of the Screener's Report and a copy of the complaint papers and you will have **28 days** to respond to the allegations before the matter is considered by the Investigating Committee.

Once we have received a response from you, we may send a copy to the complainant for their further comments.

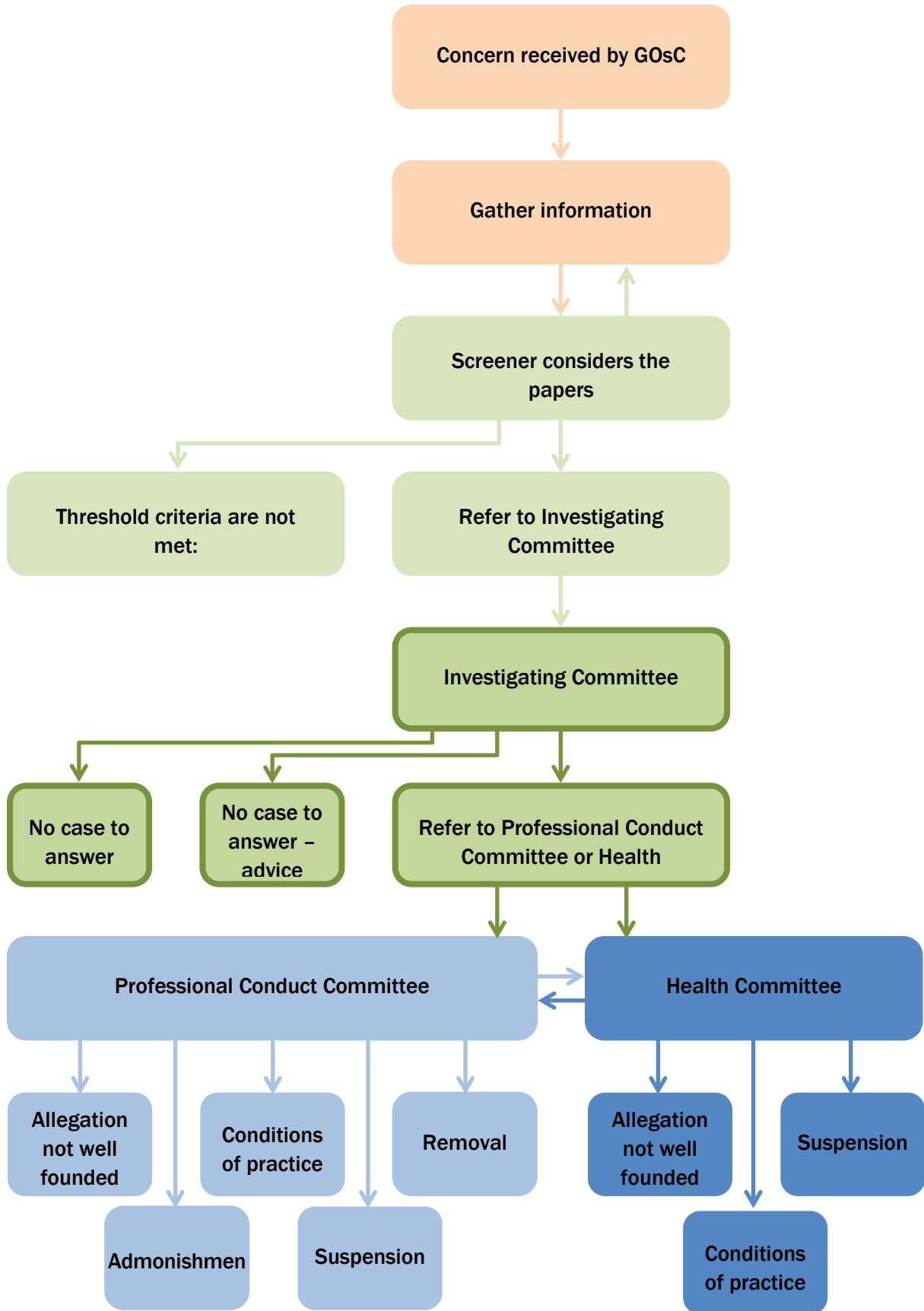
If any new information or allegation is raised by the complainant, you will be given the opportunity to respond to that before any decision is reached.

The caseworker will also gather any other relevant information and evidence at this stage. For example: any statements from third parties, relevant medical records or an assessment of your health.

The flowchart overleaf sets out the procedure that the GOsC follows when a concern is made about you:

Fig 1.

GOSc fitness to practise complaints procedure



Legal Advice

We advise you to contact your professional indemnity insurer or seek your own independent legal advice about the complaint and our request for your response as soon as possible.

Consideration by the Investigating Committee

Once all evidence has been obtained, including your written response, the case will be considered by the Investigating Committee. The Investigating Committee meets in private with the assistance of a Legal Assessor, a legally qualified person who provides the Investigating Committee with advice on the law, to consider cases on the papers. Neither the GOsC nor you and/or your representative will be present at this meeting as the Investigating Committee will make a decision on the papers.

The Investigating Committee will carefully consider the case to decide whether there is a case for you to answer, and if so, what that case is. The Investigating Committee is assisted in determining whether there is a case for the osteopath to answer by the *Investigating Committee Decision-making Guidance* and the *Guidance on Threshold Criteria for Unacceptable Professional Conduct*, which are available on the GOsC website.

If the Investigating Committee decides that there is a case to answer, a public hearing will be arranged before the GOsC's Professional Conduct Committee.

If the matter relates to your health, the Investigating Committee will refer the case to the Health Committee (see page 6).

If the Investigating Committee decides that there is no case for you to answer, the case will be closed and the caseworker will provide you with a copy of the Investigating Committee's written decision and reasons.

Interim Suspension Order Hearings before the Investigating Committee

Sometimes in serious cases where the concerns we receive present a risk to patient or public safety, the Investigating Committee can impose an Interim Suspension Order on you. What this means is that you will not be able to practise as an osteopath as long as the Interim Suspension Order lasts. The Investigating Committee can impose an Interim Suspension Order for up to two months.

The Investigating Committee may also agree undertakings with you. These undertakings are binding written promises which you agree to which will voluntarily restrict your practice until the final determination of the allegations made against you.

If a hearing to consider an Interim Suspension Order is being held in your case, the caseworker will notify you of the date, time and place of the hearing. A copy of all relevant documents will also be provided to you in advance of this hearing.

You are able to attend the hearing and/or be legally represented at it.

The Interim Suspension Order hearing is held in private. However, where a decision to impose an Interim Suspension Order is made, a copy of that decision will be published on the GOsC website in accordance with our *Fitness to Practise Publication Policy*.

Consideration by the Professional Conduct Committee or Health Committee

The GOsC has produced separate *Hearings Guidance* for osteopaths and you will be provided with a copy if your case is referred for a hearing by the Investigating Committee.

In summary, the Professional Conduct Committee hears all the evidence in a case in order to decide whether you have been:

- Guilty of Unacceptable Professional Conduct
- Professionally Incompetent
- Convicted of a criminal offence which has material relevant to your fitness to practise as an osteopath.

Where a finding of Unacceptable Professional Conduct or Professional Incompetence, or a finding relating to a conviction is made, the Professional Conduct Committee may:

- Admonish you
- Impose a Conditions of Practice Order, which will allow you to continue to work in a limited way
- Impose a Suspension Order for a period of time
- Remove your name from the Register.

Complaints related to health

If the complaint relates to your health, the Investigating Committee will refer the case to the Health Committee.

Further guidance about hearings will be provided to you if your case is referred for a hearing before the Health Committee.

We hope you find this guidance helpful.

If you have any questions, please contact the GOsC Regulation Team.

regulation@osteopathy.org.uk

020 7357 6655 x224