



Council
8 February 2024
Fitness to Practise report

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| 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 |
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Key messages from the paper:

- In this reporting period, we received a similar number of concerns received in comparison to the last quarter.
- We exceeded our screener KPI however we did not meet the IC KPI. One case was considered at a PCC substantive hearing where the PCC referred the matter to the Health Committee.
- At the time of reporting, we have listed 3 of the 18 cases referred by the Investigating Committee (IC) to the Professional Conduct Committee (PCC). A breakdown of the cases awaiting hearing can be found in the quarterly dataset at Annex A.
- We have provided a table at paragraph 16 within the report which provides further insight into the age of cases at each stage of the FTP process that have been impacted by third party investigations.
- On 20 December 2023, the GOsC brought a successful prosecution against Nigel Graham for unlawfully describing himself as an osteopath whilst not registered with the GOsC. Mr Graham is due to be sentenced on 12 January 2024.
- The GOsC held the Investigating Committee (IC) annual training on 4 December 2023.

Fitness to practise case trends

1. In this reporting period, the Regulation Department received 17 concerns, with 10 formal complaints being opened. During the same period last year, the Regulation Department received 21 concerns and 16 formal complaints were opened.
2. Of the 17 concerns; nine related to a transgression of boundaries, one related to conduct not linked to treatment, three related to inadequate treatment, three related to a lack of insurance and one related to misuse of social media.
3. The 10 formal complaints related to; a transgression of sexual boundaries (3), inadequate treatment (4) and lack insurance (3).
4. As previously reported to Council, we have continued to encounter delays in the progress of some cases because of on-going challenges engaging with complainants especially in serious and complex cases, but mostly third-party investigations. During the previous quarter we recorded that 40% of our caseload was under police investigation, within the criminal courts and with one medical report for a health case.
5. This figure has decreased to 38% during the reporting period (Q3). Predominantly it is the delay in these cases, as well as difficulties with engaging complainants in

serious matters including transgression of sexual boundaries cases, that has impacted on our ability to meet certain timescales.

6. Over the relevant reporting period, there was one application to the Investigating Committee (IC) for the imposition of an Interim Suspension Order (ISO). On this occasion the ISO hearing was adjourned due to the registrant becoming extremely unwell the day before the ISO hearing was due to take place.
7. There were no applications to the Professional Conduct Committee (PCC) for the imposition of an ISO during the reporting period.
8. The IC met remotely on two occasions and on a third occasion an in-person meeting was convened. The IC considered 11 cases at these three meetings. Three cases were closed with no case to answer; one case was closed as no case to answer with advice; six cases were referred to the PCC; one case was adjourned.
9. In the reporting period the PCC sat remotely for one substantive hearing and determined to refer the case to the Health Committee for consideration.

Fitness to practise case load and case progression

10. As at 31 December 2023, the Regulation Departments fitness to practise caseload was 66 cases (53 formal complaints and 13 concerns). In comparison, the Regulation Department's fitness to practise case load as of 31 December 2022, was 55 fitness to practise cases (39 formal complaints and 15 concerns).
11. 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 | 7 weeks |
| Investigating Committee | Median time from receipt of concern to final IC decision | 26 weeks | 33 weeks |
| Professional Conduct Committee | Median time from receipt of concern to final PCC decision | N/A | N/A |

| | | | |
|------------------|--|----------|-----|
| Health Committee | Median time from receipt of concern to final HC decision | 52 weeks | N/A |
|------------------|--|----------|-----|

12. In this reporting period the Screener KPI was exceeded by two weeks.
13. The IC KPI was not met in this quarter. However, there was active progress and consideration of all cases during this reporting period. Two were difficult to progress in a timely manner due to the police initially investigating the concerns for potential criminal culpability. In a further two cases we encountered difficulties in obtaining health records from third parties. As a result, this impacted upon the median output against the KPI during the reporting period.
14. One case was considered at a PCC substantive hearing where the PCC decided to refer the matter to the Health Committee. As this case has not concluded it is not reported against the 'end-to-end' KPI over this reporting period.
15. Three out of 18 cases at the PCC stage have been listed for a substantive hearing. The breakdown of these cases can be found in the dataset in the annex to this paper.

Third Party Investigations

16. To provide Council with further insight into the impact of third-party investigations on the progress of our cases, the table below highlights the age of cases at each stage of the FTP process relating to third party investigations as at 31 December 2023.
17. Third party cases are defined as those cases that are being investigated by the police or that are being progressed within the criminal courts. However, this also encompasses information from other healthcare providers, e.g. medical practitioners who operate within the NHS, where, as a result of pressures and backlogs exacerbated by the pandemic, there are significant delays in obtaining information, documentation and medical reports.
18. We have included these types of cases within the meaning of 'third party cases / investigations', as delays in the progression of these cases have been outside of our control.

| | Cases with the police | Age of cases with the police (in weeks) | Cases with the courts | Age of cases with the courts (in weeks) | Medical reports | Age of cases effected by medical reports (in weeks) |
|---------------------------------------|-----------------------|---|-----------------------|---|-----------------|---|
| Pre-screener stage | 3 cases | 32 | 0 cases | | 0 cases | |
| | | 33 | | | | |
| | | 69 | | | | |
| Investigating Committee stage | 12 cases | 26 | 2 cases | 78 | 0 cases | |
| | | 29 | | 171 | | |
| | | 38 | | | | |
| | | 38 | | | | |
| | | 42 | | | | |
| | | 42 | | | | |
| | | 51 | | | | |
| | | 59 | | | | |
| | | 62 | | | | |
| | | 68 | | | | |
| | | 71 | | | | |
| Professional Conduct Committee | 1 case | 177 | 6 cases | 40 | 0 cases | |
| | | 68 | | 140 | | |
| | | | | 203 | | |
| | | | | 204 | | |
| | | | | 208 | | |
| Health Committee | 0 cases | | 0 cases | 222 | 1 case | 104 |
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Section 32 Prosecution

19. 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. There were 12 active Section 32 investigations as at 31 December 2023.
20. We reported to Council at its last meeting, that GOsC had commenced a second prosecution against Mr Nigel Graham. A trial took place on 20 December 2023 before a district judge sitting at Highbury Corner Magistrates Court. Mr Graham was found guilty and convicted of unlawfully describing himself as an osteopath. Mr Graham is due to be sentenced on 12 January 2024.

Investigating Committee training day

21. The GOsC held the annual Investigating Committee (IC) training day on 4 December 2023, at Osteopathy House. It was an exciting and full agenda consisting of a session on navigating case papers, a presentation on our internal processes underpinning our investigatory process with a separate session in the afternoon on proportionality, public interest and bias / conflict which involved various case studies. This training was linked to and built upon our recent consultation on changes to our Interim Orders guidance and Practice Note on Undertakings approved by Council in November 2023. The training was well received, and welcomed, by the IC.

Recommendation:

To note the report.