



General  
Osteopathic  
Council

# Fitness to Practise Report

**2016-17**

**The General Osteopathic Council**

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## Stages of the fitness to practise process

The General Osteopathic Council (GOsC) has a duty under the *Osteopaths Act 1993* to investigate concerns about osteopaths.

We receive concerns about osteopaths from a variety of sources, including: patients, members of the public, employers, registrants and referrals from other regulators. Patient concerns continue to be the main source of complaints about registered osteopaths. Through our fitness to practise processes we have a duty to identify whether a concern about a registered osteopath is a legitimate matter that needs to be investigated. The fitness to practise procedures are designed to protect the public and are not intended to serve as a general complaints resolution process.

The GOsC has three statutory committees:

- **The Investigating Committee** carries out the initial scrutiny of complaints about osteopaths, and decides whether the osteopath has a case to answer.
- **The Professional Conduct Committee** hears cases involving criminal convictions or allegations against an osteopath's conduct or competence. If the Committee finds the allegation is well founded, it imposes an appropriate and proportionate sanction on the osteopath.
- **The Health Committee** considers cases where an osteopath is alleged to be in poor physical or mental health. Appropriate action is taken in the interests of the public and the osteopath.

Each committee meeting or hearing is attended by a legal assessor – a legally qualified person who provides the committee with advice on matters of law and procedure.

Any of our fitness to practise committees can impose an 'interim suspension order' on an osteopath, if they feel it necessary to protect the public in a case involving serious allegations.

An interim suspension order suspends the osteopath's registration pending the investigation and outcome of the hearing.

### Screeners

The Regulation department reviews all of the concerns received and conducts an initial risk assessment to ensure there is no immediate risk to public protection. We gather as much information as possible at this initial stage before referring the concern to a 'Screener' (an osteopath member of the GOsC Investigating Committee). As part of our information gathering, we usually seek additional information or clarification from the person raising the concern. If the person raising the concern does not provide the further information within 42 days of the request, the papers will then be referred to a Screener with a recommendation for closure on the basis that there is insufficient relevant and credible supporting material.

If we do receive the information, the case is passed to the Screener who reviews the concern to determine whether it is capable of amounting to an allegation under the *Osteopaths Act*. In reaching a decision, the Screener is able to refer to 'threshold criteria' to help decide whether an activity complained about constitutes unacceptable professional conduct, which is 'conduct which falls short of the standard required of a registered osteopath'.

If the Screener decides that the GOsC has no power to investigate the concern against the osteopath, the matter is referred to a Lay Screener to review the documentation and the Screener's decision. If they both agree, the matter can be closed. If they disagree, then the matter is referred to the Investigating Committee.

### Investigating Committee

The Investigating Committee meets in private to consider cases that have been referred to them by a Screener. The Committee considers whether there is a case to answer against the osteopath in question, and takes the threshold criteria into account when making its decision.

If the Investigating Committee decides there is no case to answer, the case will be closed.

The Investigating Committee may determine that they have insufficient information in order to fairly consider the matter and adjourn

consideration in order to obtain additional information.

If the Investigating Committee decides that there is a case to answer, a hearing will be arranged before the GOsC's Professional Conduct Committee or Health Committee, if the matter concerns a registrant's health.

## Professional Conduct Committee

The Professional Conduct Committee consists of three members: lay Chair, an osteopath and a lay member. A legal assessor is also present to assist the Committee on any legal matters that may arise during a hearing.

Hearings are usually held in public and members of the public are able to attend. However, depending on the nature of the case, there may be occasions when part or all of the hearing must be held in private.

When considering a case, the Committee's decision-making process is in three stages:

### 1. Findings of fact

The Committee will consider whether they find the facts alleged against an osteopath proved. Some of the facts may be admitted by the osteopath and other facts may be in dispute. The Committee will consider the disputed facts and decide whether it is more likely than not that they happened. This is known as the 'balance of probabilities'.

If the Committee do not find any of the facts proved, the case will be concluded. Where they find some or all of the facts proved, the hearing will proceed to the next stage.

### 2. Finding on allegation

Once the findings of fact have been announced, both parties (GOsC's Case Presenter and the Registrant) will be invited to make submissions on unacceptable professional conduct or professional incompetence or whether a criminal conviction is material to the practice of osteopathy. This is a matter for the Professional Conduct Committee's judgement and is not a matter of proof.

The Committee will hear and consider the submissions and will retire in private to consider their findings. When a decision has been reached, parties will be invited into the hearing room and the Chair will announce the Committee's decision.

### 3. Finding on sanction

If the Committee determines that the facts amount to unacceptable professional conduct or professional incompetence or that a criminal conviction is material to the practice of osteopathy, they will then hear any additional submissions by both parties regarding the allegations. They will also take account of submissions made by each party on the sanction to impose.

The Committee will consider the evidence in private and decide which sanction to impose. Once they have reached a decision, the parties will be invited into the hearing room and the Chair will announce the sanction.

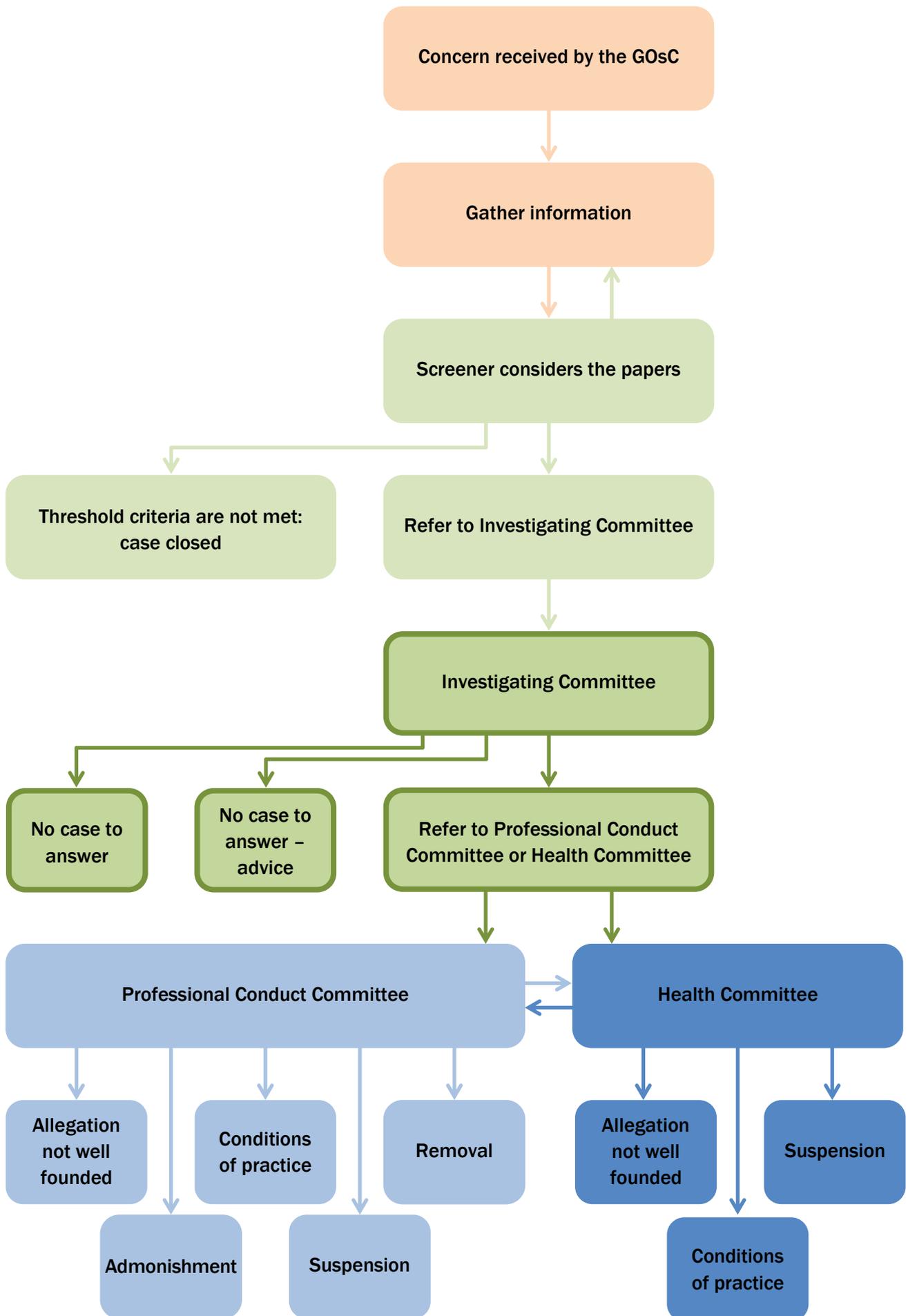
If the Committee finds an allegation against an osteopath is well-founded, they must impose one of four sanctions on the osteopath:

- admonishment
- imposition of conditions on the osteopath's practice
- suspension from the Register
- removal from the Register.

## Health Committee

Health Committee hearings usually take place in private and consists of three members: lay Chair, an osteopath and a lay member. A legal assessor and a medical assessor are also present to assist with legal and medical matters.

The Health Committee can impose only conditions of practice or a suspension, in cases where it finds that the osteopath's fitness to practice is seriously impaired because of their physical or mental condition.



# Investigations and hearings 2016-17

## Investigating Committee

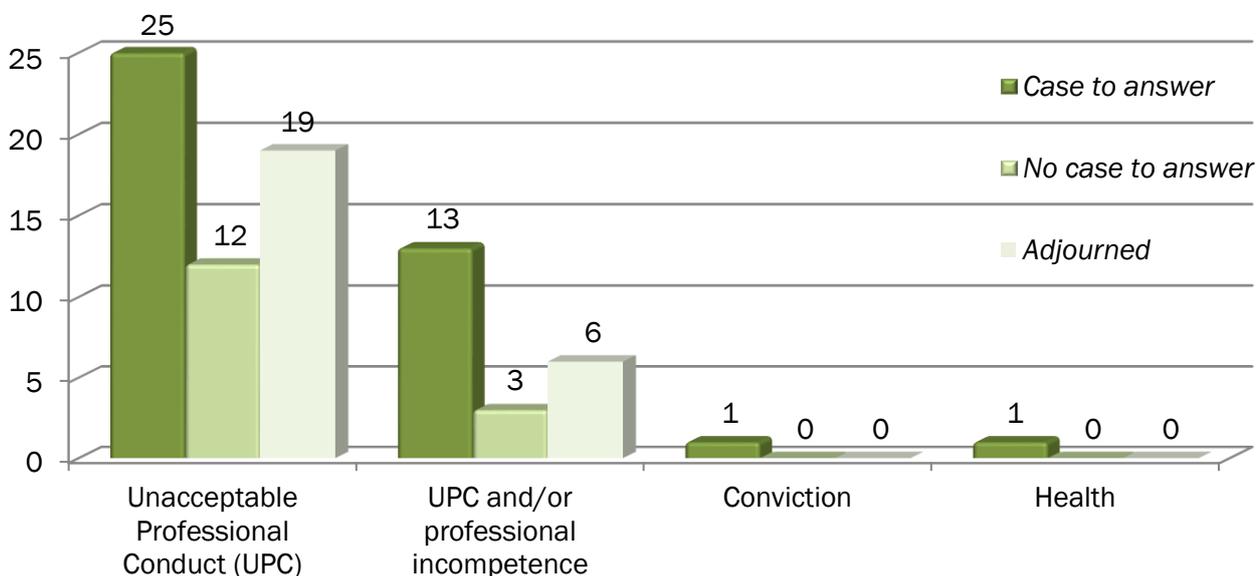
During the 12 months from 1 April 2016 to 31 March 2017, the GOsC's Investigating Committee met eight times and considered 80 cases.

It concluded that 40 of those cases should be heard by the Professional Conduct Committee or the Health Committee. It adjourned 25 cases, and in 15 other cases found there was no case to answer.

One case involving both unacceptable professional conduct and health was referred to the Investigating Committee during the period.

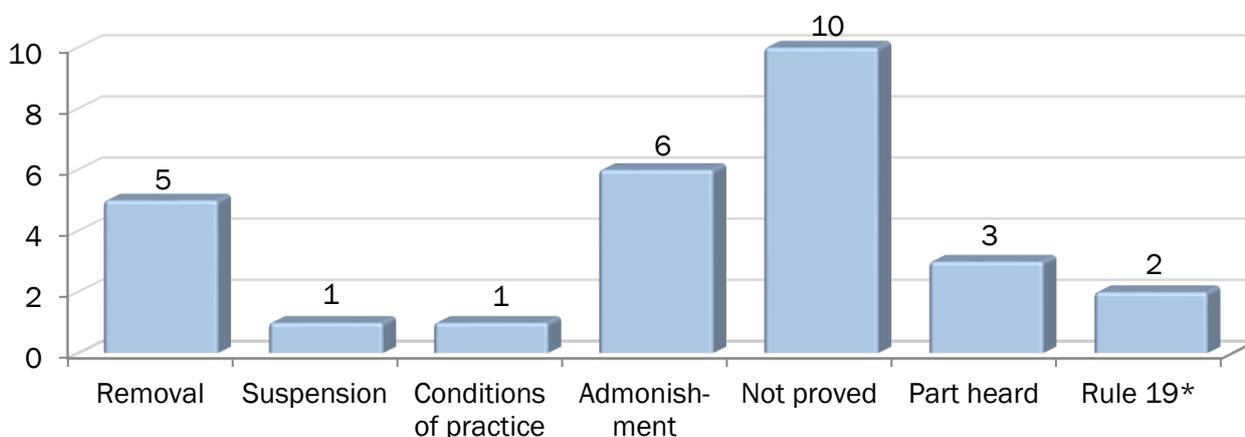
In four cases, the complaints were sufficiently serious for the Investigating Committee to impose interim suspension orders pending hearings.

The chart below shows the types of allegation considered by the committee, and the conclusions reached.



## Professional Conduct Committee

From April 2016 to March 2017, the Professional Conduct Committee heard 28 new cases relating to unacceptable professional conduct. The chart below shows the decisions it reached.



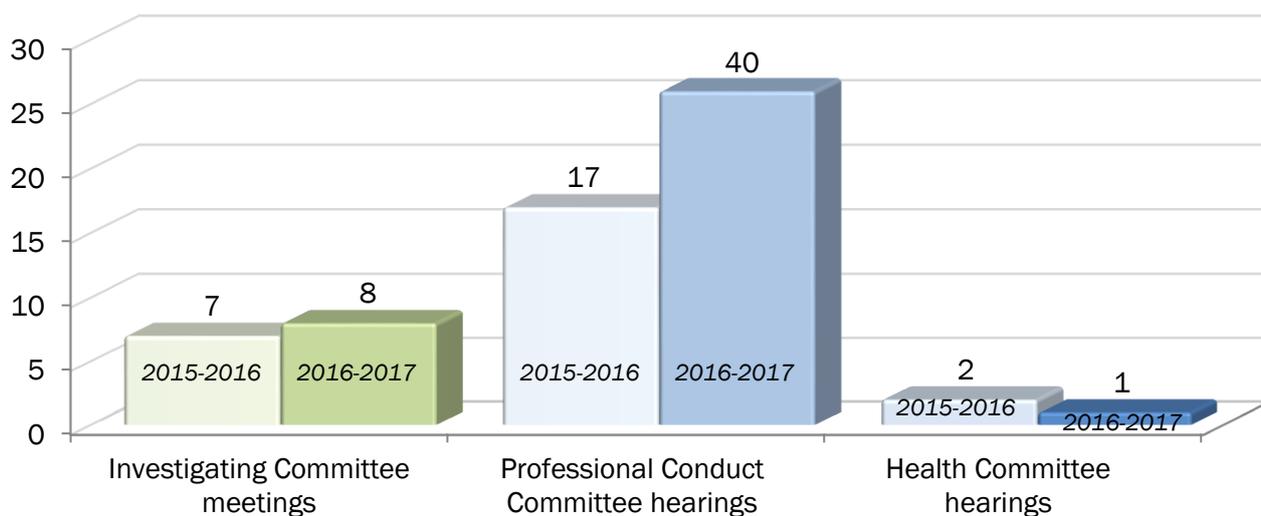
\* 'Rule 19' is where, owing to exceptional circumstances, the Council is no longer able to proceed with its case against the Registrant.

## Health Committee

Over the same period, the Health Committee did not consider any substantive cases but did review one case which had a Conditions of Practice Order in place.

### Number of meetings and hearings

The chart below compares the number of Investigating Committee meetings, Professional Conduct Committee hearings and Health Committee hearings held last year (April 2015 to March 2016) and this year (April 2016 to March 2017).



### Interim suspension order hearings

The Investigating Committee, Professional Conduct Committee and Health Committee can impose a suspension order on a registrant for an interim period if there is a real risk to members of the public.

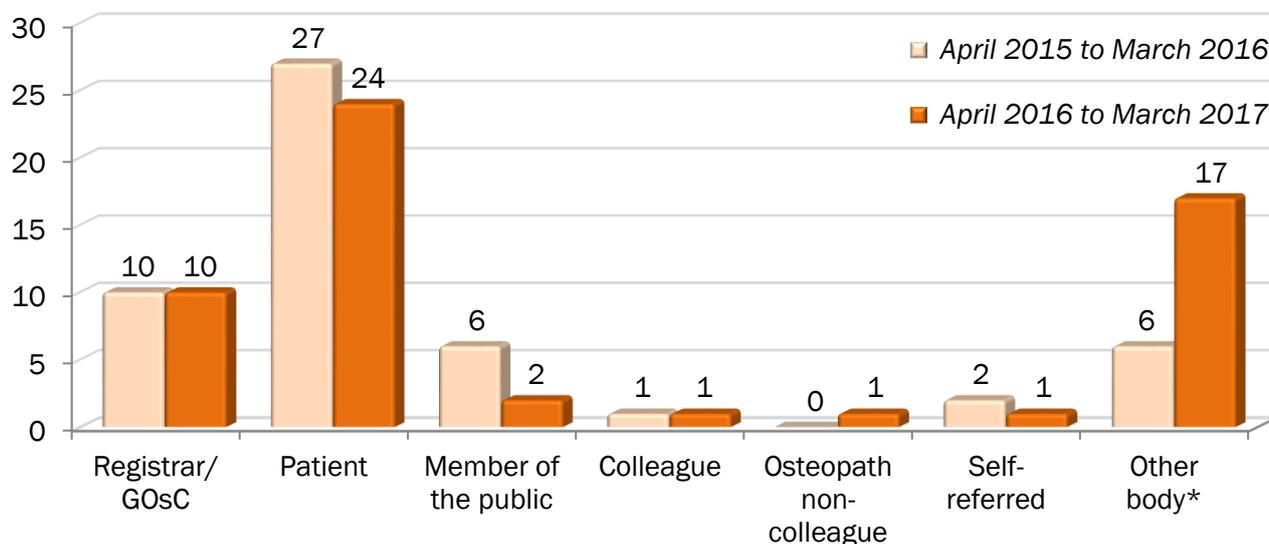
The table below shows how many interim suspension order (ISO) hearings took place, and the number of ISOs imposed, from April 2016 to March 2017.

Committee	Number of ISOs applied for	Number of ISOs imposed	Number of undertakings*
Investigating Committee	5	4	0
Professional Conduct Committee/ Health Committee	4	2	2

\* An undertaking is defined in GOsC Practice Note 2014/01 – available at: [bit.ly/gosc-practice-note-undertakings](http://bit.ly/gosc-practice-note-undertakings) – as a solemn written promise made by an osteopath to voluntarily restrict their practice.

## Who makes complaints?

The chart below shows a comparison from last year to this year for sources of formal complaints received.



\* Complaints were received from the police (2), Adult Safeguarding Services (1), and the Good Thinking Society (14).

## How quickly do we process complaints?

The table below shows the time taken for cases to be heard, from 1 April 2016 to 31 March 2017.

Committee	Median time from receipt to decision
Investigating Committee	17 weeks* (target = 16 weeks)
Professional Conduct Committee	54 weeks* (target = 52 weeks)

\*Median figure across all cases considered by the respective committee this year.

# Professional Conduct Committee decisions 2016-17

'This report provides a valuable resource to osteopaths on the high standards of conduct and proficiency required to maintain registration as an osteopath'

This report of the General Osteopathic Council's Professional Conduct Committee covers substantive hearings concluded during the period 1 April 2016 to 31 March 2017.

It is produced in accordance with the *Osteopaths Act 1993*, Section 22(13) and (14), which requires the Committee to publish a report setting out the names of those osteopaths in respect of whom it has investigated allegations and found the allegations to be well founded.

Issues involving osteopaths' fitness to practise are an integral part of the GOsC's duty to regulate the profession and thereby protect the public and the profession's reputation. The information contained in this report provides a valuable resource to osteopaths on the high standards of conduct and proficiency required to maintain registration as an osteopath.

## Substantive hearings

Name, registration number and date of PCC decision	Source of complaint	Summary of allegations found proved	Outcome
Jocelyn Drew 2466 May 2016	Registrar	Ms Drew practised as an osteopath from April 2015-October 2015 without professional indemnity insurance cover. The Registrant failed to inform the GOsC that insurance cover had ceased to be in force.	Finding of unacceptable professional conduct which resulted in an admonishment.
Nigel Graham 3274 May 2016	Registrar	<p>Mr Graham was convicted of a criminal offence, contrary to section 20(1)(c) of the <i>Osteopaths Act 1993</i>. He pleaded guilty to:</p> <ul style="list-style-type: none"> <li>• five counts of dishonestly making false representations to avoid a fixed penalty payment contrary to s.1 and s.2 of the Fraud Act 2006.</li> <li>• Parked in a pay and display bay and displayed a disabled person's blue badge whilst the vehicle was not being used by badge holder, contrary to s.117 of the Road Traffic Regulation Act 1984.</li> </ul> <p>Mr Graham pleaded guilty and was sentenced to 16 weeks imprisonment (suspended), 120 hours of community service, £1050.52 costs, £140 compensation and a victim surcharge of £80.</p>	Finding that convictions were materially relevant to osteopathy and Mr Graham's dishonesty was fundamentally incompatible with practice as an osteopath. Mr Graham was removed from the Register of Osteopaths.

Name, registration number and date of PCC decision	Source of complaint	Summary of allegations found proved	Outcome
Elizabeth Treadaway 6857 May 2016	Registrar	Ms Treadaway practised as an osteopath from September 2014 -January 2015 without professional indemnity insurance cover. The Registrant failed to inform the GOsC that insurance cover had ceased to be in force and failed to engage with the GOsC regarding her indemnity.	Finding of unacceptable professional conduct, leading to a suspension order for four months.
Habib Chharawala 2654 July 2016	Patient	<p>Between December 2013 -June 2014, Mr Chharawala:</p> <ul style="list-style-type: none"> <li>• Failed to maintain an adequate standard of record keeping and/or note taking.</li> <li>• Performed high velocity thrust treatment without explaining the risks or obtaining consent of Patient A.</li> </ul>	Finding of unacceptable professional conduct, leading to a Conditions of Practice Order for a period of six months
Philip Waddell 8366 July and October 2016	Registrar	Mr Waddell practised as an osteopath from May 2015-October 2015 without professional indemnity insurance cover, and failed to notify the GOsC that his insurance had ceased to be in force.	Finding of unacceptable professional conduct which resulted in an admonishment.
Sophie Whitford 5879 September 2016, November 2016 and March 2017	Registrar	<p>Between May-August 2015 Ms Whitford:</p> <ul style="list-style-type: none"> <li>• Practised as an osteopath without professional indemnity insurance cover</li> <li>• Failed to notify the GOsC that her insurance ceased to be in force.</li> <li>• Knew that holding herself out to the public as a registered osteopath, she was required to hold professional indemnity insurance</li> <li>• Acted inappropriately</li> <li>• Conduct was misleading.</li> </ul>	Finding of unacceptable professional conduct which resulted in an admonishment.

Name, registration number and date of PCC decision	Source of complaint	Summary of allegations found proved	Outcome
James Kemp 682 October 2016	Patient	<p>Mr Kemp provided treatment to Patient A from March/April 1996-November 1998. During a number of appointments Mr Kemp groomed Patient A by:</p> <ul style="list-style-type: none"> <li>• Placing his hands inside Patient A's underwear</li> <li>• Touched Patient A's vagina</li> <li>• Massaged Patient A's breasts</li> <li>• Touched Patient A's clitoris</li> <li>• Kissed Patient A on the mouth.</li> </ul> <p>Mr Kemp pursued an improper and sexual relationship with Patient A. Mr Kemp's actions were sexually motivated, not clinically justified, abuse of his professional position, transgressed professional and sexual boundaries and failed to uphold the reputation of the profession.</p> <p>Mr Kemp used the appointments to continue an improper sexual relationship with Patient A on three occasions, giving payment for treatment to Patient A to provide to the receptionist. This was considered inappropriate, misleading and dishonest.</p>	Finding of unacceptable professional conduct, leading to an order to remove the osteopath's name from the Register of Osteopaths.
James Kemp 682 October 2016	Patient	<p>Mr Kemp provided treatment to Patient B in April 2010. During the consultation Mr Kemp:</p> <ul style="list-style-type: none"> <li>• Placed his hands over Patient B's breast</li> <li>• Moved Patient B's arm up and down whilst his hand was on Patient B's breast</li> <li>• Did not explain to Patient B what he was going to do, why it was necessary and did not obtain consent</li> <li>• Put his hands on Patient B's neck and pushed her forwards</li> <li>• Stood so close that his body was touching Patient B</li> <li>• Pushed Patient B forward when she touched his hand.</li> </ul> <p>Mr Kemp's actions were not clinically justified, were sexually motivated and were an abuse of his professional position.</p>	Finding of unacceptable professional conduct, leading to an order to remove the osteopath's name from the Register of Osteopaths.

Name, registration number and date of PCC decision	Source of complaint	Summary of allegations found proved	Outcome
Habib Chharawala 2654 January 2017	Registrar	<p>Mr Chharawala wrote a letter addressed to the Chair of the GOsC which:</p> <ul style="list-style-type: none"> <li>• Used foul language</li> <li>• Used threatening language</li> <li>• Was abusive.</li> </ul>	Finding of unacceptable professional conduct, leading to an order to remove the osteopath's name from the Register of Osteopaths.
Nicholas Salway 2619 January 2017	Registrant	<p>In or around April 2013 Mr Salway :</p> <ul style="list-style-type: none"> <li>• had sexual intercourse with Patient A in a treatment room at the practice</li> <li>• created false patient records and entries for Patient A in an attempt to conceal his relationship with her, which was dishonest</li> <li>• Between April 2013 and January 2016, Mr Salway had sexual intercourse and/or engaged in sexual activity with Patient B in a treatment room at the practice</li> <li>• Continued to treat Patient B and her husband whilst having a sexual relationship with Patient B</li> <li>• Exchanged sexually explicit text messages about a patient with another osteopath</li> <li>• Used his British School of Osteopathy (BSO) email address to send sexually explicit images to a female.</li> </ul> <p>Mr Salway's actions were sexually motivated and transgressed sexual boundaries and/or professional boundaries.</p>	Finding of unacceptable professional conduct, leading to an order to remove the osteopath's name from the Register of Osteopaths.
Coby Langford 4455 January 2017	Registrar	<p>Between May- December 2015 Ms Langford:</p> <ul style="list-style-type: none"> <li>• Practised as an osteopath without professional indemnity insurance cover</li> <li>• Failed to notify the GOsC that her insurance had ceased to be in force.</li> <li>• Acted to the potential detriment of patients treated between May 2015- December 2015</li> </ul>	Finding of unacceptable professional conduct which resulted in an admonishment.

Name, registration number and date of PCC decision	Source of complaint	Summary of allegations found proved	Outcome
Lucy Stratford 5938 February 2017	Registrar	<p>Between April-August 2015 Ms Stratford:</p> <ul style="list-style-type: none"> <li>• Practised as an osteopath without professional indemnity insurance cover</li> <li>• Failed to notify the GOsC that her insurance had ceased to be in force</li> <li>• Knew she was required to hold professional indemnity insurance</li> <li>• By failing to notify the GOsC that her insurance had ceased; and by knowing that by holding herself out to the public as a registered osteopath, she was required to have appropriate professional indemnity insurance, Ms Stratford's conduct was misleading.</li> </ul>	Finding of unacceptable professional conduct which resulted in an admonishment
Keerti Mathur 6252 March 2017	Registrar	<p>Between October 2013-October 2014 Mr Mathur:</p> <ul style="list-style-type: none"> <li>• Practised as an osteopath without professional indemnity insurance cover</li> <li>• Did not provide the GOsC with a copy of his professional indemnity insurance as requested</li> <li>• Treated patients knowing that his insurance did not cover osteopathy</li> <li>• Treated patients knowing that he did not have any professional indemnity cover in place</li> <li>• Acted to the potential detriment of patients</li> <li>• His actions were misleading.</li> </ul>	Finding of unacceptable professional conduct which resulted in an admonishment

## Review hearings

When the Professional Conduct Committee decides to impose conditions on an osteopath's practice (a conditions of practice order) or suspends an osteopath's registration (a suspension order), it will review that order at a hearing before the order expires. The following cases were reviewed by the Committee during the period of this report.

Name, registration number and date of review hearing	Summary of order requiring review	Outcome of review hearing
Joanna Blair 8123 May 2016	Review of suspension order imposed for eight months in September 2015.	The suspension order imposed in September 2015 was replaced with a Conditions of Practice Order for nine months.
Elizabeth Treadaway 6857 September 2016	Suspension order for a period of four months was imposed in May 2016 for a failure to obtain and maintain insurance cover from September 2014 to January 2015.	Suspension order extended for eight months.
James Ellis 4703 October 2016	Finding of unacceptable professional conduct leading to a conditions of practice order for 12 months.	The Conditions of Practice Order imposed in November 2015 permitted to lapse upon expiry on 4 December 2016.
Habib Chharawala 2654 December 2016	Finding of unacceptable professional conduct leading to a conditions of practice order in July 2016.	The Conditions of Practice Order which was imposed in July 2016 should be varied immediately and extended by six months.

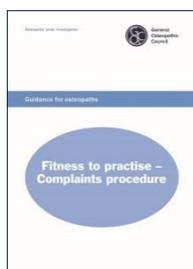
## Allegations not well founded

The Professional Conduct Committee considered a case against Emma Broom (4724) in March 2017. The Committee determined that the allegations did not amount to unacceptable professional conduct and the case was concluded with no findings against Ms Broom.

# New fitness to practise investigation guides for osteopaths published

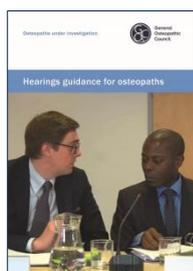
## Two new guides to assist osteopaths under investigation were published in 2017 following a review and consultation with a range of stakeholders

The GOsC published two new fitness to practise guidance documents to assist osteopaths under investigation, in 2017. This was carried out as part of the GOsC's wider reform programme to modernise our fitness to practise processes and improve patient protection. The two guides, which aim to enhance osteopaths' understanding of the complaints process, are:



### Fitness to practise – Complaints procedure

This explains the GOsC's fitness to practise procedures generally and sets out what an osteopath needs to do if a complaint is made about them. This booklet is provided to osteopaths at the point they are notified of a complaint. It's available at: [bit.ly/gosc-ftp-complaints-procedure](http://bit.ly/gosc-ftp-complaints-procedure)



### Hearings guidance for osteopaths

This contains detailed guidance about preparing and attending a hearing. It is provided to Registrants if their case is referred for a hearing. It's available at: [bit.ly/gosc-ftp-hearings-guidance-osteopaths](http://bit.ly/gosc-ftp-hearings-guidance-osteopaths)

## Review and consultation carried out to inform new guidance

The GOsC carried out the following steps before publishing the new guides:

1. The GOsC's Regulation department carried out a review of current guidance regarding the fitness to practise investigation procedures. This included an analysis of the information and resources provided by other professional regulators to their registrants.
2. Feedback was sought from a range of stakeholders as part of our pre-consultation engagement plan.
3. The GOsC then carried out a three month consultation from 16 January 2017 to 10 March 2017, with a range of stakeholders, in line with the Council's engagement strategy. In addition to the consultation being published on our website, an article informing registrants about the consultation was featured in the February/March 2017 issue of *the osteopath* magazine ([bit.ly/TheOsteopathFebMarch2017](http://bit.ly/TheOsteopathFebMarch2017)) and also in the GOsC news ebulletin sent to osteopaths.
4. Responses were taken into account in order to produce the two new guides above to make it easier for osteopaths to understand the complaints process.