



## Does your advertising comply with the standards?

### Osteopaths urged to check all publicity material

High-profile court proceedings and an internet blogging campaign involving chiropractors prompted the GOsC Chief Executive to write to you last summer about your advertising claims. We urged you to check that your publicity, whether in print or online, complied with the law and the GOsC's *Code of Practice*.

That message followed a campaign alleging that chiropractors were making improper claims in their advertising and the filing of more than 600 complaints with the General Chiropractic Council (GCC). The concern was and remains that osteopaths could be similarly targeted.

#### Unproved claims

The case involving chiropractors dates back to April 2008, when an article in *The Guardian* newspaper about chiropractic led to libel proceedings being issued by the British Chiropractic Association. That in turn triggered a campaign against chiropractors in the blogosphere and the very large number of complaints to the GCC about publicity by chiropractors which, it was alleged, made claims unsupported by evidence.

#### Straightforward advice

While osteopaths have so far avoided a similar attack by internet campaigners, the threat is very real. The GOsC's advice to osteopaths continues to be: ensure that whatever you claim, you can back up. The GOsC's *Code of Practice* covers the issue and refers to the Advertising Standards Authority's (ASA) Code. The GOsC's Head of Regulation explains: "Our Code says all advertising must be legal, decent, honest and truthful and conform to the current guidance provided by the ASA."

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#### ebulletin highlights

- > Don't make assumptions
- > Avoiding shocks
- > Good communication
- > Our fitness to practise process



Does your advertising comply? > continued

Cases overview

## Verifiable claims

Marketing is an important business tool for most osteopaths and many of you use a full range of online and print media to promote your practice. The key element of staying within the law and the professional rules is to refrain from making claims for effective treatment where this cannot be verified by bona fide research findings. Claims to be able to cure or relieve conditions will always be open to challenge in the absence of staunch evidence.

A General Chiropractic Council (GCC)-commissioned study "Effectiveness of manual therapies: the UK evidence report" may help you review the content of your print and online advertising. This work, published in February 2010, focuses on the evidence for a wide range of conditions, both musculoskeletal and non-musculoskeletal, using research conducted by many health professions. The full report, together with commentaries and an evidence summary table, is available on the GCC's [website](#).

Whilst this study does not evaluate the quality of the trials under review, the National Council for Osteopathic Research recommends it as a useful source of guidance for osteopaths. You can also check your publicity material directly with the Committee of Advertising Practice (CAP) Copy Advice Team on 020 7492 2100 or by emailing: [advice@cap.org.uk](mailto:advice@cap.org.uk). Guidance on the kind of evidence that should underpin healthcare claims is available on their website: [www.copyadvice.org.uk](http://www.copyadvice.org.uk). Further information is also available on the [o zone](#).



## Don't make assumptions

**Leaving matters unsaid and making assumptions are two of the most serious mistakes you can make in your relations with patients, as a recent case before the Professional Conduct Committee shows.**

A key lesson of this case is that the sensitive and vitally important issue of patient modesty is best dealt with immediately, as not to do so risks serious misunderstanding and potential offence. It is a case that provides a graphic example of how even benign intentions may be thwarted by a lack of clarity. The circumstances of the case are also typical of the problems that can be encountered with first-time users of osteopathy or patients who are new to an individual practitioner. Indeed, this case combined both elements.

The GOsC brought six charges against the registrant, all of which were proved. At the outset of the hearing, the osteopath admitted that he did not provide the female patient in question with an appropriate cover and that he examined and treated the patient with her breasts exposed.

That left the Committee to rule on the remaining four charges: that the osteopath did not allow the patient to undress in private; that by allowing her to remove her bra prior to examination and treatment, he did not ensure that the patient undressed to the minimum level required for effective examination and treatment; that he lowered the waistband of the patient's leggings without valid consent; and that he did not allow her to dress in private.

In finding all those charges proved, the Committee firmly identified miscommunication on the part of the osteopath as the root cause of the complaint. In relation to the charge that he did not allow the patient to undress in private, the Committee found that it was 'likely' that the osteopath 'did make some indication that there was a changing area', but it ultimately ruled that the osteopath did not make it sufficiently clear that the patient understood she could change in private.

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**Don't make assumptions** > continued

Likewise, regarding the removal of the patient's bra, the Committee found that the osteopath asked the patient to undress to the waist but specified no more than that. The patient in fact had asked the osteopath whether this included the removal of her bra. The Committee found that either through the osteopath's 'inattention or misunderstanding', miscommunication occurred when he did not respond, meaning the patient thought she was required to remove her bra. 'We do not think that [the osteopath] intended that she remove it,' ruled the Committee, 'and accept that he was genuinely surprised when he found that she had.'

The Committee also found that the osteopath had lowered the patient's leggings slightly without obtaining specific consent and that he moved to compile the patient's notes at his desk at the end of the treatment, again without indicating that there was a separate changing room in which she could dress.

The osteopath was found guilty of unacceptable professional conduct under the provisions of section 20(1)(a) of the Osteopaths Act 1993. The Committee imposed a conditions of practice order on the osteopath aimed at specifically addressing communication skills, issues of consent and the need to ensure privacy. In addition to being required to leave the treatment room when patients undress and re-dress, the osteopath was ordered to attend a verbal and non-verbal communication skills course.

The Committee also ruled that the osteopath 'should develop clear written policies and procedures for dealing with new patients'. Importantly, the Committee said those policies should ensure that patients are given written information about what to expect during a consultation, as well as covering the issue of consent and rights to privacy and to a chaperone.



This case clearly illustrates how crucial it is that osteopaths use appropriate and clear language and that you do not assume a patient has fully understood what is involved in a treatment without those issues being specifically addressed. It also clearly highlights that it is your responsibility as an osteopath to ensure clear and effective communication with the patient – especially with those patients who are new.

**Additional information**

References in the GOsC's *Code of Practice* to the issues dealt with in this case are:

- > **Clauses 23–26: Consent**
- > **Clauses 45–48: Patient modesty and right to privacy**
- > **Clause 49: Need for a chaperone**

## Avoiding shocks

Effective communication with the patient during treatment is just as important as before and after a treatment session, as a recent case before the Professional Conduct Committee vividly demonstrates. Indeed, this case also highlights the absolute necessity of communicating exactly what is involved in forms of treatment – and of obtaining valid consent – especially where techniques that could surprise or even shock patients are used.

The osteopath in question had been charged with having failed to communicate his findings following his examination of the patient; having failed to communicate his intended form of treatment; having performed a high velocity thrust (HVT) without obtaining valid consent; and having kept inadequate patient records.

The Committee found that while the osteopath was likely to have communicated some of the findings of his examination to the patient, this 'did not include the totality of the findings'. The Committee went on to say that 'while an osteopath is not required to detail clinical findings in technical language, he is required to ensure that he communicates his findings in a manner that a patient understands.'

Perhaps more importantly in this case, the osteopath was found not to have communicated in advance the nature of a significant and physically dramatic form of treatment. While the Committee accepted that there was some advance discussion of manipulation, there was no mention of the fact that the practitioner was going to administer a HVT to a specific part of the patient's neck.

The Committee found that the patient 'was not made aware ... of the vigorous nature of the technique and how it differed from the treatment he had had before'. It was clear also that the osteopath had not obtained the patient's valid consent for the HVT.

It is noteworthy that the Committee rejected the osteopath's assertion that consent had been given by virtue of an earlier conversation in relation to treatment of the patient three years prior.



Avoiding shocks > continued



The Committee found that the discussion did not amount to specific and informed consent. 'The failure to obtain valid consent in this case goes beyond simply not explaining the risks, but also to the application of the treatment', the Committee ruled.

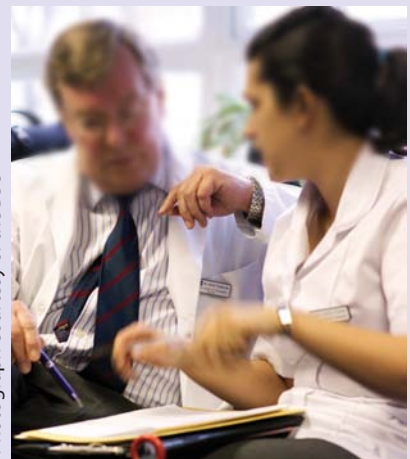
In determining the sanction, the Committee accepted that the osteopath had acknowledged his failings in the matter and that he had taken a training course covering patient consent issues. The Committee imposed a conditions of practice order for seven months, including requiring an independent audit of the osteopath's patient records to be undertaken.

**Additional information**

References in the GOsC's *Code of Practice* to the issues dealt with in this case are:

- > **Clause 17:** it is an osteopath's responsibility to make every reasonable effort to ensure that what is said to patients is clearly heard and understood.
- > **Clause 19:** osteopaths should do all they can to ensure that patients know what to expect.
- > **Clause 21:** osteopaths are required to help patients understand their condition and the available treatment.

Photograph courtesy of the BSO



**Good communication**

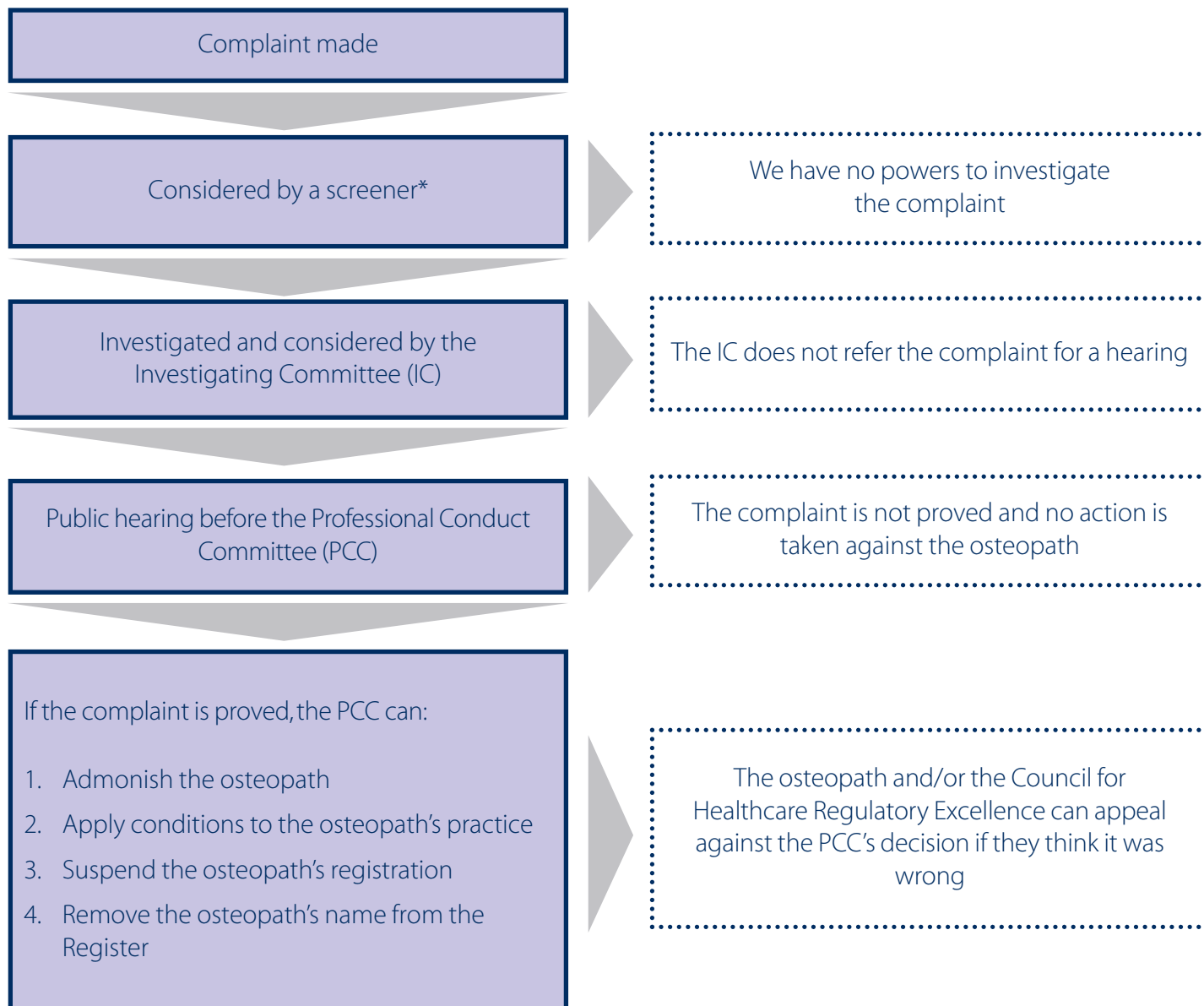
Communication problems are a feature of many complaints investigated by the GOsC, but its Fitness to Practise panels are always ready to recognise good communication by osteopaths, as this case illustrates.

A patient complaining of back pains claimed that her osteopath had failed to properly explain a diagnosis and course of treatment. Indeed, she became convinced that the back pains were a symptom of a chronic problem and complained to the GOsC.

The practitioner maintained that all the areas of dissatisfaction had been addressed in great detail. The Investigating Committee agreed, deciding that the osteopath had 'reached a reasonable diagnosis, the treatment plan was plausible, the advice... reasonable', and the 'communication [with the patient] had been good.' As a result, the Committee found there was no case to answer.

# Our fitness to practise process

The Osteopaths Act and Rules determine the process that is followed when we investigate a complaint about an osteopath.



More information about the GOsC complaints process can be found on our [public website](#).

\* A screener is an osteopathic member of the Investigating Committee.



**General  
Osteopathic  
Council**

The GOsC Fitness to Practise e-bulletin is produced by the Regulation Department. For further information contact [regulation@osteopathy.org.uk](mailto:regulation@osteopathy.org.uk).