

Council
02 February 2023
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 and Registrar 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	A - Fitness to Practise Data Set
Authors	Sheleen McCormack and David Bryan

Key messages from the paper:

- In this reporting period, we received a 31% increase in the total number of new concerns (21 in Q3 compared to 16 in Q2). This aligns with pre-pandemic levels. Sixteen concerns were made formal in this reporting period – the most since Q4 2019/20.
- We exceeded our screener KPI however did not meet the IC or PCC (end-to-end) KPI's during the reporting period.
- There have been five Interim Suspension Order applications during the reporting period.
- At the time of writing, we have listed 2 of the 18 cases referred by the Investigating Committee (IC) to the Professional Conduct Committee (PCC).
- We successfully prosecuted an individual who is currently suspended from the register on an interim basis while an FtP investigation is progressed.
- On 4 October 2022, we hosted a joint live FtP webinar with the General Chiropractic Council.

Fitness to practise case trends

1. In this reporting period, the Regulation Department received 21 concerns and 16 formal complaints were opened. During the same period last year, the Regulation Department received 18 concerns and 9 formal complaints were opened.
2. Of the 21 concerns, four related to a transgression of boundaries, five related to the conduct of the registrant (which includes rudeness towards a patient, asking inappropriate questions of a patient's medical history and racial discrimination), three related to conduct not linked to treatment and nine related to inadequate treatment.
3. The sixteen formal complaints related to: conviction (2), a transgression of sexual boundaries (4), conduct (3) and seven cases alleging inadequate treatment.
4. As reported to Council at its meeting in November 2022, we have continued to encounter delays in the progress of cases in a timely manner because of on-going challenges engaging with complainants and third party investigations. This is due to a range of reasons including: patients disengaging for lengthy periods of time before re-engaging or disengaging completely in serious cases and police investigations / delays in the criminal justice system.
5. Over the relevant reporting period, there were five applications made to the Investigating Committee (IC) for the imposition of an Interim Suspension Order (ISO), in which two ISOs were imposed, two orders were not imposed, and another an undertaking was accepted by the Committee.

6. The IC met remotely on three occasions and considered eight cases, of which two were no case to answer, five were referred to the PCC and another case referred to the Health Committee.
7. There was one application made to the Professional Conduct Committee (PCC). In this case an ISO was directed by the PCC until the conclusion of the case.
8. In the reporting period the PCC sat on seven substantive hearings, six remotely and one substantive hearing was held in-person. Five of these hearings concluded and two went part heard - the reasons of which related to delays due to technical difficulties as well as a request from the panel to request the registrant's attendance, in circumstances where the registrant had indicated prior to the hearing that he did not wish to attend.

Fitness to practise case load and case progression

9. As at 31 December 2022, the Regulation Departments fitness to practise caseload was 55 cases (39 formal complaints and 15 concerns). In comparison, the Regulation Department's fitness to practise case load as of 31 December 2021, was 49 fitness to practise cases (41 formal complaints and 8 concerns).
10. Performance against the new performance targets for this reporting period, is as follows:

Case stage	Key Performance Indicator	Performance Target	Median figures achieved this quarter
Screening	Median time from receipt of concern to the screener's decision	9 weeks	8 weeks
Investigating Committee	Median time from receipt of concern to final IC decision	26 weeks	36 weeks
Professional Conduct Committee	Median time from receipt of concern to final PCC decision	52 weeks	98 weeks

11. In this reporting period the Screener KPI was exceeded by one week.
12. The IC KPI was not met. The IC were due to hold an additional meeting during the reporting period however this was cancelled at last minute due to the unavailability of the legal assessor due to personal circumstances. This cancellation has impacted

upon the output against the KPI as the IC was unable to consider the cases scheduled.

13. The end to end KPI was not met during this reporting period. This has increased due to the conclusion of two previously part heard hearings. Both of these resumed hearings encountered severe delays due to variously: last minute postponements due to sickness of panel members and the availability of registrants and panellists.

Listing cases

14. We continue to list cases in accordance with the Standard Case Directions (SCDs). At the time of writing, we have listed 2 of the 18 cases referred by the Investigating Committee (IC) to the Professional Conduct Committee (PCC).
15. As context, the breakdown of these cases are as follows: two have been scheduled for a hearing; in four cases we are actively seeking to list for hearing; three have been referred by the IC within this quarter and awaiting to be served in accordance with the SCDs; three are progressing via the rule 8 procedure and therefore will not require a hearing and in the remaining six cases involve police investigations and/or trial before we can progress further and/or list for a hearing.

Section 32 prosecution

16. GOsC successfully prosecuted Michelle Davies for unlawfully describing herself as an osteopath. Ms Davies, while suspended from the Register on an interim basis until the conclusion of her fitness to practise case, is not permitted to use the title of osteopath. The offence related to information that Ms Davies continued to provide on her website which implied that she was an osteopath.
17. Ms Davies was found guilty at Kidderminster Magistrates' Court on 3 October 2022, on one count of using the osteopathic title while suspended from the Register and was fined £800 and ordered to pay this amount at a rate of £100 per month. Ms Davies was also ordered to pay costs of £500 to the GOsC and a Victim Surcharge of £85.
18. Ms Davies has appealed the decision of the Magistrates Court. The appeal hearing, which will take place in person at Worcester Crown Court, has been set for 17 March 2023.

Working with other regulators/stakeholders

19. On 4 October 2022, we hosted a joint live FtP webinar with the Director of Fitness to Practise from the General Chiropractic Council, the GOsC Director of Fitness to Practise and Regulation Manager. This session was ably chaired by Fameeda Shafiq a solicitor at Ward Hadaway Solicitors who is currently on secondment with us until the end of March 2023. Our aim for the joint webinar was to open up discussion about fitness to practise hearings with both osteopaths and chiropractors and encourage

inter-professional collaboration and learning. We focused on what happens at a hearing, including the process and set up for remote and in-person hearings. There was an opportunity for all attendees to ask questions of the panel. Questions ranged from unintended bias by the panel, private hearings how long the FtP process takes and whether the practitioner can continue to work while an FtP investigation progresses.

Caselines training

20. We have been using Caselines, our secure online document sharing portal, since January 2021. The platform has received positive feedback since. We arranged renewed Caselines training for the Regulation Team which included a refresher on the existing features but also new features within the software that could assist the team, and essentially the smooth running of remote hearings with regard to sharing documentation remotely.

Recommendation:

To note the report.