



General
Osteopathic
Council

Council
6 February 2019
Fitness to practise report

Classification	Public
Purpose	For noting
Issue	Quarterly update to Council on the work of the Regulation department and the GOsC's fitness to practise committees.
Recommendation	To note the report.
Financial and resourcing implications	Financial aspects of fitness to practise activity are considered in Annex B of the Chief Executive's Report.
Equality and diversity implications	Ongoing monitoring of equality and diversity trends will form part of the Regulation department's future quality assurance framework.
Communications implications	None
Annex	Fitness to Practise Data Set
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Fitness to practise case trends

1. The quarterly fitness to practise dataset for the relevant reporting period is attached at the Annex to this paper.
2. In this reporting period, the Regulation Department received 11 concerns and 14 formal complaints. During the same period last year, the figures were 18 concerns and 10 formal complaints.
3. Of the 11 concerns: five related to a failure to maintain professional indemnity insurance; one involved sexual impropriety; two involved issues with treatment; one related to advertising; and two related to patient confidentiality.
4. Of the 14 formal complaints: five concerned professional indemnity insurance; three related to patient confidentiality; two related to driving convictions; one concerned sexual impropriety; one concerned professional boundaries; one involved issues with treatment; and one related to record keeping.
5. One application was made to the Investigating Committee for the imposition of an Interim Suspension Order and one application was made to the Professional Conduct Committee. During the same period last year, the number of applications made were none and one respectively.
6. The Interim Suspension Order (ISO) applications made during this reporting period concerned one allegation of failing to maintain professional indemnity insurance and one of transgressing sexual and professional boundaries.
7. The IC considered that an interim suspension order was necessary for public protection and granted the application. The PCC considered that an interim suspension order was not necessary for public protection and did not grant the application.
8. During this reporting period, the Regulation Department serviced 16 Committee hearing and training events, including substantive hearings, IC meetings and ISO hearings.

Fitness to practise case load and case progression

9. As at 31 December 2018, the Regulation Department's fitness to practise case load was 51 fitness to practise cases (38 formal complaints and 13 concerns). At the 31 December 2017, the fitness to practise case load was 115 cases (42 formal and 73 concerns).
10. The performance against KPIs for this reporting period is as follows:

Case stage	Key Performance Indicator	Median figures achieved this quarter
Screening	3 weeks	2 weeks
Investigating	17 weeks	16 weeks
Professional Conduct Committee	52 weeks	34 weeks
Health Committee	52 weeks	n/a (no cases heard)

11. In this reporting period, the median figures for each case type are within KPI.
12. The Professional Conduct Committee heard 11 cases over 20 days during the relevant period. Two cases went part heard. In one case no UPC was found; four cases resulted in an admonishment, of which three were cases disposed of by consent under Rule 8 of the GOsC (Professional Conduct Committee) (Procedure) Rules 2000; two cases resulted in a suspension and two cases resulted in a removal from the register.
13. During the reporting period, the Investigating Committee considered 18 cases and referred 12 cases for a final hearing and closed four cases. The IC adjourned two cases to request additional information.

Section 32 cases

14. Under section 32 of the Osteopaths Act 1993, it is a criminal offence for anyone who is not on the GOsC's register to describe themselves (either expressly or by implication) as an osteopath.
15. The Regulation department continues to act on reports of possible breaches of section 32 and as at 31 December 2018, is currently handling 19 active section 32 cases.

Judicial Reviews and appeals of decisions made by FTP Committees

16. As previously reported to Council, on 25 September 2018, the GOsC was notified that a statutory appeal had been lodged at the Manchester High Court against a determination of the Professional Conduct Committee which related to a finding of Unacceptable Professional Conduct and the imposition of a conditions of practice order against the Registrant. The appeal has been listed for hearing for 2 days on 10 and 11 April 2019. Counsel has been instructed and we will be resisting the appeal.

17. On 3 December 2018, the GOsC received notification of a statutory appeal against the sanction imposed by a Professional Conduct Committee. The appeal, initially lodged in Cardiff High Court, has been transferred to the Royal Courts of Justice in London for administration and hearing. No date has been set for the hearing.

Determination Review Group

18. The Determination Review Group (DRG) meet on 15 November 2018. Attendees included two senior lawyers from the General Optical Council and a senior manager from the Care Quality Commission. At this meeting the DRG reviewed the determinations of four final PCC hearings, including the High Court decision of Teasdale. The cases reviewed involved the osteopath engaged in adjunctive/complementary therapies which centred around the applicability of the Osteopathic Practice Standards (OPS) to the alleged unprofessional conduct. This also involved queries as to the legitimacy of expert evidence provided by osteopaths whose expertise in terms of osteopathy may outweigh their experience within a given additional approach, such as dry-needling/ acupuncture. The DRG recommended that the GOsC should give thought to how clarity can be improved in this area, including producing guidance for the Investigating and Professional Conduct Committees and the profession.

Training and development/working with other regulators/feedback loops

19. In October and December 2018, regulation team members attended an accredited two-day training programme on interviewing witnesses with Bond Solon which required the completion of a written assessment upon completion. This module counts towards achieving the Advanced Professional Certificate in investigative practice.
20. On 11 October 2018, the Director of Fitness to Practise and Regulation Manager attended a 'Working Together' meeting hosted by the General Optical Council which was also attended by the General Chiropractic Council. At this meeting the group discussed, amongst other matters, joint chair training, the possibility and desirability of sharing legal resources, peer reviews and regulatory reform through a section 60 order.

Training for the Investigating Committee and Professional Conduct Committee

21. The Professional Conduct Committee all members training day took place on 30 November 2018. We engaged an experienced judicial trainer who sits as a fee paid judge on the First Tier Tribunals (amongst other appointments) to assist Committees in the approach to be taken to making primary findings of fact as part of their decision making in light of the Teasdale judgment reported to Council in July. The agenda included: the approach to be taken to decision making by Committees; structuring in camera discussions; the purpose of the standard case directions and an update on the new Osteopathic Practice Standards. The learning

outcomes for the day focused on two strands. The first strand concentrated on continuing to improve Committee decision making by making decisions increasingly robust through reviewing genuine Committee decisions. The second strand addressed improving effective and efficient decision making through structured in camera decision making. Both strands were well received by the Committee.

22. Joint Chair training with the General Optical Council and General Chiropractic Council has been arranged for Committee chairs. This will be hosted by the General Optical Council at their offices in February 2019. Potential training items include leadership techniques, the expectations of a chair and facilitating in camera discussions to ensure all views are taken into consideration. There will also be an opportunity for reflecting on joint learning over case decisions.

Recommendation: to note the report.