



Council
1 February 2017
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 (Chief Executive's Report).
Equality and diversity implications	Ongoing monitoring of equality and diversity trends forms part of the Regulation department's future quality assurance framework.
Communications implications	None
Annex	FtP Dataset
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Fitness to practise case trends

1. The latest quarterly fitness to practise dataset is attached at the Annex to this paper.
2. As reported in the last quarterly report, the GOsC now uses the term fitness to practise 'concern' to describe any professional conduct communication containing information which may amount to an 'allegation' or 'complaint' under the Act. Previously, the GOsC used the phrase 'informal complaint' for this purpose, as distinct from a 'formal complaint' (i.e. any allegation or complaint which had been found to satisfy the threshold statutory requirements for recognition as such). This change in terminology is reflected within the fitness to practise quarterly report.
3. In this reporting period, the Regulation Department received 21 concerns and 15 formal complaints. During the same period last year, the figures were 94 'informal complaints' (concerns) and 16 formal complaints.
 - a. Of the 21 concerns: one related to health, two related to advertising (non Good Thinking Society (GTS)), three related to sexual impropriety, one conviction, five concerned conduct (indemnity and communication) and nine related to clinical concerns (record keeping, forceful treatment, inappropriate treatment and a failure to diagnose).
 - b. Of the 15 formal complaints: four related to advertising (GTS), four to treatment, two to communication, two related to consent, two related to indemnity and one to a conviction.
4. One application was made to the Investigating Committee for the imposition of an Interim Suspension Order, and two applications were made to the Professional Conduct Committee. During the same period last year, the number of applications made was two and one respectively.
5. Of the three Interim Suspension Order (ISO) applications made during this reporting period, two related to the same registrant (IC and PCC ISO) and concerned alleged inappropriate treatment. The other PCC ISO concerned alleged transgression of sexual boundaries.
6. Two of the three ISO applications were granted and the third had undertakings agreed in January 2017.
7. As reported in detail within the quarterly report to Council in November 2015, since July 2015, we have been receiving approximately 25 complaints per month relating to osteopaths advertising on their websites. However, no further advertising complaints have been received since July 2016. As at 31 December 2016, the total number of advertising complaints the Regulation Department has received is 337 and not 334 as previously reported to Council. The current

position and progression of the advertising complaints is summarised in the table below:

Total number of advertising concerns received (=A+B+C)	337
Number closed under the threshold criteria	237
Number closed other than under the threshold criteria ¹	33
Total number closed (A)	270
Number screened in for consideration by the Investigating Committee (B)	16
Number closed by the IC	4
Number referred by IC to a Professional Conduct Committee hearing	0
Number awaiting screening (C)	51

8. During this reporting period, the Regulation Department serviced 11 Committee and hearing events, including substantive, review, IC and ISO hearings before the PCC and IC.

Fitness to practise case load and case progression

9. As at 30 December 2016, the Regulation Department's fitness to practise case load was 101 fitness to practise cases (73 formal complaints and 28 concerns). At the 30 December 2015, the fitness to practise case load was 183 cases (46 formal and 137 'informal complaints' (concerns).

10. The performance against KPIs for this reporting period are as follows:

Case stage	Key Performance Indicator	Median figures achieved this quarter
Screening	3 weeks	2 weeks
Investigating Committee	17 weeks	18.5 weeks
Professional Conduct Committee	52 weeks	46 weeks
Health Committee	52 weeks	- (no cases heard)

11. In this reporting period, the median figures for the length of time taken for cases to be screened and for a PCC decision are within KPI. However, the median figure for progressing cases for an IC decision has increased to 18.5 weeks and exceeds the 17 week KPI. The IC considered a number of cases during the period that had previously been adjourned for further information in

¹ This figure includes concerns closed under the Initial Closure Procedure.

March, April and August 2016. As these cases received an IC decision in this reporting period, this has had an adverse impact on the overall IC decision median figure.

12. The Professional Conduct Committee heard six cases at five hearings during the period. Four of the cases considered were concluded. Two cases resulted in the removal of one registrant. One case was concluded with an admonishment and the other with no UPC found. The remaining two cases are scheduled for conclusion in 2017.
13. During the reporting period, the Investigating Committee considered 22 cases and concluded 15. The IC adjourned eight cases in order to obtain further information or to consider raising additional allegations. One case was part referred and part adjourned and has been included in both the concluded and adjourned figures.

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 2016, was currently handling 13 active section 32 cases.
16. The GOsC has commenced a section 32 prosecution against Mr Nigel Graham who was removed from the register on 24 May 2016 following fitness to practise proceedings. The first appearance hearing is scheduled for 24 January 2017 at Willesden Magistrates Court.

Training and development/working with others/ feedback loops

17. On 9 November 2016 we hosted, for the first time, a meeting with defence organisations. Attendees included the Institute of Osteopathy, Balens and James Hallam together with solicitor defence firms including Tuckers, Bankside Law and BSG Solicitors. This was a productive and interesting meeting.
18. The agenda for the meeting included the GOsC new listing protocol; the introduction of standards case directions; agreed statements of fact before the substantive hearing with telephone directions hearings in complex cases and other joint ways of working. The purpose of this first meeting was to identify and discuss ways where we can work together to improve the efficiency and effectiveness of the fitness to practise hearings process. The opportunity was also taken to update the attendees to the public consultation taking place in January 2017 on the Hearings Guidance for Registrants to promote the widest possible engagement and input by the profession into the guidance which should

assist in instilling greater trust and confidence and awareness in how the GOsC manages and considers fitness to practise concerns about osteopaths.

Recruitment of Legal Assessors

19. A separate paper was circulated to Council members in December 2016 to obtain approval for the appointment of four additional Legal Assessors. In brief, during August and September 2016, we undertook a targeted recruitment campaign with the intention of refreshing and expanding the pool by appointing additional Legal Assessors. The quality of applicants was extremely high with a range of experience and backgrounds which will enable us to deploy individual legal assessors to meet the GOsC's needs in a variety of circumstances. Council agreed to the appointments for an initial period of three years and four months (to make the end date coterminous with other GOsC appointments) with the potential for a further four year term of appointment.

Hearings Guidance for Registrants

20. In November 2016, Council approved two guidance booklets developed to assist osteopaths under investigation in our fitness to practise procedures. The first booklet explains the GOsC's fitness to practise procedures generally and sets out what an osteopath needs to do if a complaint is made about them. This booklet will be provided to Registrants at the point they are notified of a complaint. The second booklet contains detailed guidance about preparing for and attending a hearing. This guidance document will be provided to Registrants if their case is referred for a hearing.
21. A public consultation on these booklets commenced on 16 January 2017 and will run to 10 March 2017. Council will be provided with a summary of the consultations together with the final draft guidance booklets at its meeting in May 2017.

Recommendations: to note the report.