



## **Guidance for the Professional Conduct Committee**

### **Formulating Conditions of Practice Orders**

**October 2013**

#### **Introduction**

1. The General Osteopathic Council (GOsC) was established by the *Osteopaths Act 1993* (the Act) to regulate and develop the profession of osteopathy. This document relates to the GOsC's regulatory function and in particular the work of its Professional Conduct Committee (PCC).
2. This document has been produced primarily to assist the PCC when it has determined that a Conditions of Practice Order should be imposed on an osteopath. However, osteopaths, their legal representatives, professional bodies and members of the public may also find the information contained in this document useful.
3. A Conditions of Practice Order allows an osteopath to continue practising whilst providing protection for the public and patients. When formulating conditions, the PCC will have the public interest at the forefront of its mind.
4. This document complements the Indicative Sanctions Guidance and is designed to guide the PCC when it needs to formulate conditions that an osteopath must adhere to. It is not exhaustive, nor intended to restrict the PCC from exercising its own judgement.

#### **Professional Conduct Committee (PCC)**

5. The procedures adopted by the PCC are governed primarily by the Act and the GOsC (Professional Conduct Committee) (Procedure) Rules 2000 (the Rules). Other legislation, such as the *Human Rights Act 1998*, also has an impact on the way the PCC operates and the procedures it adopts, as does common law.
6. Section 22(1) of the Act provides for the PCC to consider any allegation to the effect that the osteopath has been:
  - a) guilty of conduct which falls short of the standard required of a registered osteopath (unacceptable professional conduct)
  - b) guilty of professional incompetence
  - c) convicted (at any time) in the United Kingdom of a criminal offence.

7. Section 22(2) requires the PCC to take one of the following steps, if it is satisfied that the allegation is well founded (proved):
  - a) admonish the osteopath
  - b) make an order imposing conditions with which the osteopath must comply while practising as an osteopath (a 'conditions of practice order')
  - c) order the Registrar to suspend the osteopath's registration for such period as may be specified in the order (a 'suspension order')
  - d) order the Registrar to remove the osteopath's name from the register.
8. If the allegation is of the kind mentioned in 6. c) above and the PCC considers that the criminal offence in question has no material relevance to the fitness of the osteopath concerned to practise osteopathy, it may take no further action (section 22(3) of the Act).
9. This guidance is solely concerned with the PCC's powers to make an order imposing conditions with which the osteopath must comply while practising as an osteopath (a 'Conditions of Practice Order').

### **Conditions of Practice Order**

10. A Conditions of Practice Order (the Order) allows an osteopath to continue practising whilst providing protection for the public and patients. The primary purpose of the Order is to protect the public. If it is not possible to formulate workable conditions that achieve this, the PCC must suspend the osteopath's registration.
11. Conditions take two forms: they may be restrictive and prevent an osteopath from practising in a certain way or on a particular category of patient; or they may address deficiencies in practice and require the osteopath to undergo additional training or other improvement activity. An Order will generally contain a number of conditions, which may be both restrictive and address deficiencies.
12. It is important that any osteopath who is subject to an Order clearly understands what they are expected to achieve. The PCC should, therefore, always produce a written Order that clearly identifies the conditions that are to be complied with. The PCC should also explain its reasons for formulating these conditions.

## **Formulating conditions**

Note: the examples given below are not an exhaustive list.

### **Restrictive conditions**

13. It is essential that the PCC identifies and expressly states the risk posed by the osteopath and satisfies itself that the risk can be mitigated by conditions. If so, restrictive conditions can be used to protect the public and patients whilst the osteopath continues to practise.
14. When formulating restrictive conditions, the PCC should ask itself three key questions:
  - a) What are the risks that need mitigating?
  - b) How are the public and patients to be protected from these risks?
  - c) How can compliance with the conditions be demonstrated and monitored?

### **What are the risks that need mitigating?**

15. The PCC's findings will usually identify any risks to patients or the public if the osteopath is allowed to continue to practise. For example:
  - if the osteopath lacked the necessary skills to take an adequate case history, then patients could be at risk of receiving unsafe treatment.

How can the patient be protected from these risks?

16. It is essential that the identified risks are mitigated by the conditions. For example:
  - putting the osteopath under supervision whilst they practice may mitigate the risk identified above.

### **How can compliance with the conditions be demonstrated and monitored?**

17. The GOsC's primary concern is the protection of patients and the public. Where conditions have been imposed, it is important for the GOsC to have assurance that all conditions are being complied with on an on-going basis.
18. For example, if a restrictive condition is to be imposed requiring an osteopath to provide a chaperone, the conditions could also require the osteopath to provide the GOsC with copies of attendance forms signed by the chaperone.

19. If it is not possible to formulate workable conditions that:

- a) mitigate the identified risks
- b) are capable of being measured
- c) are capable of being monitored.

then the PCC should consider suspending the osteopath's registration or removing the registrant's name from the Register.

### **Conditions addressing deficient practice**

20. Formulating conditions to address deficient practice can be difficult and the PCC should ask itself four key questions when undertaking this task:

- a) What is the problem that needs addressing?
- b) What does the osteopath need to do to address this problem?
- c) How should the osteopath demonstrate that they have addressed the problem?
- d) How should the osteopath's claim that they have addressed the problem be independently verified?

### **What is the problem that needs addressing?**

21. The objectives of the conditions always need to be made sufficiently clear for the osteopath to know what is expected of them. The PCC should specify each of the shortcomings identified. It might be, for example, that the PCC has found that:

- the osteopath lacks the necessary skills to take an adequate case history.

### **What does the osteopath need to do to address this problem?**

22. Taking each of the identified shortcomings in the relevant case, the PCC should make clear what it expects of the osteopath and explain how the conditions relate to these shortcomings. For example:

- if the osteopath lacks the necessary skills to take an adequate case history, then they are likely to need to undertake some training or self development to obtain the required skills and understanding.

## **How should the osteopath demonstrate that they have addressed the problem?**

23. The PCC will wish to be satisfied that the identified shortcomings have been sufficiently addressed and that the osteopath now practises to the standards required. The PCC should clearly explain to the osteopath what evidence it will wish to see to be satisfied of this. For example evidence of:
- the successful completion of any training courses
  - reports from a supervising osteopath
  - details of any self-directed learning and reflective accounts.

## **How should the osteopath's claim that they have addressed the problem be independently verified?**

24. It is important that the claims made by the osteopath are independently verified.
- This can be achieved by, for example:
- an assessment of clinical performance
  - an independent audit.
25. A template has been produced to assist the PCC when it is formulating conditions within this framework in individual cases. This template is provided at Annex B.
26. Annex A provides sample wording from previous Conditions of Practice Orders to assist the PCC when drafting an order.

## Sample wording for conditions

Provided below are samples of the wording that may be used in Conditions of Practice Orders. This list is provided to guide the PCC and it is by no means exhaustive or comprehensive.

<b>Restrictions</b>	In order to mitigate the risk to the public and patients, it may be necessary to place restrictions on the osteopath's practice
	While in practice you must not carry out X unless directly supervised.
	Your practice must be directly/closely supervised by a registered osteopath.
	You must not carry out intimate examinations or treatment on patients without a chaperone present.
	You must not undertake consultations with male patients/female patients/patients under the age of X.
<b>Supervision</b>	Supervision can be an effective way to protect patients whilst allowing the osteopath to continue practising.
	You will only practise osteopathy under the supervision of another registered osteopath and on patients who have been informed in advance that you are under supervision. The supervising osteopath must be approved by the GOsC. The supervising osteopath's fees must be paid by you.
	For the purpose of this requirement, supervision means that the supervising osteopath is on the premises, approves in advance the proposed treatment in the light of the case history and examination findings and has the clinical responsibility for the patient.

	You must provide the GOsC with the full contact details of a professional colleague who is prepared to supervise your compliance with the conditions and provide a report to the GOsC every X months providing details of any progression or regression in the specified area. The supervising colleague must be approved by the GOsC. The supervising colleague's fees must be paid by you.
	You must place yourself under the supervision of a registered osteopath, who will on a weekly/monthly basis meet with you to review X. The supervising osteopath must be approved by the GOsC. The supervising osteopath's fees must be paid by you.
	You must place yourself under the supervision of a registered osteopath, who you should meet at intervals of not more than X and allow the supervisor to prepare a report on X, which should be sent to the GOsC. Each report should have specific regard to X. The supervising osteopath must be approved by the GOsC. The supervising osteopath's fees must be paid by you.
	You must work with your supervisor to formulate a personal development plan, specifically designed to address the deficiencies in the following areas X.
<b>Training</b>	Often an element of re-training will be required.
	You must successfully complete a course of training in X.
	You must undergo a period of re-training in a teaching clinic run by a Recognised Qualification osteopathic education institution in the UK for a minimum of X hours.
	This training must address the deficiencies identified in the Committee's decision, which are X.
	This training must address the following Standards X.

<b>Clinical audit</b>	A clinical audit can be useful way to independently verify the osteopath's claim that they have complied with the conditions.
	You will be subject to an independent audit/X audits of your practice within X weeks/months
	The first audit will take place X weeks/months following the commencement of this Order. Subsequent audits will take place at intervals of X weeks/months, until X.
	You must advise any patient that you treat that your records will be subject to review and audit by an independent auditor.
	You must co-operate with the auditor and make available whatever information they require.
	You must make all patient records made by you following the commencement of this order available for audit.
	At the/each audit, the auditor will observe at least X patient consultations, X of which must be a new patient consultation.
	The patient record audit will take the following form:  Between X to X months of the commencement of this Order, the auditor will attend your clinic and will specifically need to see evidence of X.
	You will provide the auditor at the time of the audit with evidence of X.
	You will be responsible for ensuring the auditor's attendance at hearings. The auditor's fees must be paid by you.

	You will be responsible for the costs of the audit and shall pay any relevant invoices within 28 days of receipt.
	The auditor will provide a report to the Committee.
<b>Test of competence</b>	An Assessment of Clinical Performance (test of competence) is an effective and independent means of ensuring that the osteopath practises to the standards required.
	You must successfully complete an Assessment of Clinical Performance before X. The costs of the Assessment must be paid by you.
<b>Review hearing</b>	In most cases, the PCC will wish to review the order before it expires.
	This Order will be reviewed at a hearing before it expires.
	At the review hearing the Committee will wish to see the following evidence:  X
	You must provide this evidence to the GOsC at least one month before the date of the review hearing.

## Verification template

When formulating conditions, the PCC should ask and answer the following questions.

*Please note:* the words in italics are examples.

### 1. What is/are the shortcoming(s) and/or risk(s) that need addressing?

These will likely flow from the findings that have been reached by the PCC in the relevant case.

Shortcoming	Risk
<i>Lack of necessary skills to take an adequate case history</i>	<i>Inadequate case histories being taken</i>

### 2. What does the osteopath need to do to address the shortcoming(s) and mitigate the risk(s)?

Restrictive conditions will mitigate the risk and educational conditions will address the shortcoming.

<i>Successful completion of an appropriate course or training in the taking and use of case histories.</i>	<i>Practise under supervision</i>

### 3. How does this protect the public, including patients?

Please explain how the steps proposed at point 2 will protect the public, including patients.

<i>Successful training will bring the osteopaths skills up to the standards required</i>	<i>Patients are protected by the supervision</i>

**4. How should the osteopath demonstrate that they have mitigated the risk and/or addressed the shortcoming?**

It is important the osteopath knows what evidence it will need to supply to the PCC or GOsC in order to demonstrate that they have complied with the conditions.

<i>Evidence of the successful completion of a course or training in the taking and use of case histories</i>	<i>Report from supervisor</i>

**5. How should the osteopath’s claims be independently verified?**

It is important that the osteopath’s claims are independently verified. This might be achieved by:

- Reports on conduct from a supervisor
- Clinical audit
- The passing of an Assessment of Clinical Performance (test of competence).

<b>Shortcoming</b>	<b>Risk</b>
<i>Evidence of the successful completion of a course or training in the taking and use of case histories</i>	<i>Report from the supervisor</i>

**6. How can compliance with the conditions be monitored?**

<b>Condition</b>	<b>Mechanism for monitoring?</b>