



**Council**  
**1 February 2017**  
**Voluntary Removal Policy**

**Classification** Public

**Purpose** For decision

**Issue** The draft policy formalises the decision making process the Registrar undertakes when an osteopath makes a request to be removed from the Register of Osteopaths and sets out how the process differs depending on whether there are current fitness to practise concerns at the point when they make an application for removal.

**Recommendation** To agree the draft Voluntary Removal Policy at Annex B.

**Financial and resourcing implications** None identified

**Equality and diversity implications** Equality considerations have been reflected in the review of the draft voluntary removal policy post consultation. Monitoring of diversity data will form part of the Regulation Department Quality Assurance Framework.

**Communications implications** The GOsC has undertaken a three month consultation on the draft voluntary removal policy as detailed within this paper. Additionally, if approved, the guidance will be published on the GOsC website.

**Annexes** A. Responses to the Consultation  
B. Draft Voluntary Removal Policy

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## Background

1. This draft policy sets out how the GOsC should address requests from osteopaths to be removed from the Register of Osteopaths (the Register), a process known as voluntary removal (VR) or resignation.
2. The Osteopaths Act 1993 (the Act) is silent as to procedure for dealing with such requests and generally, there are no barriers preventing an osteopath from applying for voluntary removal from the Register. However, where there are ongoing fitness to practise issues relating to that osteopath, the application needs to be considered by the Registrar who determines whether the osteopath's request for removal should be granted in all the circumstances of the case.

## Discussion

3. Each year, only a handful of osteopaths that fall within the latter category above ask to be removed from the Register. Formalising the criteria the Registrar takes into consideration in assessing applications will assist osteopaths in determining whether they may wish to make an application for VR, and will improve the transparency of our processes whilst aiding consistency in the decision making process.
4. Removing an osteopath from the Register can provide a more proportionate and efficient mechanism for dealing with osteopaths about whom the GOsC has fitness to practise concerns and who no longer wish to stay on the Register. For example, while providing immediate protection to patients and the public, this would also remove the stress of a hearing for witnesses and registrants alike.
5. However, developing a robust decision making framework would also ensure the wider public interest and the need to maintain public confidence in the profession is taken into account. For example, in circumstances where former osteopaths choose to practise in another discipline as manual therapists there is a clear public interest in bringing this matter to a hearing so that the fitness to practise concerns can be put on the public record and a member of the public can see that the osteopath faced a hearing.
6. The policy is aligned to the GOsC strategic objective to promote public and patient safety through proportionate, targeted and effective regulatory activity.

### *Consideration by the Policy Advisory Committee and Council*

7. At its meeting on 16 June 2016, the Policy Advisory Committee (PAC) considered the draft guidance. The PAC agreed that the guidance should be recommended to Council for consultation subject to some minor corrections and amendments.
8. Council considered the draft policy at its meeting on 12 July 2016, where further, minor amendments were suggested and subsequently made to the

draft. Council members approved this draft of the policy for consultation at this meeting in July.

### **The Consultation**

9. The GOsC undertook a three month consultation from 1 September 2016 to 30 November 2016, in accordance with our engagement strategy. In addition to being published on our website, an article relating to the consultation was featured in the October/November issue of *the osteopath* magazine and the October news e-bulletin sent to osteopaths.
10. Direct correspondence in the form of an email went to targeted stakeholders, including osteopathic educational institutions, other healthcare regulators and public/patient representatives shortly after the launch of the consultation and as a 'last chance' reminder email on 22 November 2016, a week before the deadline. The consultation also featured in social media postings on Twitter and Facebook.
11. The GOsC received six responses to the consultation questionnaire, including from the Institute of Osteopathy.
12. A summary of the consultation responses are set out in Annex A.
13. All feedback received has been reviewed and considered when making revisions to the draft guidance on drafting determinations which can be found at Annex B.

**Recommendation:** to agree the draft voluntary removal guidance at Annex B

<b>Consultation Question</b>	<b>Yes</b>	<b>No</b>	<b>Consultation response*</b>	<b>GOsC Response (where relevant)</b>
<p>Do you think the draft guidance is clear?</p> <p>If no, please set out your reasons and any suggestions for improvement.</p>	5	0	<p>It talks about retiring osteopaths and osteopaths undergoing fitness to practise investigations, but there is no mention of osteopaths who are looking for a career break, such as taking several years off to have children. In this instance I see the need to keep up to date with CPD requirements, but would hate to see this as being detrimental to the osteopath, taking into account the high cost of yearly registration fees and courses to fulfil the 'learning with others' requirements.</p>	<p>In circumstances where an osteopath wishes to be removed from the register and where there are no fitness to practise concerns, an application would be dealt with as an administrative removal. Within the policy retirement was provided as an example however, the request to be removed from the register could be for a myriad of reasons, such as a career break. The guidance has been amended to make this clearer.</p>
<p>Do you have any suggestions on how we can improve the guidance?</p>			<p>Be clearer on what health issues may be allowable reasons.</p> <p>In circumstances where a registrant applies for restoration following voluntary removal, it would be helpful to make clear whether or not it is intended that outstanding fitness to practise investigations will be reopened and resolved</p>	<p>A fitness to practise investigation into a registrant's health will only commence where there is information or evidence that the registrant's ability to practise as an osteopath is seriously impaired because of his physical or mental condition. Therefore the focus is not on particular health conditions but rather the impact of the registrant's health condition on their ability to practise as an osteopath.</p> <p>Guidance on restoration applications will be produced separately. Voluntary removal will generally not be appropriate until the investigation into a registrant's fitness to</p>

			<p>prior to the registrant being allowed back on the register.</p> <p>In relation to paragraph 16, it would be helpful to have guidance on where the balance will lie in cases where allegations involve a combination of health, misconduct and/or incompetence – at what point will health concerns cease to be paramount and determinative, where the registrar will grant the application for voluntary removal, and the inclusion of misconduct and/or incompetence allegations will tip the balance so that the Registrar may request a medical assessment?</p>	<p>practise has been completed.</p> <p>The guidance is intended to provide a framework of matters the Registrar takes into consideration in assessing applications for voluntary removal. Every application will be assessed against the factors listed in paragraphs 8 and 9 of the draft guidance. However, decisions are fact specific.</p>
<p>Do you think there are any other factors the Registrar should take into consideration as part of their decision making?</p> <p>While the guidance has been drafted to be succinct to aid clarity, does it strike the right balance in tone and content to</p>	5	1	<p>We would not disagree with the guidance as drafted.</p> <p>If someone wishes to retire for whatever reason then I think they should be allowed to do so.</p> <p>I don't believe that there should be an option to resign to effectively avoid a complaint, I believe that a complainant would want a hearing and if I were in the complainants shoes it wouldn't be enough that the registrant was not practising.</p>	<p>Where there are no fitness to practise concerns, the application for removal is generally straightforward.</p> <p>The guidance has been amended to ensure that the Registrar should give consideration to the views of the complainant (if any).</p>

ensure public protection? If no, please set out your reasons and any suggestions for improvement.				
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\*Some responses have been shortened



General  
Osteopathic  
Council

# **Draft Guidance on Voluntary Removal Applications**

### Introduction

1. A registrant is able to request removal from the Register of osteopaths (the Register) at any time. This process is referred to as voluntary removal or resignation.
2. The *Osteopaths Act 1993* (the Act) is silent as to whether an application must be in writing<sup>1</sup>. However, in practice, we require registrants to confirm their request for removal in writing.
3. In all cases where a registrant requests removal, for example: because of retirement, the Registrar is required to provide reasons for their decision.<sup>2</sup>

### Equality and Diversity Statement

4. The GOsC is committed to ensuring that processes for dealing with concerns about osteopaths are just and fair. All those involved in our processes are required to be aware of and observe equality and human rights legislation. Decision making of the Registrar should be consistent and impartial, and comply with the aims of the public sector equality duty.

#### A. Voluntary removal for administrative reasons

5. The application for removal is usually straightforward and can be effected quickly. Any request to leave the Register, for example: where the registrant wishes to change career, has to be received in writing or by completing a form entitled Leaving the Statutory Register of Osteopaths request form. This form can be accessed on the General Osteopathic Council (GOsC) website, or it can be sent to the registrant by the Registration Department. The Registration Department will then write to the registrant to confirm that they have been removed from the Register after they have checked that there are no outstanding fitness to practise concerns.

#### B. Voluntary removal where there are current fitness to practise concerns

6. A different procedure is followed where the registrant is subject to an ongoing fitness to practise investigation or proceedings. This section details the relevant factors that the Registrar will take into consideration when making a decision on requests for voluntary removal where the registrant is the subject of an ongoing fitness to practise investigation.

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<sup>1</sup> Section 6 of the *Osteopaths Act 1993*

<sup>2</sup> Rule 6 of the General Osteopathic Council (Registration) Rules 1998 states that 'where the Registrar removes an entry in the register (except where the removal is pursuant to an order under section 22(4) (d) of the Act) or refuses to renew an entry, he shall give the osteopath concerned reasons in writing for the removal or the refusal as the case may be.'



7. If the Registrar grants the registrant's request for voluntary removal, then the registrant's name will be removed from the Register. This has the effect that all outstanding fitness to practise proceedings against the registrant will cease, including any interim or substantive orders. If the request is refused, the fitness to practise matter will continue.
8. A registrant may request to be removed from the Register at any stage during their fitness to practise investigation. However, voluntary removal will generally not be appropriate until the investigation into a registrant's fitness to practise has been completed and all the evidence has been gathered. This is because the Registrar will need to consider all aspects of the fitness to practise allegation before reaching a decision.
9. The Registrar will need to be satisfied, taking account of all the relevant circumstances, that it is appropriate to grant the registrant's request for voluntary removal from the Register. In all requests for voluntary removal the Registrar will give individual consideration to the factors as listed at paragraph 9 below.
10. Relevant circumstances include the following factors:
  - the public interest, including patient safety
  - the registrant's health
  - the sincerity of the registrant's request to cease to be registered
  - any evidence that the registrant may wish to continue to practise as an osteopath in the UK or overseas
  - the likelihood that the registrant will make an application for restoration to the Register at some point in the future
  - The views of the complainant (where relevant).
11. The public interest is composed of three elements:<sup>3</sup>
  - a. the protection of patients, colleagues and the wider public from the risk of harm
  - b. maintaining public confidence in the osteopathic profession
  - c. declaring and upholding appropriate standards of conduct and competence among osteopathic professionals.

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<sup>3</sup> See Practice note: 2015/1: The duty to act in the public interest.

12. Removal from the Register is the most effective way of ensuring that patients and the wider public will be protected. The Registrar will have regard to the extent of any alleged harm caused to patients. However, the Registrar will give additional consideration to any future risk posed to patients should the registrant make an application for restoration to the Register. In doing so the Registrar may ask for additional information from the registrant. For example: whether the registrant intends to cease practising permanently or whether the registrant admits some or all of the allegations. Where there is evidence to suggest that the registrant genuinely wishes to cease to practise as an osteopath, for example where the registrant is in the latter stages of their career, then this would weigh in favour of granting voluntary removal.
13. The Registrar should also take into account there may be difficulties in reviving a fitness to practise investigation several years after the alleged events should the registrant make an application for restoration to the Register. This may be because a witness has died or their memory has faded and/or evidence has deteriorated or is otherwise no longer available.
14. Where there is evidence to suggest that the registrant is seeking voluntary removal as a mechanism to avoid a final hearing or where there is information to demonstrate that the registrant intends to reapply to the Register in the near future this would weigh against granting voluntary removal.
15. Equally, where former osteopaths choose to practise in another discipline, for example, as manual therapists, or where they are dual registered with another professional regulator, there is a clear public interest in bringing fitness to practise concerns to a hearing. This is because members of the public can then see that the osteopath faced a professional conduct or professional incompetence hearing as this will be put on public record.
16. A separate and important consideration in the Registrar's assessment is the need to maintain public confidence in the osteopathic profession and declare and uphold proper standards of conduct and competence amongst the osteopathic profession. A part of his assessment, the Registrar will endeavour to ascertain the views of the complainant before reaching a decision. Even where there may be an absence of serious and/or widespread harm to patients, regard must also be taken of the impact of the registrant's alleged behaviour on public confidence such that the allegation requires ventilation at a final hearing before a Professional Conduct Committee. Voluntary removal from the Register would prevent a hearing from being convened. This is a significant factor that will be always be given careful regard by the Registrar when reaching a decision.
17. The same does not apply where the allegations relate solely to the registrant's health. In these circumstances the Registrar will generally grant an application for voluntary removal. However, depending upon the nature of these health

concerns, or where the allegations involve a combination of health, misconduct and/or incompetence, the Registrar may request that the registrant undergo a medical assessment by a medical assessor appointed by the GOsC before reaching a decision.