fitness to practise 2005/2006

contents

General Osteopathic Council

Patron	HRH The Prince of Wales
Chairman	Mr Nigel Clarke
Treasurer	Mr John Chuter OBE
Acting Chairman	Mrs Fionnuala Cook OBE
Members Appointed by Privy Council	Professor Adrian Eddleston
	Professor Ian Hughes
	Miss Anne Jones
	Mr Andrew Popat CBE
	Mr Paul Sommerfeld
Osteopathic Members	Mr Robert Burge
	Ms Kathryn de Fleury
	Mrs Catherine Hamilton-Plant
	Mrs Jane Langer
	Mr Brian McKenna
	Mrs Rachel Pointon
	Mr Robin Shepherd
	Mrs Rosalind Stuart-Menteth
	Mr Ian Swash
	Miss Fiona Walsh
	Mr Nicholas Woodhead
	Dr Leslie Wootton
Education Members	Dr Stephen Barasi
	Mr Manoj Mehta
	Ms Margaret Wolff
Secretary of State Appointee	Professor Trudie Roberts
Staff responsible for fitness to practise areas	
Chief Executive & Registrar	Miss Madeleine Craggs
Head of Legal Affairs	Mr David Simpson
Assistant Registrar (Regulation)	Miss Kellie Green
Professional Conduct Officer	Miss Dana Davies
Regulation Assistant	Miss Laura Scrutton

foreword

This report of the General Osteopathic Council's (GOsC) fitness to practise committees covers the period 1 April 2005 to 31 March 2006. It is produced in accordance with the Osteopaths Act 1993, section 22(13) and (14).

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.

What are the fitness to practise committees and what do they do?

The statutory committees, generically referred to as the fitness to practise committees, include the Investigating Committee (IC), Professional Conduct Committee (PCC) and Health Committee (HC). All three committees were established by the Osteopaths Act 1993 with specific constitutions and terms of reference. The IC decides whether there is a case for the osteopath to answer. It filters out cases of insufficient merit to proceed to the PCC or HC. The PCC and HC are tribunals before which the evidence for and against the osteopath is tested. The PCC determines evidence of misconduct and incompetence, whilst the HC determines evidence of serious impairment to practise due to physical or mental health.

Who makes complaints?

Anyone who has a concern about any osteopath's fitness to practise can raise it with the GOsC. The vast majority of complaints come from members of the public. However, the police inform the GOsC when osteopaths are charged with or convicted of a criminal offence, and the Registrar may act as complainant in the absence of an external complaint, in appropriate cases. Also, healthcare regulators share information about multi-registered practitioners who are subject to investigations. Figure 3 on page 10 illustrates the different categories of complainants during the period of this report.

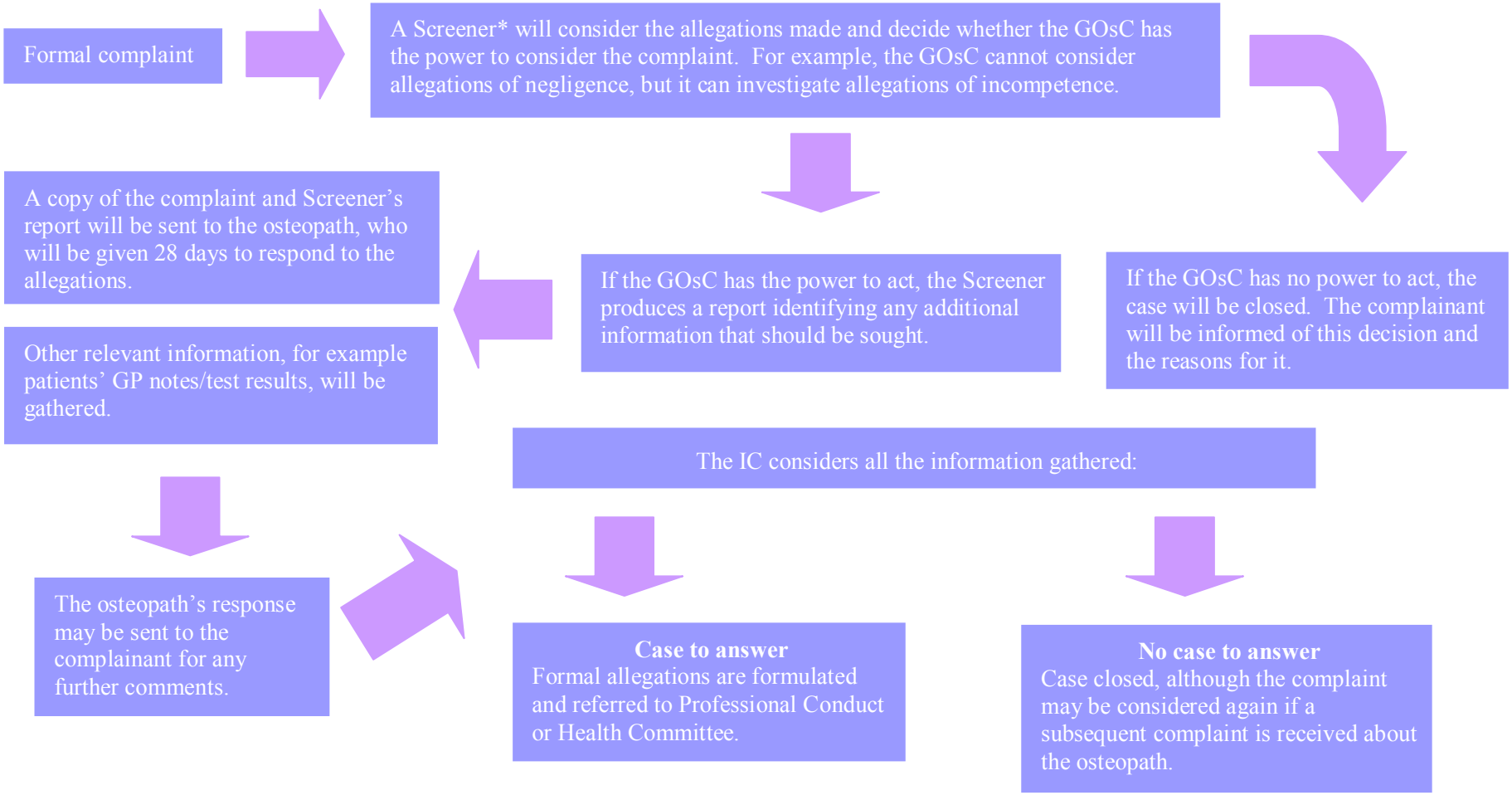
What happens when a complaint is made?

Figure 1 illustrates the investigation procedures followed when a complaint is made about an osteopath. These procedures are governed by the Osteopaths Act 1993, section 20, and the Investigation of Complaints (Procedure) Rules 1999. It should be

noted that if allegations raise an immediate concern for the protection of the public, the osteopath's registration may be suspended while the case is investigated (Osteopaths Act 1993, section 21). See page 29.

Figure 2 illustrates the IC's decision-making process. It shows how the IC decides whether a case should be referred to the PCC or HC for further consideration.

Investigation process



*osteopathic member of the Investigating Committee

figure 1

Investigating committee

The Investigating Committee (IC) consists of osteopathic and lay members. Its primary role is to decide whether or not there is sufficient evidence of one or more of the following for there to be a case for the osteopath to answer:

- unacceptable professional conduct
- professional incompetence
- a relevant criminal offence
- ability to practise is seriously impaired because of mental or physical health.

The membership of the IC for the period of this report is reflected in the table below.

Osteopathic Members	Lay Members
Mr Martin Booth* (from May 2005)	Mr John Chuter
Mr Robert Burge	Mrs Fionnuala Cook (Acting Chairman)
Mr Paul Cairns* (from May 2005)	Mr David Hamilton-Rump*
Mrs Catherine Hamilton-Plant	Mrs Nicola Renken*
Mrs Rachel Pointon	Mr Paul Sommerfeld (Chairman)
Mr Robin Shepherd	Miss Linda Wallace *
Mr Ian Swash	Mr David Wilson*
	Mrs Judith Worthington*

* indicates co-opted member

How does the IC make its decisions?

The IC will usually consider five to six cases at each meeting. It considers cases on paper alone, which usually includes:

- the complainant's original allegations
- screener's report
- osteopath's response
- complainant's final comments
- relevant medical evidence

The IC's first task is to decide whether it has sufficient information with which to make a decision. On occasion, it may be necessary for further information to be gathered and the IC will defer consideration of the case to the next meeting to allow that information to be gathered.

If the IC agrees that it has all available information before it, it will consider the case. Its decision-making process is outlined in figure 2.

Investigating committee decision making process

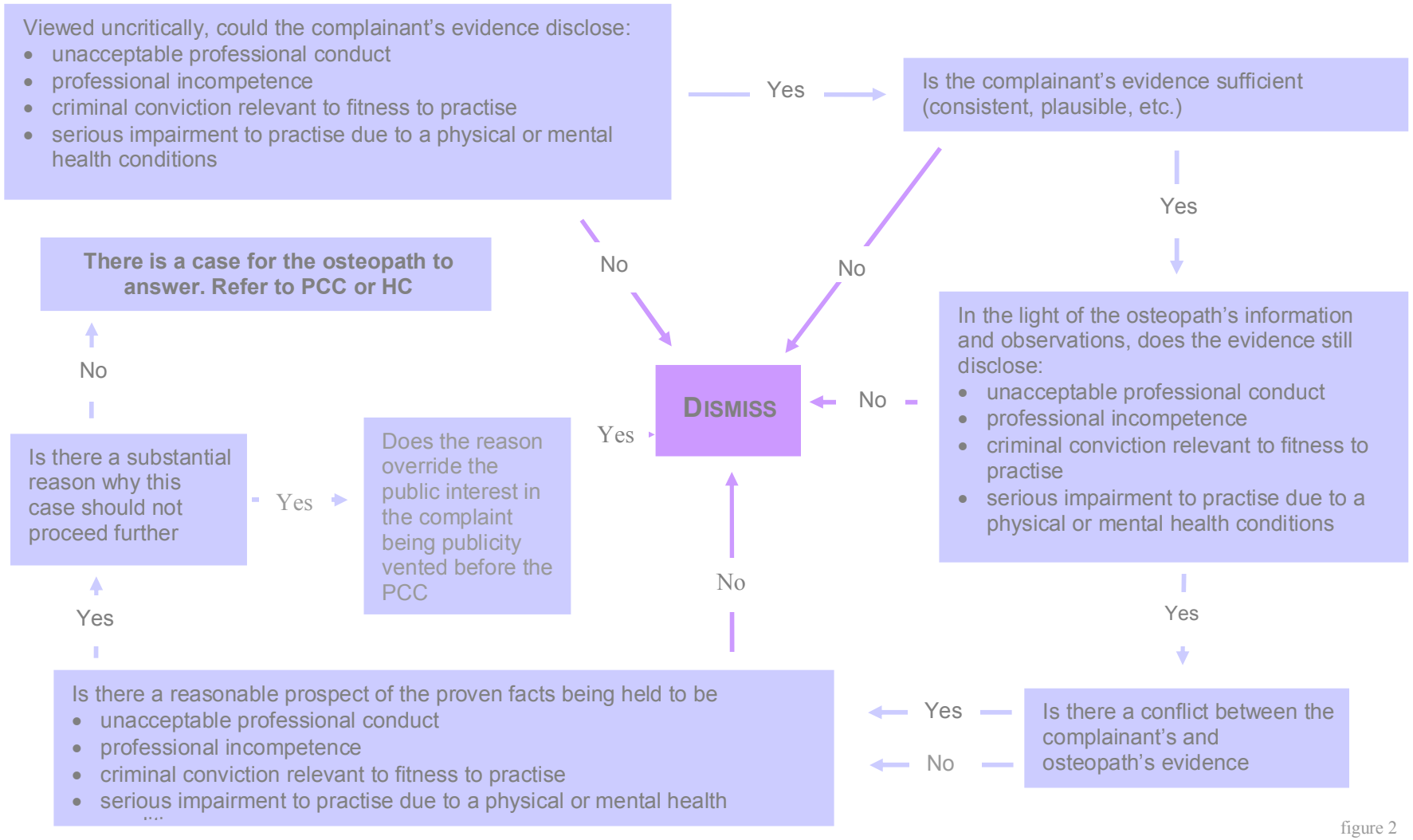


figure 2

What have the IC considered?

The IC sat on five occasions and considered a total of 35 cases. Figure 3 provides a breakdown of complainants for these cases.

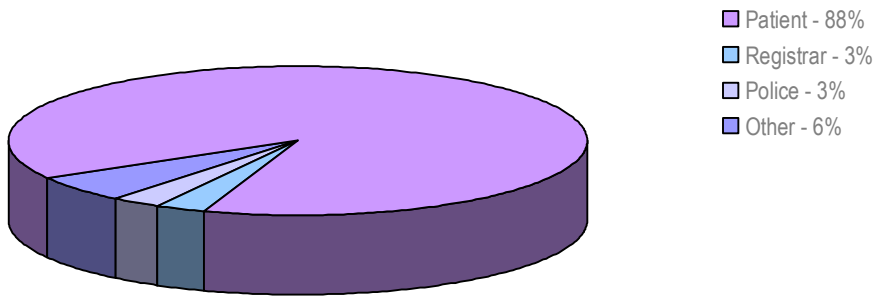


figure 3

Figure 4 provides a breakdown of the nature of the allegations made and the decisions that were reached by the IC.

Allegation	Case to answer	No case to answer
Unacceptable professional conduct	7	7
Professional incompetence	2	0
Unacceptable professional conduct and/or professional incompetence*	5	12
Unacceptable professional conduct and /or professional conduct and/or health*	0	1
Relevant convictions	0	0
Health	1	0
Total cases considered	15	20

figure 4

*Allegations fall into four categories and it is not uncommon for one complaint to contain many allegations. For example, see case study 2 on page(s) 20-21.

The Screener's function is to determine whether the GOsC has power under the Osteopaths Act 1993 (the Act) to investigate a complaint. Two formal complaints were closed by the Screener because the complaints centred on contractual/business issues between associate osteopaths and the principals of the practices in which they worked, or planned to work.

The primary purpose of the GOsC's fitness to practise process is the protection of the public. It cannot usurp the court's exclusive jurisdiction in determining contractual rights. In these two cases, the complainants and osteopaths were advised to seek the services of a mediator to resolve matters professionally.

What has the IC considered in the past?

The GOsC's fitness to practise procedures have been operational since May 2000. The number of cases considered each year since then has remained fairly steady with a slight increase (with the exception of 2002) of cases that the IC has referred to the Professional Conduct and Health Committees as shown in figure 5.

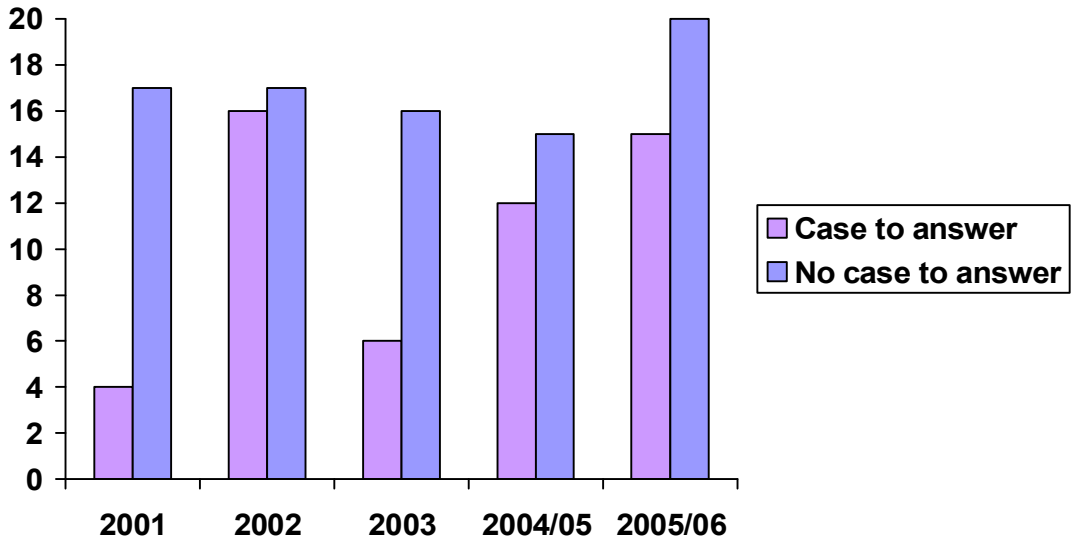


figure 5

Interim suspension

The IC will, if it appears necessary to protect members of the public, order the Registrar to immediately suspend an osteopath's registration. The suspension is likely to remain in place during the investigation, unless there is a change in circumstances. The Act (section 21) governs the process that will be followed when imposing such an order.

Interim suspension is used only in the most serious cases and the IC exercised this power just once. Details of this case can be found at page(s) 29–30.

Monitoring complaints

The GOsC continually monitors the number and nature of the complaints it receives. This information is fed back into the developmental work of the GOsC and has an impact on how the GOsC applies its resources.

For example, a new Code of Practice for osteopaths was published in May 2005. When deciding the content of the Code and supporting guidance leaflets, the Practice and Ethics Committee gave consideration to common themes identified in the complaints that the GOsC had investigated. This has resulted in new or more comprehensive advice on some areas of practice.

A large factor of many complaints is communication and managing patient expectations. For this reason, the Regional Conference programme for 2005 provided osteopaths with the opportunity to revise these skills.

Standards of practice

Section 13(1) of the Act provides for the GOsC to determine the standard of proficiency required for the competent and safe practice of osteopathy. The current standard is set out in Standard 2000.

Section 19(1) of the Act provides for the GOsC to prepare and from time to time publish a Code of Practice that sets out the standards of conduct and practice expected of osteopaths, and gives advice on the practice of osteopathy. In May 2005, a new Code of Practice (the Code) was published.

When a complaint is received, the Screener will identify which areas of the Code and/or Standard 2000 relate to the allegations that are being made about the osteopath. Figure 6 indicates the areas of the Code

featured in the cases considered during the period of this report (35 cases).

Whilst the Code and Standard 2000 attempt to reflect all situations, there may be instances when particular behaviour cannot be related to a specific clause. However, such behaviour can still be considered. The principles upon which the Code and Standard 2000 are based can be applied to circumstances which are not specifically mentioned by them. Also, it is the primary legislation (the Act) that governs the allegations of poor professional conduct or performance and fitness to practise, and the PCC may reasonably interpret section 20 of the Act to include circumstances not specifically mentioned in the Code or Standard 2000.

Clauses from Pursuing Excellence and Code of Practice	Number of times identified in the 35 2005/06 complaints
The duty of care (Pursuing Excellence, clauses 27-29/Code of Practice, clauses 62-68)	28
Communicating with patients (Pursuing Excellence, clauses 31-34/Code of Practice, clauses 17-22)	24
Relationships with patients (Pursuing Excellence, clause 9/Code of Practice, clauses 1-2)	19
Complaints (Pursuing Excellence, clauses 62-64/Code of Practice, clauses 94-99)	17
Consent (Pursuing Excellence, clauses 14-16/Code of Practice, clauses 23-36)	11
Personal standards (Pursuing Excellence, clauses 7-8/Code of Practice, clauses 84-86)	9
Your contract with the patient (Pursuing Excellence, clause 17/Code of Practice, clauses 69-71)	8
Personal relationships with patients (Pursuing Excellence, clauses 51-53/Code of Practice, clauses 3-7)	6
Access to records (Pursuing Excellence, clause 24/Code of Practice, clause 121)	4
Fees (Pursuing Excellence, clause 59/Code of Practice, clause 128)	4
What the law requires (Pursuing Excellence, clauses 10-11/Code of Practice, clauses 87-88)	2

Clauses from Pursuing Excellence and Code of Practice	Number of times identified in the 35 2005/06 complaints
The work environment (Pursuing Excellence, clause 30/Code of Practice, clause 130)	2
Examining and treating intimate areas (Pursuing Excellence, clauses 35-36a/Code of Practice, clauses 37-44)	2
Financial and commercial activity (Pursuing Excellence, clauses 60-61/Code of Practice, clauses 9-11)	2
Problems with your health (Pursuing Excellence, clause 65/Code of Practice, clauses 100-101)	2
If trust breaks down (Pursuing Excellence, clause 66/Code of Practice, clauses 102-103)	2
Data protection (Pursuing Excellence, clause 23/Code of Practice, clause 120)	1
Legal limitations on what an osteopath can do (Pursuing Excellence, clauses 25-26/Code of Practice, clauses 92-93)	1
Practice information (Pursuing Excellence, clauses 54-58/Code of Practice, clauses 122-127)	1
The principles of confidentiality (Pursuing Excellence, clauses 37-43/Code of Practice, clauses 104-109)	1

figure 6

Inadequate communication with patients appeared as a regular feature in the complaints considered. The benefits of effective communication with patients, at all stages of their encounter with the osteopath and the clinic staff, cannot be stressed enough. The ability to communicate effectively becomes even more important when responding to patient concerns or complaints. There has been a marked increase in the number of complaints to the GOsC that have arisen as a result of the osteopath not responding effectively or at all to the patients' concerns. The GOsC began addressing this area of practice at the Regional Conferences held in 2005, and written guidance, including model procedures for osteopaths to deal with patients' concerns, will be published in 2006.

The number of allegations of professional incompetence has increased in the last couple of years. Many of these were brought to the GOsC's attention because the osteopath had not effectively responded to the patients' concerns when initially raised with them. In some cases the patient had had a reaction to treatment but there was no evidence to suggest that the osteopaths had been incompetent. Effective communication during and after treatment would probably have resolved the issues and avoided the need for a formal investigation.

The allegations of professional incompetence that were referred to the Professional Conduct Committee (PCC), were usually referred because there was little or no evidence that the osteopath had adequately assessed the patient prior to commencing treatment. An absence of or limited neurological testing when the patients' symptoms had required this was a common feature in these cases.

How long does it take the IC to consider a case?

This depends on the nature and the complexity of the complaint. For example, if the police pursue related allegations through the criminal courts, the GOsC's consideration of the matter cannot always proceed until there is an outcome from the criminal process.

The statutory rules that govern the process (GOsC Investigation of Complaints (Procedure) Rules 1999) require that every complaint is first considered by a Screener. Screening is usually completed within a week or two of receipt of the complaint. If the Screener recommends that the case be investigated, a copy of the complaint is sent to the osteopath concerned, who is allowed 28 days to prepare a response. It is unlikely, therefore, that the IC will reach a decision on a case in less than two months from receipt of the complaint.

The fitness to practise committees aim to ensure that delays do not occur unnecessarily and progress on outstanding cases is reviewed at every meeting. Figure 7 shows the time taken for the IC to reach its decision in the 27 complaints considered in 2004/05. Figure 8 shows the time taken for the IC to reach it decisions in the 35 complaints considered in 2005/06.

1 April 2004 - 31 March 2005

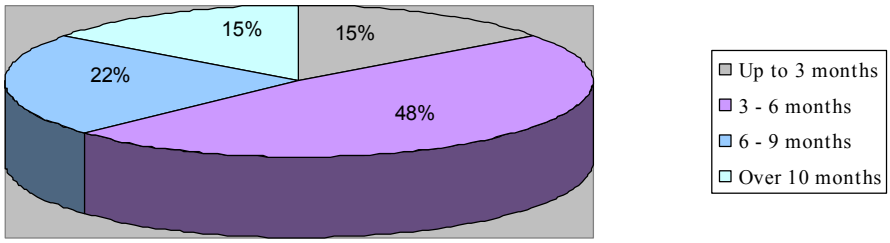


figure 7

1 April 2005 – 31 March 2006

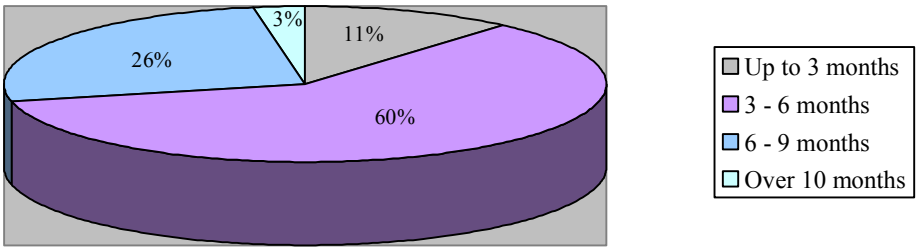


figure 8

case studies

Case 1

Allegation: Professional Incompetence

Alleged Facts: the patient sought treatment from the osteopath for what he described as ‘severe spasms in his back’. The patient attended this osteopath just once.

When he arrived at the practice, the patient was asked to complete a short and ambiguous form before he saw the osteopath. Once in the treatment room, the osteopath neither took a case history nor examined him. The patient said that the osteopath did not give him a diagnosis nor offer any explanation for the pain he was suffering. Instead, the osteopath immediately began treating him and ‘supposedly put three vertebrae back into place’.

The patient also alleged that although he was in a great deal of pain, the osteopath had failed to assist or offer assistance when he attempted to turn over on the treatment table. The patient was then connected to a vacuum interferential machine and left alone for ten minutes. He claimed that the osteopath made no notes during the treatment session.

The patient’s condition did not improve following this treatment and he, therefore, attended a different osteopath three days later. After receiving massage from this second osteopath and doing stretching exercises as advised, the patient’s pain was alleviated.

Response: the osteopath explained that when he had asked the patient to clarify the information provided on the form, the patient had said ‘those questions are irrelevant and I can’t remember’. The osteopath had noted that the patient was unable to stand up straight so had asked him to lie on the treatment couch. The patient had trouble lying on his front, so the osteopath had asked him to lie on his side so that he could carry out an examination. The osteopath said that he had laid his hands on the patient to assist him with moving, but would not lift the patient as this was against the practice’s health and safety procedures.

The osteopath said it was difficult to obtain any positive results from the examination because of the discomfort that the patient was in. The

osteopath had concluded, following palpation, that the patient's muscles were indeed in spasm. The osteopath claimed that he had explained to the patient that this severe spasm could sometimes be due to a facet joint condition. It was at this point that the osteopath decided to use interferential therapy. The patient was left alone but an emergency button was pointed out to him.

Relevant clauses of Code of Practice - *Pursuing Excellence*:

Clauses 5-6 on 'What patients can expect'

Clause 9 on 'Relationships with patients'

Clauses 14-14a on 'Consent'

Clause 17 on 'Your contract with the patient'

Clauses 27-28 on 'The duty of care'

Clause 30 on 'The work environment'

Clauses 31-33 on 'Communicating with patients'

Clause 76 on 'Trust above all'

Relevant sections of Standard of Proficiency – *Standard 2000*:

Section C on 'Therapeutic and professional relationships'

Section E on 'Communication skills'

Section J on 'Identification and evaluation of the needs of the patient'

Section L on 'Planning, justifying and monitoring osteopathic treatment interventions'

Section M on 'Conducting osteopathic treatment and patient management'

Decision: the Investigating Committee (IC) found that there was a case of professional incompetence for the osteopath to answer and the case was referred to the Professional Conduct Committee (PCC) for further consideration.

The reasons for the IC's decision included that the evidence supported the allegations that the osteopath had not taken any or an adequate case history or performed an adequate examination of this patient. The evidence also supported the allegations that the osteopath had not made adequate osteopathic records, had left the patient unattended and had failed to communicate effectively with the patient. A hearing was held and the decision of the PCC can be found at page(s) 55-58 (case 11).

Case 2

Allegation: Unacceptable Professional Conduct and/or Professional Incompetence

Alleged facts: the patient had previously attended the osteopath. Following a road traffic accident she attended again for further treatment, which she received weekly for a period of five months. The patient was pursuing a personal injury claim in relation to the road traffic accident and the osteopath was aware of this.

The patient said that the osteopath did not record a case history or make contemporaneous notes of the treatment. The patient requested receipts for the treatment, but the osteopath failed to produce these. The osteopath had agreed to provide a report, but this was unreasonably delayed, and despite formal requests from the patient, the osteopath failed to provide the patient's solicitor with a copy of the patient's records. The patient repeatedly chased the osteopath directly and through her solicitor for this information, which was required for her personal injury claim. The patient claimed that when she finally spoke to the osteopath, he was aggressive and shouted at her.

Finally, the patient alleged that the osteopath had charged inappropriately for the production of the report, in that he had originally quoted £30 but then charged £90.

Response: the osteopath said that he was aware of this patient's case history from her previous appointments and he was able to provide an updated case history that took account of her most recent symptoms. The osteopath provided his notes and said that he made these after each appointment. He would record a description of how the patient had responded to the previous treatment and how she felt prior to the treatment. The osteopath said that he would also record the observations he had made and treatment given.

The osteopath claimed that during this period of treatment, the patient had never requested receipts. When she subsequently requested them, he duly produced them and posted them to her.

The osteopath said that although he had agreed to produce a report to aid the patient's claim, he had advised her that he had family and other commitments that would delay production of the report. Unfortunately, once the osteopath was in a position to produce the report, his computer malfunctioned and this prevented him from carrying out his

administrative duties. He said that he had explained this to the patient and apologised for the delay. The osteopath had continued to assure the patient and her solicitor that a report would be produced.

In response to the patient's claim made that he had been aggressive and shouted at her during a telephone conversation, the osteopath explained that he had politely informed her that he was doing his utmost to produce the report. He said that the patient had said that she could not talk to him and she had hung up.

Relevant clauses of Code of Practice - *Pursuing Excellence*:

Clause 6 on 'What patients can expect'

Clause 10 on 'What the law requires'

Clause 24 on 'Access to records'

Clause 32 on 'Communicating with patients'

Clause 59 on 'Fees'

Clauses 63-64 on 'Complaints'

Relevant sections of Standard of Proficiency – *Standard 2000*

Section F on 'Information and data handling'

Section J on 'Identification and evaluation of the needs of the patient'

Decision: the IC concluded that there was no case of unacceptable professional conduct and/or professional incompetence for the osteopath to answer. The IC, however, gave the osteopath the following advice:

'You are to reflect on the events that prevented you from complying with the numerous requests for release of documents. You should ensure that your administrative procedures are amended to prevent any recurrence of these events.'

The osteopath was also advised that this case may be taken into account again if any subsequent complaint is received about him.

Case 3

Allegation: Unacceptable Professional Conduct

Alleged Facts: the patient had twisted her ankle on a walking holiday and attended the osteopath several weeks later as the pain had not subsided. The patient had never attended an osteopath before.

After taking the patient's medical history, the osteopath conducted an examination of the patient's left foot and ankle. The patient said that during this examination, the osteopath gave no indication of what he was doing or what he was discovering until she asked. She said that the osteopath did not offer any diagnosis or explain what may have been causing the symptoms in her foot before he began treating it, and that most of the treatment was conducted in silence. According to the patient, the osteopath also failed to explain the treatment he undertook before he began the treatment.

Finally, the patient alleged that during the treatment, the osteopath had an erection that she initially felt brush against her feet and then pressed directly against her foot.

Response: the osteopath said that when examining the patient's left foot and ankle, he had asked her at appropriate times if she felt any pain, discomfort or tenderness as he palpated tissues and performed passive movement testing of the foot and ankle joints. When asked by the patient what he was doing, the osteopath informed her that he was assessing the mobility of the left ankle joint and the surrounding tissues. The osteopath said that when he had completed the examination, he explained his findings to the patient, together with his diagnosis, his recommendations for treatment and his opinion as to prognosis.

The osteopath's diagnosis was that the patient had sustained injury to the ligament at the outside of her left ankle joint. She had suffered a sprain of the ligament which was resolving naturally. However, the osteopath felt that there was a degree of residual tension in the soft tissues, which could be eased with some functional technique. The mobility of the tarsal joints, especially those of the cuneiform bones, was significantly restricted and the osteopath felt that these restrictions would cause increased tensions to be placed on the lateral ligament when the patient was walking. The osteopath suggested that resolution of the lateral ligament sprain would occur naturally but it would assist the process if he released the tension in the soft tissues

and improved the mobility of the joints in the patient's left foot. The osteopath had asked the patient if she was content for him to continue and she had given her consent for him to do so.

The osteopath began the treatment with some effluarage to the anterior, middle and posterior inferior attachments of the lateral ligament of the patient's foot. He then used a functional technique on her left ankle joint to balance out the ligamentous tensions and to dissipate the residual stored energy of the traumatic injury. The osteopath then attempted to perform a figure-of-eight technique to the patient's left foot in order to improve the mobility of the cuneiform joints.

The osteopath completely denied the allegations that he had an erection or that the patient's foot had been pressed against any intimate part of his body. He explained that during the performance of the figure-of-eight technique both of his hands were positioned completely around the patient's left foot. The positional relationship between his hands, his abdomen and the patient's foot was constant. Furthermore, the osteopath said that given the nature of the treatment and the techniques used, it would not be physically possible to produce the contact that the patient suggested.

Relevant clauses of Code of Practice (May 2005):

Clauses 1-2 on 'Relationships with patients'

Clauses 17-22 on 'Communicating with patients'

Clauses 23-26 on 'Consent'

Clause 62 on 'The duty of care'

Clause 84 on 'Personal standards'

Relevant sections of Standard of Proficiency – *Standard 2000*

Section C 'Therapeutic and professional relationships'

Section E 'Communication skills'

Decision: the IC concluded that there was no case of unacceptable professional conduct for the osteopath to answer. The technique used was recognised and acceptable and can be misinterpreted. The osteopath had, however, made reasonable efforts to explain the technique that he was using and what was involved to the patient.

Case 4

Allegation: Unacceptable Professional Conduct and/or Professional Incompetence

Alleged facts (1): the patient sought treatment from the osteopath for a pain between her shoulder blades that radiated into her arms and hands. She attended the osteopath on two occasions.

The patient said that when she explained to the osteopath that she had hurt herself when she slipped on a water slide, the osteopath made a comment to the effect that 'serves you right, I've no sympathy for you'. The patient did not recall the osteopath asking her questions about her general health at her first appointment and said that the osteopath did not perform an examination prior to commencing treatment.

Response: the osteopath advised the GOsC that a full and appropriate examination had been carried out, which was evident in the patient's osteopathic records. From her examination, the osteopath concluded that the underlying strain pattern in the sphenoid could have an influence on the jaw and neck primarily via its connection through the pterygoid muscles. Any pull on the anterior neck soft tissues would reduce the thoracic inlet space and would influence the breathing mechanism. This combined with her sleeping posture on the poor quality beds the patient had slept in whilst on holiday, would have resulted in increased tightening of these muscles and a degree of congestion in the neck causing the symptoms in the upper extremities.

The osteopath treated the sphenoid using an intra oral technique and checked the movement of the occiput and sphenoid, following application of this technique, by palpating the respective bones as well as the motion of the maxillae. The osteopath then proceeded to use soft tissue massage techniques to release the tension in the scalenes, the sternocleidomastoid, the cervical and upper dorsal erector spinae and trapezii muscles.

The patient was asked to turn on her side (left and then right) and the osteopath continued with soft tissue massage to the periscapular muscles, with emphasis to the left as these were observed as having the greater degree of hypertonicity. With the patient in this position, the osteopath was able to gently articulate the rib cage and dorsal spine whilst combining soft tissue massage. The osteopath used a "lift off" technique to release the thoracic joints T7-T9. A small rolled up towel was used to act as a fulcrum at the level of T7-T9. Stabilising the patient's upper extremities with her arms and hands and using them as

a lever, the osteopath lifted and tractioned the above thoracic joints. This treatment was concluded with a final palpation of the shoulders and neck.

The patient said that she felt some improvement in her condition following the first treatment and she made a second appointment for a week later.

At the second appointment, the osteopath said she fully examined the patient. In the absence of pain on weight bearing and compression of the lumbar spine and acute pain on moving into flexion, the osteopath concluded that the patient had sustained an irritation to the lumbosacral facet joints. When combined with inflammatory responses and muscle tension this had produced referred pain (via the sciatic nerve) into the left extremity.

With the patient lying on her left hand side, the osteopath performed soft tissue massage to the lumbar erector spinae and the glutei, with emphasis to the more painful left-hand-side. With the patient on her right-hand-side, the osteopath then performed lateral side-bending gapping of the lower lumbar spine on the left. In order to release the lumbosacral joint, the osteopath used a sacral decompression technique. She did this with the patient in the supine position in order to assess the position of the sacrum in relation to the 5th lumbar vertebrae. This was to see how much extension there was at the level of the lumbosacral joint, and to determine the integrity of movement of the lumbar spine.

The patient was then placed into the lumbar roll position and, palpating the movement at the level of the lumbosacral joint, the osteopath gapped the lumbosacral facet joints on each side. The osteopath then released the dorso-lumbar junction using a sitting lift-off technique. The osteopath asked the patient to lie in the supine position and checked the balance of the temporal bones, the movement of the left temperomandibular joint and left orbit. To complete the treatment, the osteopath used soft tissue massage to the cervical and upper dorsal erector spinae and the trapezeii muscles and suboccipital inhibition to the upper attachments of the cervical erector spinae.

Alleged facts (2): the patient said that the treatment provided by the osteopath, at this second appointment, damaged her lumbosacral junction leaving her in continuing pain and unable to work. The patient also said that when she advised the osteopath that she was in pain following this second treatment, the osteopath failed to provide follow-up care, instead advising her to have a hot bath. The patient was

unable to make a third appointment with the osteopath as the osteopath was about to go on holiday, so she attended a different osteopath – one she had seen previously. After examining the patient, the other osteopath advised her that she had a disc problem and referred the patient to her GP.

Response (2): the osteopath refuted the allegation that she had damaged the patient's lumbosacral junction and claimed that at no time did the patient complain or comment that she was in pain.

Alleged Facts (3): when the patient was provided with the osteopath's response to her complaint, which included a copy of her osteopathic records, the patient alleged that the records had been falsified.

Response (3): the osteopath vehemently denied falsifying records.

Relevant clauses of Code of Practice - *Pursuing Excellence*:

Clause 6 on 'What patients can expect'

Clause 18 on 'Negligence' and

Clause 28 on 'The duty of care'

Relevant sections of Standard of Proficiency – *Standard 2000*:

Section M on 'Conducting osteopathic treatment and patient management'

Decision: the IC concluded that there was no case of unacceptable professional conduct or professional incompetence for the osteopath to answer. The diagnosis and treatment plan reached by the osteopath was appropriate. Having examined the osteopath's original notes for the patient, the IC also concluded that there was no evidence to support the allegation that these had been falsified in any way.

Case 5 (This case relates to two osteopaths)

Allegation: Osteopath A – Unacceptable Professional Conduct
Osteopath B – Unacceptable Professional Conduct

Alleged facts: the patient had attended osteopath A on one occasion and was unhappy with comments allegedly made by osteopath A during the treatment session. She made a complaint to the principal of the practice, osteopath B, but was not satisfied with the way this had

been handled. Subsequently, the patient made a formal complaint to the GOsC about both osteopaths.

The patient went to see osteopath A for cranial osteopathy, but she said he had not conducted a thorough and detailed physical examination of her – he had stated that he was going to work 'intuitively' and not in the usual way. The patient also claimed that osteopath A had been rude and offensive towards her. He had made judgemental and prejudiced remarks, which included 'well you are distinctively different, although that is not a bad thing, as such', 'you stand out' and 'you look different'.

The patient said that osteopath A had not clearly explained the treatment he was going to provide. He had also failed to explain why it was necessary for her to remain in a state of semi-undress for a considerable amount of time before he commenced treatment. Osteopath A had also informed the patient that he wanted another practitioner to observe the next treatment session, but had not explained why.

The patient said that she had complained to osteopath A, but felt that he had not dealt effectively or appropriately with her. Osteopath A had been rude in his manner towards her and had failed to provide her with adequate information when she requested it.

As a result, the patient complained to the principal of the practice, osteopath B. The patient believed that osteopath B also failed to respond appropriately to her complaint. The patient had requested her osteopathic records under the provisions of the Data Protection Act 1998 but claimed that osteopath B had made unreasonable and unjustified demands for her to confirm her identity. By doing this, the patient said that osteopath B had deliberately sought to create complications and stress for her.

Finally, the patient complained that when she had paid for the treatment provided by osteopath A, she had not received the correct change. She had subsequently requested the change from osteopath B, but said that she had still not received it.

Response A: osteopath A said that he found the patient impatient and uncommunicative. He felt that he had only been given vague information about the nature of her symptoms when attempting to elicit a case history and that, had he probed further, the consultation might have broken down. Osteopath A confirmed that he did make comments regarding the patient's appearance and culture, but that

they were not intended to be offensive or derogatory. He had found the patient difficult to communicate with and, following reported incidents that had occurred in the patient's life, he felt it would be appropriate to ask the patient to remove only her upper garments. Osteopath A said that he began the physical assessment with observation of the patient's back and would normally have continued to do an assessment of overall active movement. However, due to the impatience of the patient, he explained that he had only conducted a passive examination. He denied that he had said he was 'intuitively' examining her, but acknowledged that perhaps he had not clearly explained 'palpatory instinct' to the patient.

Osteopath A said that it seemed from the patient's complaint to the GOsC that she had expected solely cranial osteopathy, as that had been her experience in the past. He had informed the patient that his treatment plan may incorporate some cranial osteopathy. Osteopath A confirmed that he had asked if another practitioner could sit in on the next appointment.

In answer to the allegation that he had failed to respond appropriately to the patient's complaint, osteopath A said that the patient's complaint had not been brought to his attention until he received formal notification from the GOsC.

Response B: osteopath B had received a complaint from a patient, but had found it very difficult to investigate. There was no patient on any of the clinic's records with the same surname given by the person complaining. It seemed that the complainant may have made the appointment with osteopath A in one name, given another name at the appointment, which had been recorded on the patient notes, and complained to osteopath B using a third name. These three names were very different and Osteopath B could not be sure of the complainant's identity. Osteopath B sought advice from the Data Protection Registrar and the GOsC on how to proceed. Osteopath B had been advised that, under the Data Protection Act 1998, she was duty bound to ensure that patient details are released to the correct person. She, therefore, needed to be sure of the person's identity. The patient failed to comply with a number of simple requests for confirmation of her name and date of birth, Osteopath B, therefore, decided that she could not disclose any osteopathic records to this person nor properly investigate her complaint against osteopath A. Osteopath B also decided that she could not pay the patient's change without first ascertaining the patient's identity.

Relevant clauses of Code of Practice - Pursuing Excellence:

Osteopath A:

Clauses 5-6 on 'What patients can expect'

Clause 9 on 'Relationships with patients'

Clauses 27-28 on 'The duty of care'

Clauses 31-34 on 'Communicating with patients'

Clause 54 on 'Practice information'

Clauses 63-64 on 'Complaints'

Osteopath B:

Clause 6 on 'What patients can expect'

Clause 10 on 'What the law requires'

Clause 23 on 'Data Protection'

Clause 24 on 'Access to records'

Clause 59 on 'Fees'

Clause 63-64 on 'Complaints'

Decision: the IC concluded that there was no case of unacceptable professional conduct for either osteopath A or osteopath B to answer.

Case 6

Interim Suspension Order

Allegation: Unacceptable Professional Conduct

Alleged facts: the osteopath had been arrested and charged with criminal offences that had allegedly been carried out on female patients over a period of time.

Relevant clauses of Code of Practice - *Pursuing Excellence*:

Clause 8 on 'Maintaining your standards'

Possible breaches of the Code of Practice (May 2005)

Clause 84 on 'Personal standards'

Decision read out by the Chairman of the IC:

'We have heard the circumstances of the case as explained by [GOsC's representative], considered the submissions made by [osteopath's representative] and taken into account the advice given by our legal assessor.

'We considered the submission made on behalf of [osteopath] that the bail condition imposed in the Magistrates Court, that he not treat any female in the course of his business, was sufficient to protect the public. We concluded, however, that we are a separate authority and we were not satisfied that our responsibility to protect members of the public was met by that condition.

'In the Committee's judgement, given the seriousness and number of allegations, it is necessary in this case to protect members of the public and so we order the Registrar to suspend the registration of [osteopath] with effect from today. This suspension will be for the maximum period allowed – two months – and we do this in accordance with section 21(2) of the Osteopaths Act 1993 and Rule 22 of the Investigation of Complaints (Procedure) Rules 1999.'

This case was subsequently referred to the PCC, which imposed another interim suspension order. The criminal investigation continued and the case is awaiting trial in the Crown Court.

Professional Conduct committee

The Professional Conduct Committee (PCC) consists of both osteopathic and lay members.

It should be noted that no member of the Investigating Committee (IC) or Health Committee (HC) may sit on the PCC.

Osteopathic Members	Lay Members
Ms Kathryn de Fleury (from May 2005)	Ms Victoria Baron*
Mrs Jane Langer (to May 2005)	Mr Michael Boyall*
Mr Manoj Mehta	Miss Tracey Huckfield*
Mr Graham Sharman* (from May 2005)	Miss Anne Jones (Joint Chairman)
Mrs Rosalind Stuart-Menteth	Mr Andrew Popat (Joint Chairman)
Mr Nicholas Woodhead (to May 2005)	Mrs Margaret Wolff
Dr Leslie Wootton	

* indicated co-opted member

What happens if a case is referred to the PCC?

The PCC considers cases that are referred from the IC and relate to osteopaths' conduct, competence or conviction for a criminal offence. The PCC's role is to decide whether the allegations made are established (proved) and this takes place at a public hearing. Both parties (the osteopath and the GOsC) are permitted to attend the hearing and put forward their respective cases.

The GOsC brings the case against the osteopath. The complainant may attend the hearing but as the GOsC's witness. After both parties and all the evidence has been heard, the Committee retires to decide whether the allegations are established. This decision is announced in public.

If the allegations are established, the osteopath or his/her representative may inform the Committee of any circumstances that may diminish the severity of the osteopath's actions. The Committee will also be notified at this stage of any previous cases established against the osteopath. The Committee will then consider what sanctions to impose on the osteopath. The Committee has the following options:

- formal admonishment
- to impose conditions on the osteopath's practice
- to suspend the osteopath's registration for a set period
- to remove the osteopath's name from the Register

The Committee will announce any chosen sanction and its reasons for its decisions in public, either at the time or at a later date.

What has the PCC considered?

The PCC sat 12 times and considered a total of 12 cases and one interim suspension order. Figure 9 shows the decisions reached in each case and the sanctions that were applied.

	Unacceptable Professional Conduct	Professional Incompetence	Unacceptable Professional Conduct and Professional Incompetence*	UK Conviction
Removed	0	0	0	0
Suspended	0	0	0	0
Conditions of practice	0	1**	1	0
Admonished	6	0	0	1
Not well founded	1	0	1	0
Total	7	1	2	1

figure 9

* In one case, the osteopath offered an undertaking, which was accepted. This resulted in the case being adjourned generally. See page(s) 54–55 for further information.

** At the time of writing, although the finding of professional incompetence is not being appealed, the decision to impose the particular conditions of practice is. The Act, section 31 (as amended) provides for an osteopath to appeal a decision of the PCC. (See case 11, page(s) 55–58 for more information).

How long does it take to prepare a case and for the PCC to consider it?

This depends on the nature of the allegations and the complexity of the complaint. It is usual for both parties to instruct legal representatives who will need time to review the case and prepare for the hearing, and often request extra time. The chart at figure 10 shows the time taken to prepare the 12 new cases heard by the PCC during the period of this report. This is the time taken from the date the IC found a case to answer to the date it was considered by the PCC. Figure 10 also shows the time taken to prepare the five cases considered by the PCC during 1 April 2004 – 31 March 2005 (the previous year).

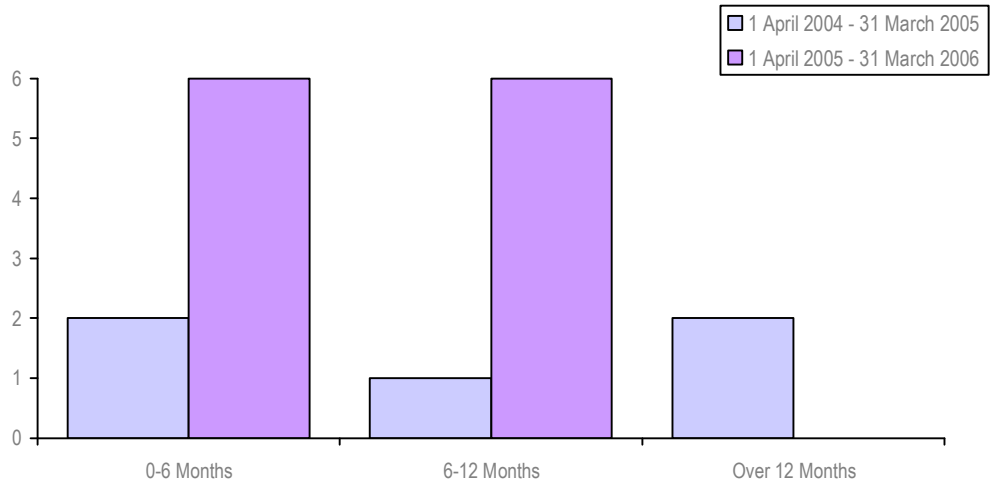


figure 10

Every effort will be made to improve these times, year on year. But there will always be cases where delays are beyond the GOsC's control and/or information gathering takes longer than expected. For example, if the allegations made are of a criminal nature, it is sometimes appropriate for the police investigation and criminal prosecution to take precedent. The GOsC will then only be able to consider the case once the criminal proceedings have reached a conclusion.

An estimate of how many days it will take for the PCC to hear each case is taken prior to setting the hearing date. Cases requiring more time to hear may take longer to list due to limitations on the availability of PCC panel members, the osteopath and witnesses. Each of the 12 cases mentioned above occupied the PCC for an average of two days.

Interim Suspension

Like the IC, the PCC will, if it is necessary to protect members of the public, order the Registrar to immediately suspend an osteopath's registration. This will be done on referral of a case that raises serious allegations against an osteopath. The suspension is likely to remain in place while the preparations are made for the Committee to hear the case. The Act, section 24, governs the process that will be followed when imposing such an order.

The Committee exercised this power in one case and the details can be found on page 59.

case studies

This report is published in accordance with the Osteopaths Act 1993, section 22(13) and (14). The Act requires the report to include the names of those osteopaths who have had allegations established against them; details of the allegations and the steps taken by the PCC in respect of those osteopaths.

Where the Professional Conduct Committee (PCC) has considered allegations against an osteopath and has not been satisfied that the allegations were established, the report will include a statement to this effect only if the osteopath requests it.

The PCC was not satisfied that the allegations were established in two cases and one osteopath requested that the details of his case be included in the report.

Case 1: Mr Thomas Greenfield (Registration No: 4/2356/F)

Allegation: Unacceptable Professional Conduct

Alleged Facts: An osteopath raised his concerns about the content of Mr Greenfield's practice website. The website provided members of the public with the option of purchasing a one-hour telephone consultation using a QXCI machine. The cost of the consultation was £52.00. Extensive information on how the QXCI machine works was also provided on the website.

The GOsC was concerned that the information provided was confusing, misleading and inaccurate. It contained many technical terms, which the GOsC believed had been misused. The GOsC was also concerned that the consultation offered would not meet the standards required for an appropriate osteopathic consultation. The Investigating Committee (IC) began its investigation in June 2004.

Mr Greenfield responded by confirming that he had made some amendments to his website following concerns raised by his professional association – he was also a naturopath. He accepted that some of the language used could have caused confusion to the lay person. In his view, however, the contents were not unrealistic or misleading.

The IC concluded that there was a case of unacceptable professional conduct for Mr Greenfield to answer and the following charges were considered by the Professional Conduct Committee in April and June 2005.

Charge(s): That contrary to section 20(1)(a) Osteopaths Act 1993, Mr Greenfield being a Registered Osteopath had been guilty of conduct which falls short of the standard required of a Registered Osteopath in each of the following respects, namely that:-

1. he had provided information about his practice on an internet website which information was inaccurate by virtue of the misuse of technical terms;

2. he had provided information about his practice on an internet website which information was confusing and vague;

3. he had provided information about his practice on an internet website which information was misleading, it being stated that certain treatment could be “carried out as a telephone consultation due to the ability of the (QXCI) device to use subspace as a treatment medium” when this was not in fact the case;

4. he had on his practice internet website offered treatment to the public by telephone consultation which treatment was to be carried out without a proper assessment by way of examination and investigation.

Decision announced by the Chairman:

Applying the burden and standard of proof (as we have been advised) to the facts of this case, as we find them to be reflected in the evidence, we find all charges proved. We have had very careful regard to the evidence called by both parties and contained within the bundles presented to us.

In relation to the first charge, we find that the information contained in the website in many respects was inaccurate by virtue of the misuse of technical terms.

In respect of the second charge, we find that the information provided on the website to which we have been referred was confusing and vague.

In respect of the third charge, we find that it was misleading to state that treatment could be “carried out as a telephone consultation due to the ability of the (QXCI) device to use subspace as a treatment medium”.

In relation to the fourth and last charge, we find the offer of treatment to the public by telephone consultation was an offer of treatment to be carried out without a proper assessment.

Having found these matters proven as a matter of fact we are then required to consider whether they amount severally to unacceptable professional conduct for the purposes of section 20(1)(a) of the Osteopaths Act 1993.

The charges, as we have found them proven, reflect the marketing of a particular treatment within an umbrella of the Canterbury Osteopathic Clinic. It was marketed on the published website in that way. This is something that by reason of that fact alone brings disrepute to the profession of osteopaths. In any event, the language used was inconsistent with the obligations of any provider of primary healthcare.

Contrary to the submissions made on behalf of Mr Greenfield, we find that there was potentially a serious mischief:

In respect of charges 1, 2 and 3, it is incumbent on any healthcare professional to communicate clearly and ensure that members of the public who may be naïve or vulnerable are not at risk of confusion or being misled;

In respect of the fourth charge, there is a clear obligation to conduct a reasonable assessment of a patient and any failure to do so may have serious consequences.

Having regard to the above observations, we find this proven conduct does amount to conduct which falls short of the standard required of a Registered Osteopath.

Mitigation: There were no other previous cases established against Mr Greenfield to be taken into account. It was said that Mr Greenfield was upright, conscientious, honest, and a competent osteopath. Mr Greenfield’s mitigation included a comparison with osteopathy, and particularly with craniosacral therapy, in that there are many things done in osteopathy that are not subject to peer review.

Sanction: The Committee has carefully considered the mitigation put forward on Mr Greenfield's behalf. The sanction we choose must be proportionate to the offence, and in these circumstances, in our judgement, this case is adequately dealt with by way of an admonishment.

Case 2: Mr Alex Lal (Registration No: 3/4398/F)

Allegation: Criminal Conviction

Alleged Facts: Mr Lal was, upon his own confession, convicted of assault occasioning actual bodily harm. He was sentenced to eight months imprisonment. The conviction followed an incident in May 2004, where Mr Lal had become involved in an altercation on a late night bus. During this altercation, Mr Lal head-butted the bus conductor and it was for this action that he was convicted.

When an osteopath is convicted of a criminal offence in the United Kingdom, the fitness to practise committees look at whether the offence is materially relevant to the osteopath's fitness to practise osteopathy. In this case, the IC concluded that it was and it referred the case to the PCC who considered the following.

Charge(s): That pursuant to Section 20(1)(c) of the Osteopaths Act 1993, it was alleged that Mr Alex Lal, being a Registered Osteopath had been convicted in the United Kingdom of a criminal offence in that on 25 October 2004 he was convicted by the Snaresbrook Crown Court of assault occasioning actual bodily harm, and was sentenced to eight months' imprisonment.

Decision announced by the Chairman:

Following the reading of the complaint and [Council's solicitor] producing a certified copy of the certificate of Mr Lal's conviction and adducing evidence thereof. Mr Lal was invited by the Chairman to indicate whether he accepted his conviction. Through his legal representative he did accept it, and the Chairman announced that the conviction had been proved.

Mitigation: Having found the allegations established, the Committee invited Mr Lal to inform it of any circumstances that may diminish the severity of his actions. There were no other previous cases established against Mr Lal to be taken into account.

Mr Lal's mitigation included his admission of the offence and that it was material to his fitness to practise. Mr Lal had suffered injury himself during the incident and had lived with the consequences of his actions for some time. He had spent time in prison and had reflected on the incident. He was ashamed of his actions and felt humiliated and embarrassed by them and their consequences.

At the time of the incident, Mr Lal had been receiving medical treatment, which was later thought to be inappropriate. This medical treatment may have been factor in the way Mr Lal had acted, which was wholly out of character. Since the incident Mr Lal had made significant changes to his lifestyle, his commitment to his work and service to the public.

Sanction: The Committee considered this to be a grave offence of assault committed on a bus conductor who was doing no more than his duty late at night. In his sentencing comments the Crown Court Judge had indicated that he took a serious view of this matter, and the Committee shared that view. The seriousness of this matter was clearly reflected in the sentence of eight months' imprisonment.

In coming to the same view of the case as the Judge, the Committee gave anxious consideration as to whether a suspension was the only realistic sanction that it could impose upon Mr Lal. However, the Committee took the following matters very much into account in his favour, having considered the mitigation and testimonials on his behalf:

Firstly, the Committee noted that Mr Lal was released from his sentence after three months by reason of his good behaviour.

Secondly, from all the material that the Committee had seen, it was clear that Mr Lal had taken impressive steps to transform himself substantially and to learn important lessons from his unhappy experience.

Thirdly, the Committee was satisfied that this was an isolated incident, involving excessive drinking and possibly inappropriate medication but there was no suggestion that this was a regular or even occasional occurrence in Mr Lal's life. The Committee could be satisfied, therefore, that there will be no danger to his patients or to the public in general by reason of any repetition of this sort of conduct.

Fourthly, in reaching its decision, the Committee considered that Mr Lal had effectively served a period of suspension from practice of approximately three months whilst serving his prison sentence.

Fifthly, in arriving at its decision, the Committee considered the public interest, but in light of all the matters put before it, the Committee decided to take a wholly exceptional course and was satisfied that the imposition of a sanction of admonishment was a proportionate response in all the circumstances of the case.

Case 3: Mr Philippe Raffit (Registration No: 2/1068/F)

Allegation: Unacceptable Professional Conduct

Alleged Facts: A patient, who had attended Mr Raffit on one occasion, complained that she had received a greeting card from him, which contained the following handwritten text:

'Your beautiful, charming, all encompassing smile, lingered in my heart and mind. It was like a ray of light that illuminate our world and for a rare moment brought us in close unison, in harmony with each other. My poetic sentiment wanted to express this feeling to you so that it would not be lost and be somewhat shared and remembered. A golden interval of time. My wish is for us to share again such glimpses of oneness and glow of a happy moment. I live on my own at [address] and you are welcome at any time for anything that meets your consent. Do not feel obliged of anything in anyway, if this feels like throwing in the bin, forever forgotten, no harm done but if it meets a resonance…
'Your friend, Philippe'

The Investigating Committee began its investigation in February 2005 and found that there was a case of unacceptable professional conduct for Mr Raffit to answer. The case was referred to the Professional Conduct Committee to consider the following:

Charge(s): That contrary to section 20(1)(a) Osteopaths Act 1993, Mr Raffit being a Registered Osteopath had been guilty of conduct which falls short of the standard required of a Registered Osteopath in that:

1. On 19 January 2005 Philippe Raffit sent a card containing inappropriate comments and suggestions to LD while she was his patient.

Mr Raffit, at the start of the hearing, accepted the charge as alleged and that his conduct had fallen short of the standard required of a registered osteopath.

Mitigation: Mr Raffit, of French origin, said in mitigation that he had written the card in English, which was his second language. Meaning had been placed upon its contents that he had not intended and he was sorry for the upset caused. He undertook to confine his future communications with patients to professional matters. He had been a successful osteopath for many years with an unblemished record.

Sanction: The Committee has carefully considered the mitigation put forward by Mr Raffit. We believe that Mr Raffit has sought to minimise his understanding of that which he wrote to LD and we are concerned that he should have done so. However, we are able to accept that this was an isolated incident and one which we are assured will not recur. Of course Mr Raffit will be aware that in the future he will not be able to rely, as he has today, on an unblemished record.

In those circumstances and given that the sanction we choose must be proportionate to the offence, in our judgement, this case is adequately dealt with by way of admonishment.

Appeal: The Council for Healthcare Regulatory Excellence (CHRE) considered this case in accordance with the NHS Reform & Health Care Professions Act 2002. Details of this can be found at page 62.

Case 4: Mr Kenneth McKenzie (Registration No: 2/4171/F)

Allegation: Unacceptable Professional Conduct and/or Professional Incompetence

Alleged Facts:The patient attended Mr McKenzie on one occasion because she had developed right-sided low back pain when packing a motor caravan before going on holiday. She had seen an osteopath in the past for low back pain but her usual osteopath was not available.

In this case, there was a real dispute over what occurred during the consultation. The patient claimed that despite her specific request that Mr McKenzie should not do ‘side crunches’, he did these on two occasions. The patient said that these ‘side crunches’ caused her pain, which continued for some time after the treatment. Mr McKenzie disputed that the patient had made this request and disputed that he had used any high velocity thrust techniques on this patient. Mr

McKenzie explained how he used gentle soft tissue work, side lying stretches and traction.

PCC hearings are appropriate where there is a real dispute of fact between the parties, as the complainant and osteopath will give oral evidence that is tested under cross examination. In this case, the PCC considered the following:

Charges: That contrary to section 20(1)(a) and (b) of the Osteopaths Act 1993, Mr McKenzie being a Registered Osteopath had been guilty of conduct which falls short of the standard required of a Registered Osteopath and/or had been guilty of professional incompetence in each of the following respects, namely that:-

1. Not proceeded with.

2. That on 16 September 2004 Mr McKenzie carried out treatment to Mrs B without her consent, and despite Mrs B's request that he did not carry out side crunches or high velocity thrust techniques; and

3. That on 16 September 2004 Mr McKenzie carried out treatment to Mrs B that was inappropriate in light of her presenting condition and previous history.

Charge 1 was withdrawn on the application of the GOsC.

Decision announced by the Chairman:

We have carefully considered all the evidence both oral and documentary that has been put before us. We have reminded ourselves that Council's solicitor has the burden on proving the facts alleged in each charge on the civil standard – namely, whether the facts alleged are more likely than not to have occurred.

We conclude that we are not satisfied that Council's solicitor has proved the charges to the necessary standard. Our reasons are as follows:

There is direct conflict of evidence in this case between Mrs B's and Mr McKenzie's recollection of events on the 16 September 2004. Mrs B states that despite telling Mr McKenzie at the outset that she did not want any 'side crunch' or HVT in her treatment, he proceeded to administer two HVTs to her on the treatment couch – the second of which was administered with such force that it was as if Mr McKenzie

lifted his feet off the ground. On the other hand, Mr McKenzie is equally adamant that he gave no such treatment to Mrs B and that he would not give such treatment to a 75 year old female patient in any event.

We were impressed with the evidence of Mr McKenzie when he demonstrated the relevant treatment he gave to Mrs B, and while we accept that her position on the couch could be used for administering HVT it is also used for more gentle forms of treatment. We found Mr McKenzie's evidence to be credible and consistent. For example, there was consistency between his answers given today on his neurological examination and his case notes. We accept that Mr McKenzie's case history notes at page 62 of the bundle were completed contemporaneously. We note the entry 'HVT contra-indicated'. Given this we find it unlikely that he would have then gone on to carry out two such procedures.

Mrs B told us that having received the first HVT she told Mr McKenzie not to do it again. Despite this admonishment, he turned her over and re-positioned her for a second HVT, yet she said nothing. We find this incredible and illogical and are not persuaded that the treatment occurred as Mrs B alleges. Although we do not conclude that Mrs B was doing anything other than honestly trying to recollect her account of that day, we are satisfied that her recollection is mistaken. We found some of her evidence as to dates, her medical history and her medication to have been inconsistent. While we accept there can be problems with recollection when trying to recall exact dates, we find these inconsistencies telling upon her recollection of the central issues.

For all these reasons, we are not satisfied that the charges have been made out. Accordingly, both charges are dismissed.

Case 5: Mr Glenn Lobo (Registration No: 3/3625/F)

Allegation: Unacceptable Professional Conduct

Alleged Facts: A patient had attended Mr Lobo for one consultation and made a complaint about the treatment given. This complaint led to an investigation in which the osteopathic records for this patient were obtained from Mr Lobo. Also, during the investigation the content of Mr Lobo's website was explored.

Some charges that were referred by the IC were not then proceeded with as the complainant failed to attend the hearing and give evidence.

However, the PCC considered charges relating to to Mr Lobo's osteopathic records and the content of his website.

Charges: That contrary to section 20(1)(a) of the Osteopaths Act 1993, Mr Glenn Lobo being a Registered Osteopath had been guilty of conduct which falls short of the standard required of a Registered Osteopath in each of the following respects, namely:-

1. That Mr Lobo failed to maintain accurate and/or adequate osteopathic notes in that he failed to record a case history and/or the treatment carried out, concerning his patient Ms C.

2. Not proceeded with.

3. Not proceeded with.

4. That Mr Lobo had provided information about himself and/or his practice on an internet website and/or on his letterhead, making claims of superiority and making unrealistic or extravagant claims. In particular, his letterhead stated "the only osteopath in Luton to guarantee your treatment result", his website was entitled www.bestosteopath.inuk.com, and the claim contained on his website that "Glenn is infamous in the Luton area as *the* man to see for any anatomical ailments, or indeed for any physical problem, from sciatica to panic attacks" - contrary to clause 55 of the Code of Practice.

Charges 2 and 3 were withdrawn on the application of the GOsC.

Decision announced by the Chairman:

We have carefully considered all the evidence both oral and documentary that has been put before us. We have reminded ourselves that Council's solicitor has the burden on proving the facts alleged in each charge to the civil standard – namely, whether the facts alleged are more likely than not to have occurred.

We conclude as follows:

In relation to the first charge we find this charge proven. In our judgment the notes are woefully inadequate. In particular in relation to the case history it is unacceptable that the checklist of questions Mr Lobo claimed to have asked is not on the patient's record nor is the list of the patient's responses. There is no working diagnosis prior to

treatment and there is no indication of a review of the position regarding diagnosis after treatment.

This falls far short of paragraph 6 of the Code of Practice embodied in *Pursuing Excellence*. For these reasons, we are satisfied that this amounts to conduct that falls short of the standard required of a Registered Osteopath.

In relation to the fourth charge we find this charge proven, a charge which you admitted at the outset of the proceedings. In particular we note that the offending website was not attended to until several months had elapsed. We are satisfied that this represents conduct which falls short of the standard required of a Registered Osteopath.

Mitigation: The PCC heard how Mr Lobo had, subsequent to the complaint and prior to the hearing, amended his practice procedures. A handbook and patient feedback forms had been developed. Also, the content of his website, save for the terms outlined in the charges, was informative and of good quality. Mr Lobo had now changed the offending terms, which was delayed by the website designer's absence.

Finally this case had taken some time to reach a conclusion. The patient had attended in May 2003 and made her complaint to the GOsC in March 2004 and the investigation began in April 2004. The IC reached its decision in February 2005 and the case was concluded by the PCC in October 2005.

Sanction: The Committee has carefully considered the mitigation put forward on Mr Lobo's behalf.

The sanction we choose must be proportionate to the offence, and in these circumstances, in our judgment, this case is adequately dealt with by way of an admonishment.

We recognise that Mr Lobo has made some changes to his working practices but we have seen no evidence of improvement of record keeping. We urge you to ensure that this coming year's Continuing Professional Development (CPD) includes some attention to record keeping. We have considered whether there should be a condition of practice in relation to this but having regard to all the matters raised on your behalf we decided that an admonishment was sufficient. Our recommendation on CPD will be drawn to the attention of the Registrar.

Case 6: Mr Nicholas Handoll (Registration No: 1/526/F)

Allegation: Unacceptable Professional Conduct

Alleged Facts: A patient who had attended Mr Handoll's practice and been treated by two of his associates, not Mr Handoll, complained about the level of fee charged to her private medical insurance provider. The patient had initially raised her complaint with Mr Handoll and was not satisfied with the explanation received so made a complaint to the GOsC. The basis of the complaint was that when she attended the associates and paid cash for her treatment she paid £27.00 for the appointment. The practice offered to invoice her insurance company direct, to which she agree, but when she received a statement of her account from the insurance provider, the practice had charged £40.00 for each appointment.

The PCC considered the following:

Charges: That contrary to section 20(1)(a) Osteopaths Act 1993, you being a Registered Osteopath have been guilty of conduct which falls short of the standard required of a Registered Osteopath in each of the following respects, namely that:-

1. You charged and/or claimed fees for the treatment of Mrs L irresponsibly and/or in a way in which you knew or ought to have known you could not justify and/or in a way that would bring the profession into disrepute.

2. Not proved.

Decision announced by the Chairman:

We have carefully considered all the evidence both oral and documentary that has been put before us. We have reminded ourselves that Council's solicitor has the burden of proving the facts alleged in each charge to the civil standard.

The allegations in this case involve the applying of substantially different charges to insured and uninsured patients who pay on site. They also touch upon the degree of openness Mr Handoll exhibited when dealing with insurers and when dealing with a particular patient, Mrs L.

It is accepted by Mr Handoll that he did differentiate in his fees as between insured and uninsured patients who pay on site. We see no difficulty in this so long as the differential is modest and so as to reflect any extra costs involved in dealing with an insurer. In this case, the differential was between the figure of £27 and £40. Such a differential cannot be justified as a matter of economics.

We have heard evidence from Mr Handoll and from [Mr Handoll's expert witness] who seeks to justify the differential complained of. We do not accept that evidence and we find that Mr Handoll would or should have known such a differential could not be justified.

It is argued that the practise of charging in the manner pursued by Mr Handoll is widespread in the profession. If this is so it was not condoned by the insurers and it will not be condoned by this Committee. As we have said, it is not justifiable.

In this case, it is also alleged that Mrs L was not informed in advance of this substantial differential. We are not persuaded on the evidence that Mrs L was not properly advised of the situation and thus do not find this charge proven.

Accordingly, we find the first allegation factually proven but not the second and have turned our minds to whether the conduct in the first charge amounts to unacceptable professional conduct. We say that it does.

Mitigation: Mr Handoll had no previous complaints history and had changed his practice administration to remedy the situation.

Sanction: The Committee has carefully considered the mitigation put forward on your behalf. The sanction we choose must be proportionate to the offence, and in these circumstances, in our judgment, this case is adequately dealt with by an admonishment.

Case 7: Mr Paul Robinson (Registration No: 3/1514/F)

Allegation: Unacceptable Professional Conduct and/or Professional Incompetence

Alleged Facts: The patient had problems with her eye and attended Mr Robinson because she had read in a magazine that improved blood supply may alleviate her eye problem. The article had explained how increased blood supply could be achieved by neck massage.

The patient explained how Mr Robinson 'cracked my neck' and how she began to experience all sorts of pain and new symptoms 24 hours later. The new symptoms included a stiff neck, dull headache, pain in between her should blades, pain in her right elbow radiating to her right hand and numbness in this area. She eventually attended accident and emergency and was subsequently referred for physiotherapy treatment.

During the investigation, Mr Robinson's osteopathic records for this patient were obtained and these raised concerns about the adequacy of the case history taken and assessment of the patient prior to treatment. The PCC, therefore, considered the following:

Charges: That contrary to section 20(1)(a) and (b) of the Osteopaths Act 1993, Mr Robinson being a Registered Osteopath has been guilty of conduct which falls short of the standard required of a Registered Osteopath and/or has been guilty of professional incompetence in each of the following respects, namely that:-

1. On 11 January 2005, he responded inappropriately during a consultation with his patient, SE, by stating to her that the difference between chiropractors and osteopaths was that "osteopaths have bigger willies", thereby failing to ensure that his communications with his patient were conducted and maintained in a sensitive, professional and appropriate manner.

   He has admitted the facts of this charge and it has not been submitted that this does not amount to unacceptable professional conduct and we find it to be so. Further, it is alleged that:

2. On 11 January 2005, he failed properly, thoroughly, or with appropriate examination or investigation to assess the condition presented by his patient SE; and/or

3. On 11 January 2005, he failed to treat his patient, SE, competently or in a manner that best served her needs, in that he applied such treatment to her neck as to cause muscular or soft tissue injury to the neck resulting in debilitating pain and discomfort.

Decision announced by the Chairman:

We have carefully considered all the evidence both oral and documentary that has been put before us. We have reminded ourselves that Council's solicitor has the burden of proving the facts

alleged in each charge to the civil standard – namely, whether the facts alleged are more likely than not to have occurred.

In relation to the second allegation, the first that we had to consider, we considered that it was persuasive that there were no records in the patient's notes of adequate case history taking, adequate neurological examination and adequate osteopathic spinal evaluation.

Moreover, the complainant, while having a limited recollection of the examination had no recollection of any thorough examination being conducted.

While Mr Robinson's evidence was to the effect that the examination was an adequate one, on the balance of probabilities we find it was not and that the inadequacy of the examination as we have found it to be does amount to professional incompetence and so we find the second charge well founded.

Turning to the third charge, the second we considered, we find that the treatment which has been the subject of our enquiry, did result in injury to the neck resulting in debilitating pain and discomfort. In the light of our findings in respect of the second charge and in the absence of any other reasonable explanation, we find that on the balance of probabilities the treatment was incompetent, in that the manipulation was conducted at all, and amounts to professional incompetence for the purposes of section 20(1)(b) of the Osteopaths Act 1993.

Accordingly we find both charges well founded.

Mitigation: Mr Robinson regretted his comment about the difference between chiropractors and osteopaths and had accepted that it was wrong to make such a comment. He had misjudged the situation and had thought such a joke would put the patient at ease.

There had been no other complaints about Mr Robinson during his many years as an osteopath, running a successful practice. He had nearly reached the standards required for competent practice – he had assessed the patient, albeit that it was not to the standard expected. Mr Robinson had wanted to help this patient and he was a man of good character who was not arrogant and had honestly responded to the GOsC's enquiries. He had learnt a lot from this experience.

Sanction: The Committee has carefully considered the mitigation put forward on Mr Robinson's behalf. The sanction we choose must be

proportionate to the offence, and in these circumstances, in our judgment, this case is adequately dealt with by way of a Conditions of Practice Order.

The Order is that Mr Robinson cease to practise as an osteopath until he has passed a test of competence. This Order will not however take effect until the expiry of a period of 28 days.

Mr Robinson very quickly passed a test of competence and retained full registration.

Case 8: Mr Gary Lutz (Registration No: 2/2063/F)

Allegation: Unacceptable Professional Conduct

Alleged Facts: The patient had attended Mr Lutz for treatment for sometime. This treatment had ended and the patient had requested a copy of her notes but had not received them. In her complaint to the GOsC the patient said that Mr Lutz had not taken any notes of her treatment and that he had, on one occasion, found it difficult to remember what he had done at the previous appointment.

During the investigation, Mr Lutz was able to produce osteopathic records for this patient. He had maintained some of the records manually and some separately on computer. Mr Lutz had concerns about the patient's mental health and dependency, and thought that disclosing certain notes to her would be detrimental to her mental health. This was his reason for keeping sections of the records separate and not providing the full records to the patient.

Charges: It is alleged that whilst registered as an osteopath within the meaning of the Osteopaths Act 1993 Mr Lutz's conduct has fallen short of the standard required of a Registered Osteopath, contrary to section 20(1)(a) of the Osteopaths Act 1993 in that:

1. Between 1 June 2004 and 28 April 2005 Mr Lutz failed to maintain adequate osteopathic records for his patient, RP, in that he kept relevant osteopathic information privately and/or separately from RP's osteopathic records;

2. Between 26 January 2005 and 8 June 2005 Mr Lutz failed to provide RP with an adequate record of her osteopathic treatment when requested to do so;

3. Between 9 June 2005 and 27 July 2005 Mr Lutz failed to provide RP with an adequate record of her osteopathic treatment when requested to do so.

Decision announced by the Chairman:

Applying the burden and standard of proof (as we have been advised) to the facts of this case, as we find them to be reflected in the evidence, we find as follows:

In relation to the first charge, we find that Mr Lutz did fail to maintain adequate osteopathic records for his patient RP in that he kept relevant osteopathic information privately and/or separately.

Having found this matter proven as a matter of fact we are then required to consider whether this amounts to unacceptable professional conduct for the purposes of section 20(1)(a) of the Osteopaths Act 1993.

The Committee reminded itself of paragraph F13 and J23 of the Standard of Proficiency, *Standard 2000*. In F13 it states that "Osteopaths must be able to record their findings accurately" and in paragraph J23 it states that "Osteopaths should be able to accurately record their findings and prognoses and justify possible courses of action reflecting the critical interpretation of clinical findings and other relevant information". The Committee is satisfied that with regard to his note keeping in the case of RP, Mr Lutz failed to meet the standard required and therefore his conduct fell short of the standard required of a Registered Osteopath. We find this to amount to unacceptable professional conduct.

In respect of the second and third charges, Mr Lutz admitted that in each case he had failed to provide RP with an adequate record of her osteopathic treatment when requested to do so.

The Committee went on to consider with regard to these two charges whether Mr Lutz's conduct fell short of the standard required of a Registered Osteopath. In the exceptional circumstances of this case the Committee has decided that Mr Lutz's conduct did not fall short of that standard as he did seek advice in good faith. However, whilst we recognise the difficult position Mr Lutz was in, we would have expected him to consult his regulatory body in the first instance.

The Committee will make separate arrangements to offer guidance to Mr Lutz on the better keeping of records overall.

Mitigation: Mr Lutz had never kept separate notes previously. He did so only in this unusual case after having received advice to do so. It was not a serious breach.

Sanction: The Committee has carefully considered the mitigation put forward on Mr Lutz's behalf.

The sanction we choose must be proportionate to the offence, and in these exceptional circumstances, in our judgment, this case is adequately dealt with by way of an admonishment.

Case 9: Mr Brent Snell (Registration No: 5/5016/F)

Allegation: Unacceptable Professional Conduct

Alleged Facts: The patient had an accident at home and damaged her coccyx, which led to pain in her hips and low back. She attended her GP and was referred to an NHS osteopathic practice. She had never attended an osteopath before and did not know what to expect. She was concerned that she had needed to undress and that she had not been able to dress and undress in private. She was also concerned that she had remained undressed and uncovered during the examination and treatment.

Charges:

1. Not Proved

2. Not Proved

3. Unacceptable professional conduct, contrary to section 20(1)(a) of the Osteopaths Act 1993, in that Brent Snell on the 7 March 2005, during the course of his treatment of his patient, Ms JW, failed in his obligation to maintain and/or protect his patient's modesty by failing to:

    i. provide her with appropriate cover, such as a towel or blanket; and/or
    ii. allow or enable her to dress and undress in private, whether by providing a screen or by leaving the treatment room, or otherwise.

4. Not Proved

5. Not Proved

Decision announced by the Chairman

We have had very careful regard to the evidence called by both parties and contained within the bundles presented to us. Applying the burden and standard of proof (as we have been advised) to the facts of this case, as we find them to be reflected in the evidence, we find:

Charge 1: We believe that JW honestly described what she believed had occurred. However… we find this allegation is not well founded.

Charge 2: We have heard no evidence to support the suggestion that the application of the technique was wrong. We think that it would have been preferable for Mr Snell to have explained to his patient, JW, what he intended to do. However, this does not form part of this charge and so we find that charge 2 is not well founded.

Charge 3: We find this charge well founded. Accepted practice dictates that JW should have been allowed to undress and dress in private. Since towels were available, JW should have been given the choice of using them. We find in this charge a lack of effective communication, which is a consistent theme throughout this case.

Charge 4: We find this charge not well founded because the patient, JW, accepted in her evidence that she knew what was expected and that she would need to undress.

Charge 5: We find this charge not well founded because the patient, JW, by her own admission had by this stage become anxious and stated that her recollection was not clear about events at this time. We, therefore, cannot be sure of exactly what was said.

Having found charge 3 proven, as a matter of fact we are then required to consider whether it amounts to unacceptable professional conduct for the purposes of section 20(1)(a) of the Osteopaths Act 1993. We find that it does.

Mitigation: There were no other complaints or previous findings against Mr Snell, who was a dedicated osteopath. The new Code of Practice had come into force since this patient attended the clinic, which in turn

had led to new procedures and provisions being put into place at the clinic. This, it was hoped, would avoid a recurrence of the events that led to this complaint.

Sanction: The Committee has carefully considered the mitigation put forward on Mr Snell's behalf. The sanction we choose must be proportionate to the offence, and in these circumstances, in our judgment, this case is adequately dealt with by way of an admonishment.

The Committee also gave Mr Snell the following advice:

"Mr Snell, in the interests of your patients and in your own interest, we strongly advise you to take steps to improve your communication skills. Lack of effective communication and sensitivity to your patient's needs has been a feature throughout this case.

We strongly advise you to address this as part of your programme of Continuing Professional Development (CPD) and will draw this to the attention of the Registrar."

Case 10: Mr Clifford Conway (Registration No: 3/2283/F)

Allegation: Unacceptable Professional Conduct and/or Professional Incompetence

Alleged Facts: Mr Conway had been asked by his patient to be present during the birth of her baby at a midwifery led maternity unit. He accepted this request and Mr Conway's patient was and continues to be entirely happy with the care that he gave. The senior midwife attending this patient was content for Mr Conway to be present but she was concerned at proposals made by Mr Conway.

The baby was in an occiput posterior position and on two occasions during the labour, once early in labour and later, when muconium had been detected in the amniotic fluid, Mr Conway approached the senior midwife to say that he could apply a technique that would help the baby to turn. The technique involved making contact with the baby's head, vaginally. The midwife refused Mr Conway permission to undertake any such technique. She was of the view that it was not appropriate, particularly in a midwifery-led maternity unit, and was outside an osteopath's professional boundaries.

Charges: Charges 1 to 6: Not proved.

At the start of the hearing, Mr Conway offered an undertaking that was accepted by the PCC.

Decision announced by the Chairman:
We have given careful consideration to the arguments and proposals put forward. Provided Mr Conway is prepared to accept the terms of the undertaking, which I shall read out, the Committee is content that the charges in this case should be adjourned generally not to be proceeded with without leave of the Professional Conduct Committee. Both parties do have liberty to apply to review the undertaking.

Mr Conway undertakes not to attend any women in childbirth and to comply with all relevant legislation in that regard.

This includes the Nursing and Midwifery Order 2001. For the avoidance of doubt, the Committee adopts the definitions of 'childbirth' and 'attendance' as laid down in Article 2 of the Nursing and Midwifery Council (Midwives) Rules Order of Council 2004.

(Mr Conway confirmed his acceptance of the undertaking.)

That concludes the hearing.

Note:
Article 45(1) of the Nursing and Midwifery Order 2001 states:

A person other than a registered midwife or a registered medical practitioner shall not attend a woman in childbirth.

The definitions of 'childbirth' and 'attendance' as laid down in Article 2 of the Nursing and Midwifery Council (Midwives) Rules Order of Council 2004, are:

"childbirth" includes the antenatal, intranatal and postnatal periods.

"attendance upon" means providing care or advice to a woman or care to a baby whether or not the midwife is physically present.

Case 11: Mr Martin Dixon (Registration No: 1/2332/F)

Allegation: Professional Incompetence

Alleged Facts: These are apparent from the charges listed below.

Charges: That contrary to section 20(1)(b) of the Osteopaths Act 1993, Mr Dixon being a Registered Osteopath has been guilty of professional incompetence in each of the following respects, namely that:-

1. Martin Dixon on 4 February 2005 failed to take an adequate case history from AF before commencing treatment.

2. Martin Dixon on 4 February 2005 failed to carry out an adequate examination of AF before commencing treatment.

3. Not Proved

4. Martin Dixon on 4 February 2005 failed to take adequate case notes concerning his treatment of AF.

5. Not Proved

Decision announced by the Chairman:

We have carefully considered the evidence both oral and documentary that has been put before us today. We have reminded ourselves that Council's solicitor has the burden of proving the facts alleged in each charge to the civil standard – namely, whether the facts alleged are more likely than not to have occurred. Accordingly we find as follows:

Charge One: In our view the safety and wellbeing of patients demands that an osteopath elicit and record meaningful clinical information so as to be able to make informed decisions as to clinical examination, diagnosis and subsequent treatment or management. This is made clear in Standard 2000. Mr Dixon has failed in this regard. We find this to be a very serious breach which amounts to professional incompetence.

Charge Two: An adequate examination (informed by a case history) is vital to determine whether the patient is safe to treat, or should be referred, and to formulate an osteopathic treatment or management plan.

We accept that AF was in extreme pain and therefore difficult to examine, thereby imposing limitations on the scope of the examinations that could be carried out. Nevertheless, in our view the examination was inadequate and insufficient to establish the nature of his condition and to determine whether to treat it and how. We find that this amounts to professional incompetence.

Charge Three: We find this charge is not proved.

Charge Four: Osteopaths have an obligation accurately to record their findings and prognoses and to justify possible courses of action. In this case the Patient Confidential Health History is misleading in that it recorded that a full examination had taken place, when it had not, and implied that a whole series of questions as to the patient's history had been asked and answered in the negative, when no such questioning had taken place. We reject the osteopath's explanation for these misleading entries. In these circumstances we find this proved as a matter of fact and that this amounts to professional incompetence.

Charge Five: We find Charge 5 not proven.

Mitigation: There had been no other findings against Mr Dixon. He had, throughout the hearing, acknowledged that the treatment of this patient had been less than ideal.

Sanction: The Committee has carefully considered the mitigation put forward on Mr Dixon's behalf. The sanction we choose must be proportionate to the offence, and in these circumstances, in our judgment, this case is adequately dealt with by way of a Conditions of Practice Order.

The condition of practice for the duration of the Order is that Mr Dixon must practise only with the supervision of a Registered Osteopath present in the practice at all times when patients are being treated.

Mr Dixon should take active steps to remedy the deficiencies in his practice covering the following areas:

- Case history taking
- Record keeping
- Differential diagnosis
- Osteopathic and clinical evaluation and
- Formulating treatment and management plans

The Conditions of Practice Order will cease to have effect when

a) Mr Dixon has submitted a satisfactory Personal Professional Portfolio to the Registrar and

b) When a satisfactory written report has been submitted by the supervising osteopath to the Registrar and

c) He has passed a test of clinical competence thus satisfying the Registrar that he is a safe and competent practitioner

That concludes the hearing.

Note:

Mr Dixon subsequently appealed the terms of the conditions of practice order, in accordance with the Osteopaths Act 1993 (as amended), section 31. This appeal was outstanding as this report was prepared. The outcome will, therefore, be included in the next report.

Case 12: Mr Owen Morgan Bull (Registration No: 3/2505/F)

Interim Suspension Order

Allegation: Unacceptable Professional Conduct

Alleged Facts: Please see case 6 on page 29.

The PCC, on receipt of the case, concluded that it was necessary to consider imposing an interim suspension order. A hearing was, therefore, held.

Decision announced by the Chairman:

We have heard the circumstances of the case as explained by [Council's representative], and considered the advice from our legal assessor.

We have noted that Mr Bull has not contested the application to impose an interim suspension order.

In the Committee's judgment it is necessary in this case to protect members of the public and so we order the Registrar to suspend the registration of Mr Bull with effect from today, in accordance with section 24(2) of the Osteopaths Act 1993 and Rule 40 of the Professional Conduct Committee (Procedure) Rules 2000.

Health committee

The Health Committee (HC) considers cases where it is alleged that an osteopath's ability to practise is seriously impaired because of his physical or mental health. The HC consists of osteopaths and lay members.

Osteopathic Members	Lay Members
Ms Kathryn de Fleury (until April 2005)	Ms Jillian Alderwick*
Mr Brian McKenna	Dr Stephen Barasi (from May 2005)
Mr Jonathan Poston* (from May 2005)	Mr John Cadywould*
Ms Fiona Walsh	Mr Nigel Clarke *(until April 2005)*
Mr Nicholas Woodhead (from June 2005)	Professor Adrian Eddleston (Chairman)
	Professor Ian Hughes
	Mr Christopher Liffen*

* indicates co-opted members

What happens if a case is referred to the HC?

It is possible for the HC to consider cases on paper alone and without the need for a formal hearing. The first step, therefore, is for the Committee and osteopath to decide whether they feel it necessary or appropriate to consider the case at a hearing or whether both parties are content that it be considered on paper. If a hearing is necessary, this will be held in private because of the nature of medical evidence that will be involved.

If the HC concludes that the osteopath's ability to practise is seriously impaired because of his physical or mental health, it will take one of the following steps:

- suspend the osteopath's registration for a set period
- impose conditions on the osteopath's practice

What has the HC considered?

During the period of this report, the HC reviewed a Conditions of Practice Order that had been imposed for a period of three years in

December 2003. The osteopath has been diagnosed with Bi-Polar Affective Disorder, which was in remission.

The Committee felt it was necessary to continue with the Conditions of Practice Order based on the evidence that without the appropriate treatment, there was a risk of a recurrence of a serious impairment. The Order will be reviewed again in 2006.

Appeals

The Osteopaths Act 1993, section 31, as amended by the National Health Service Reform and Health Care Professions Act 2002 (section 33), provides for osteopaths to appeal against decisions reached by the Professional Conduct Committee (PCC) and Health Committee (HC). One appeal was made during the period of this Report (see case 11 on page(s) 55–58).

Council for Healthcare Regulatory Excellence (CHRE)

The National Health Service Reform and Health Care Professions Act 2002 (section 29) provides for the Council for Healthcare Regulatory Excellence (CHRE) to pursue an appeal in the High Court against any decision reached by the PCC, if it considers that a decision was unduly lenient and it is in the public interest to do so.

Although no such appeals were made during the period of this report, the case of Mr Philippe Raffit (see page(s) 40–41) was considered by CHRE at its Council meeting to determine whether they would appeal the PCC's decision in that case. However, it concluded that the decision was not unduly lenient and that the PCC could have reasonably come to the conclusions that it did.

CHRE did, however, provide feedback to the Professional Conduct Committee, namely that the PCC should record its formal acceptance of an undertaking in its reasons.

Judicial Reviews

No Judicial Reviews were pursued during the period covered by this report.

Further information

Further details of the General Osteopathic Council's procedures for investigating and prosecuting complaints are currently provided in the leaflet 'Making a Complaint', which you can access on the GOsC website at www.osteopathy.org.uk. You can also write with any queries to:

General Osteopathic Council
Osteopathy House
176 Tower Bridge Road
London SE1 3LU