General Osteopathic Council

Draft Hearings and Sanctions Guidance

The General Osteopathic Council
020 7357 6655
regulation@osteopathy.org.uk
www.osteopathy.org.uk

Contents

Introduction

The General Osteopathic Council (GOsC) is the statutory regulator for the osteopathic profession in the United Kingdom.

This guidance relates to the GOsC's fitness to practise function and in particular the work of its Professional Conduct Committee (PCC) and is designed to make parties to a hearing aware of the approach that will be taken by the PCC during the hearing and when imposing a sanction. The guidance is therefore separated into two distinct parts: the procedure that is followed at a hearing and the framework within which the PCC will make decisions about sanctions.

The guidance can be used by anyone involved in, or interested in our fitness to practise hearings, including the PCC, osteopaths and their legal representatives, professional bodies and members of the public.

The guidance is not exhaustive, nor is it intended to restrict the PCC from exercising its own judgement. The PCC will judge each case on its particular merits and set sanctions accordingly.

The guidance is intended to be a 'living document' and will be amended from time to time, to take into account developments in the case law and feedback from stakeholders, including the Professional Standards Authority for Health and Social Care (PSA).

Equality and Diversity Statement

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 Committee should be consistent and impartial, and comply with the aims of the public sector equality duty.

Part One

Hearings

Professional Conduct Committee

1. The procedures adopted by the PCC are governed primarily by the Osteopaths Act (the Act) and the GOsC (Professional Conduct Committee) (Procedure) Rules 2000 (the Rules). Both the Human Rights Act 1998 and developments in case law also impact on the way the PCC operates.

2. Each hearing of the Professional Conduct Committee takes place before a panel comprising three members of the Committee. There will be at least one osteopath member and one lay member. The Chair must be a lay member. Hearings are usually held in public, unless there is a reason why some or all of it has to be held in private. This means that members of the public, including the press, are able to attend.

3. The GOsC has produced a number of Practice Notes to assist the work of the PCC and the parties to a hearing. These are available on our website at:

   http://www.osteopathy.org.uk/standards/complaints/guidance-practice-notes-and-policies/

4. The PCC[1] considers an allegation against an osteopath which falls under the following categories:

   - Unacceptable Professional Conduct
   - Professional Incompetence
   - Conviction (that has material relevance)
   - The Registrant has been included in a barred list or
   - The Registrant has been included in the children's or adult's list.

Overview of the PCC decision-making process

The decision-making process is in three stages:

Findings of fact

5. Where some or all of the facts alleged against the osteopath are in dispute, the PCC will need to first consider whether they find those facts proved. The GOsC

[1] Health allegations are considered by a Health Committee and not the Professional Conduct Committee

bears the burden of proof. The standard of proof which applies is called the 'balance of probabilities'. This means that the PCC will only find the alleged fact 'proved' if they consider that it is more likely than not that it happened.

6. The Legal Assessor may provide the PCC with legal advice and the PCC will go into private session to consider findings of fact. If the PCC does not find any of the facts proved, they will ask parties to return to the hearing room and formally announce the decision and the case will be concluded. Where the PCC finds some or all of the facts proved, they will ask parties to return to the hearing room so that the Chair can formally announce the decision and reasons and the hearing will then progress to Stage 2.

Finding on allegation

7. Once the PCC's findings of fact have been announced, the GOsC's Case Presenter and the Registrant will be invited to make submissions on unacceptable professional conduct or professional incompetence or whether a criminal conviction is material to the practice of osteopathy. This is a matter for the PCC's judgement and is not a matter of proof.

8. The Legal Assessor may provide the PCC with legal advice and the PCC will then retire in private to consider their findings. After the PCC has reached a decision, parties will be invited into the hearing room and the Chair of the PCC will announce the decision.

Finding on sanction

9. If the PCC find that the facts amount to unacceptable professional conduct or professional incompetence or that a criminal conviction is material to the practice of osteopathy, they will then hear any additional circumstances leading up to the allegations and receive evidence as to the character and previous history of the osteopath from the GOsC's Case Presenter together with any mitigation from the osteopath's representative. They will also take account of submissions made by each party on the sanction to impose.

10. The Legal Assessor will then provide the PCC with legal advice, before the PCC deliberate in private as to the appropriate sanction to impose. The PCC's assessment will depend upon the individual facts and circumstances of each case. The PCC will then announce the sanction in public.

11. If the PCC finds an allegation against an osteopath is well-founded, they must impose one of four sanctions on the osteopath:

    - admonishment
    - imposition of conditions on the osteopath's practice
    - suspension from the Register

- removal from the Register

The Osteopathic Practice Standards

12. The Osteopathic Practice Standards (OPS) contains all the standards of conduct and competence required of osteopaths. The guidance sets out the principles of good practice. It comprises both the Standard of Proficiency and the Code of Practice required by the Osteopaths Act.

13. The OPS covers the fundamental aspects of an osteopath's role required for the safe, competent and ethical practice of osteopathy. The PCC must ensure that they are familiar with this guidance when determining unacceptable professional conduct and/or professional incompetence and sanction, so they make appropriate, proportionate and fair decisions. However, a failure to follow the OPS does not automatically mean action will be taken against an osteopath.

Findings available to the PCC

Unacceptable Professional Conduct

14. Unacceptable professional conduct is described in the Act as 'conduct which falls short of the standard required of a registered osteopath'. When exercising their judgement as to whether the facts found proved amount to unacceptable professional conduct, the PCC should have regard to the judicial guidance in Spencer v General Osteopathic Council2 namely whether, to an ordinary intelligent citizen, such facts would convey an implication of moral blameworthiness and a degree of opprobrium.

15. The concept of unacceptable professional conduct has been further explored in Shaw v General Osteopathic Council.3 In the course of his judgment, Mr Justice Kerr said the court should approach the concept of unacceptable professional conduct in the same way as the court did in Spencer to the effect that the notion of moral blameworthiness is not an unnecessary gloss on the statutory language but, rather, flows directly from the meaning of the word 'conduct'. Accordingly, the failings identified by the PCC must convey a degree (albeit not a high degree) of moral opprobrium.

16. In addressing the threshold to be reached for conduct to be 'serious', Kerr J noted that although the word does not appear in the current statutory scheme relating to doctors, it formerly appeared in the legislation. While this does not lower the threshold required for misconduct, the conduct in question, to be unacceptable professional conduct, does not need to be of such gravity that an admonishment would be too lenient.

[2] [2012] EWHC 3147 (Admin)
[3] [2015] EWHC 2721 (Admin)

Professional Incompetence

17. While professional incompetence is not defined in the Act, the PCC should have regard to the OPS when deciding whether the osteopath fell below the standards of proficiency that is required for the competent and safe practise of osteopathy.

18. Professional incompetence is a potentially wide concept (and there is considerable overlap with unacceptable professional conduct) and extends to such matters as poor record keeping and poor maintenance of professional obligations. However, one isolated error would be unlikely to be serious enough to amount to professional incompetence.

19. It is unnecessary for the PCC to decide whether each individual particular found proved amounts to professional incompetence. What they should do is consider whether all the particulars found proved cumulatively amount to professional incompetence.4

20. Additionally, the following principles derived from case law in comparable professional regulatory statutory schemes may assist the PCC in determining whether the particulars found proved amount to professional incompetence:

    - it is conceptually different to unacceptable professional conduct and negligence and connotes a standard of professional performance which is unacceptably low and which (save in exceptional circumstances) has been demonstrated by reference to a fair sample of the osteopath's work

    - a single instance of negligent treatment, unless serious indeed, would be unlikely to constitute professional incompetence

    - it is not necessary or appropriate to extend the interpretation of professional incompetence in order to encompass matters which constitute unacceptable professional conduct.[5]

Criminal Offence

21. 'Convicted of a Criminal Offence in the United Kingdom (UK)' refers to a determination by a criminal court in the UK. The PCC is able to consider any conviction that is referred to it, even if the offence did not relate to the osteopath's practice.

22. The purpose of considering a conviction is not to punish the osteopath for a second time. The PCC is concerned with protecting the public interest. However, it may find that the criminal offence in question has no material relevance to the fitness of the osteopath concerned to practise osteopathy.

[4] Vranicki v Architects Registration Board [2007]
[5] Calhaem v General Medical Council [2008]

Cautions for criminal offences

23. A Caution for a criminal offence may lead to an allegation that the registrant has been guilty of Unacceptable Professional Conduct.

Referral to the Health Committee

24. If it appears to the PCC that an osteopath's ability to practise osteopathy may be seriously impaired by reason of his physical or mental condition, it may refer the case to the Health Committee for determination, whether or not the allegation has been proven or sanction applied.

25. In exercising its discretion, the PCC should take into account all the circumstances of the case, including the scope of powers available to the Health Committee; and whether or not the case may call for a sanction of removal from the register.

Public interest

26. The Health and Social Care (Safety and Quality) Act 2015 has amended the statutory functions of the GOsC to the effect that GOsC has acquired an overarching objective of protection of the public. This involves the pursuit of a number of objectives including maintaining public confidence in the profession of osteopathy and promoting and maintaining proper professional standards and conduct for members of the profession.6

27. The PCC is required to act in accordance with the public interest, which includes:

    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.

Proportionality

28. In deciding what sanction to impose, the PCC must apply the principle of proportionality, weighing the interests of the public with those of the osteopath. The PCC should consider the sanctions available starting with admonishment and choose the least severe sanction that will adequately deal with the issues in the particular case, including the pattern, nature and severity of the facts found proved.

[6] Practice note: 2015/1 The duty to act in the public interest

The public interest also requires:

a. the osteopath to receive a fair and impartial hearing and

b. in appropriate cases, to be given the opportunity to return to safe and competent practise.

Insight and Remediation

29. Both insight and remediation should be given their everyday meaning. The PCC should focus on whether there is real evidence that the osteopath has been able to look back at his or her conduct with a self critical eye and that they have acknowledged fault, expressed contrition and/or apologised. In effect, they need to demonstrate to the PCC that there is a real reason to believe they have learned a lesson from the experience.

30. However, the PCC should be mindful of cultural differences as to how an osteopath expresses insight and apology, including non verbal cues such as lack of eye contact and facial expressions.

Mitigating and Aggravating features

31. The PCC will need to consider the aggravating and mitigating features in each case, weighing them in the balance.

32. The PCC will be less able to take mitigating factors into account when the concern is about patient safety, or is of a more serious nature, than if the concern is about public confidence in the profession.

33. Aggravating factors are likely to lead the PCC to consider that more serious action is required[7].

Mitigating factors may include:

a. evidence of the circumstances leading up to the incidents in question

b. evidence of good conduct following the incident in question, particularly any remedial action which addresses the concerns about their behaviour or competence

c. evidence of the osteopath's previous good character

d. evidence of remorse shown/insight/apology given

[7] See section on circumstances where more serious action is indicated

e. Personal matters, such as work related stress or extreme circumstances which no longer exist

f. time elapsed since the incident and absence of any subsequent allegation or

g. evidence of steps taken to avoid a repetition

h. Relevant CPD and courses completed by the osteopath.

Aggravating features may include:

a. an abuse of the osteopath's professional position

b. predatory behaviour, especially where this involves vulnerable patients

c. discrimination against patients or colleagues

d. sexual misconduct

e. failure to raise concerns / lack of candour

f. dishonesty

g. previous fitness to practise findings

h. refusal to apologise or accept mistakes

i. the osteopath's attitude and behaviour at the hearing

References and testimonials

34. Often an osteopath will present references and testimonials to support their standing in the community and/or osteopathic profession. The weight to be given to such testimonials is a matter for the PCC. The absence of such references or testimonials should not count against the osteopath. When considering such references, the PCC should consider factors such as how recent they are and whether the writers were aware of the allegations against the osteopath and that their letters would be put to the PCC in mitigation.

Time spent under an interim suspension order

35. The general principle is that time spent by a registrant subject to an interim order is not analogous to time spent remanded in custody.[8] However, a PCC may take into account the time spent by a registrant suspended under an ISO as a relevant factor when considering what is the appropriate and proportionate sanction[9]. For example, if the appropriate sanction is a short period of

[8] See for example: Adul-Razzak v General Pharmaceutical Council [2016]
[9] Kamberova v Nursing and Midwifery Council [2016]

suspension, the fact there has been an interim period of suspension over the registrant's registration may be relevant factor. However, the PCC should be mindful that, in an interim order hearing, the PCC is primarily concerned with assessment of the risk posed by the osteopath. This differs from the factors the PCC has regard to when deciding on the appropriate sanction to impose following its findings on the allegation.

36. In any event, where the PCC determines that the appropriate sanction is removal, then the fact that there has been an interim suspension order in place is less relevant.

Reasons for decisions

37. The PCC is required to give reasons for its decisions at all the stages in its decision making and should make clear what issues are being determined at each stage. The determination should function as a stand alone document. Good determinations should be accessible as this is central to ensuring that justice is seen to be done, thereby maintaining confidence in the regulation of the profession of osteopathy. To improve both the quality and consistency of the Committee's decision-making the GOsC has produced guidance on drafting determinations which the PCC should have regard to when drafting the written reasons for their decision[10].

Circumstances where more serious action is indicated

Duty of candour

38. Acting with openness and honesty when things go wrong sits at the heart of osteopathic practice and health care. The joint statement on candour issued by the statutory regulators of healthcare professionals clearly sets out the importance of this issue.

39. Where something goes wrong with a patient's care which causes, or has the potential to cause harm or distress, then an osteopath must tell the patient, offer an explanation as to what happened and the effects of this together with an apology in appropriate circumstances.

40. The PCC should therefore regard a registrant's sincere explanations and apology as positive steps before, and during, a hearing as a mitigating factor. This is because it can demonstrate evidence of insight into what has gone wrong, what can be done to deal with any harm caused to the patient and what will be done to prevent matters going wrong for someone else in the future therefore contributing to safer patient care in the future.

41. The PCC should note, for the purposes of the hearing, an apology made by registrant in itself, will not be treated as an admission of guilt.

[10] Guidance for the Professional Conduct Committee on Drafting Determinations, February 2017

42. However, where it has been determined that a registrant has taken deliberate steps to avoid being candid with a patient, or with anyone involved in a patient's care, or to prevent someone else from being candid, this should be considered as an aggravating feature by the PCC because the patient's interests are not being put first.

Raising concerns

43. It is vital that there is an environment and culture within osteopathy where individuals are supported in raising concerns and take appropriate action where there are concerns about standards of care and risks to patient safety. An osteopath's duty to raise concerns are set out in Standard C4 of the revised Osteopathic Practice Standards which states 'You must take action to keep patients from harm.' All osteopaths have a responsibility to ensure that they and individuals in their practice are enabled to raise concerns openly and safely. A failure to raise concerns can cause or present a significant risk to patients.

44. A breach of this standard should be taken very seriously by the PCC and should be considered as an aggravating factor by the PCC.

Dishonesty

45. D15 of the Osteopathic Practice Standards requires osteopaths to be honest and trustworthy. A lack of honesty in a registrant's practice can adversely affect patient care.

46. Although it may not result in direct harm to patients, dishonesty related to matters outside the registrant's clinical practice can be particularly serious as this can undermine the trust the public place in the osteopathic profession.

47. Examples of dishonesty may include:

- Deliberately withholding a necessary investigation, treatment or referral
- Prolonging treatment unnecessarily for financial gain
- Knowingly practising as an osteopath without appropriate professional indemnity insurance
- Accepting referral fees
- Putting pressure on a patient to obtain other professional advice or to purchase a product
- Recommending a professional service or product solely for financial gain
- Improperly amending or changing detail on patient records
- Borrowing money from patients, or accepting any other benefit that brings financial gain in financial dealings, whether personal or professional.

48. The PCC should take all evidence into consideration in individual cases when exercising its judgement and making a decision that is appropriate and sufficient.

49. However, where dishonesty is persistent and/or covered up, this will bring the profession into disrepute and the appropriate sanction in this situation is likely to be removal from the register.

Sexual Misconduct

50. Sexual misconduct covers a wide range of conduct spanning criminal convictions, sexual misconduct with patients, colleagues and others to breaching professional boundaries through non-consensual physical examination of patients. It is an abuse of the special position of trust that a healthcare professional occupies. It seriously undermines public trust in the profession of osteopathy and can present a risk to patient safety.

51. In reaching a decision, the PCC should take account of the guidance issued by the PSA (formerly the CHRE) entitled: Clear sexual boundaries between healthcare professionals and patients: guidance for fitness to practise panels (2008), in particular, the aggravating and mitigating factors relevant to sanction.

52. D16 of the Osteopathic Practice Standards provides that the failure to establish and maintain sexual boundaries may, in particular, have a profoundly damaging effect on patients.

53. Where sexual misconduct is proven, especially in circumstances where there has been a breach of professional boundaries involving particularly vulnerable patients, including those with emotional problems, physically disabled young people and people with learning disabilities, this should be regarded as very serious by the PCC where removal from the register should be considered as the appropriate sanction.

Issuing Advice where a finding of Unacceptable Professional Conduct is not found

54. In Spencer v General Osteopathic Council Mr Justice Irwin, in concluding that a finding of UPC did not imply a lower threshold than exists for misconduct in medical and dental legislation, considered there was 'nothing to prevent the PCC from giving advice' to a registrant where allegations have been made out which constitute a breach of the *Osteopathic Practice Standards* but where neither professional incompetence nor unacceptable professional conduct is made out. Justice Irwin also observed that, had Parliament intended to give formal powers of warning or admonition to the GOsC in circumstances where a registrant had breached the Standards but had not been guilty of UPC, it 'would have been very simple to do so'.

55. Although a failure to comply with a provision of the Osteopathic Practice Standards does not in itself constitute unacceptable professional conduct, it might be proportionate for a PCC to issue advice to the registrant where it has concluded that the threshold of unacceptable professional conduct has not been reached in a particular case. It is envisaged that any advice given would address specific areas of the registrant's future conduct or performance.

56. Issuing advice in appropriate cases where the conduct alleged falls short of the threshold for unacceptable professional conduct would be consistent with the GOsC's overarching objective and would assist in maintaining confidence in the osteopathic profession whilst promoting and maintaining proper professional standards.

57. If the PCC decide advice is appropriate it must clearly set out what that advice should be with reference to the Osteopathic Practice Standards. Any advice must be relevant to the allegations found proved by the PCC.

    Note: The purpose of advice is to mitigate the risk of future breaches of the Osteopathic Practice Standards where there have may have been breaches in the past. Any advice issued will not be recorded on the Register of Osteopaths as it is not a formal sanction nor would any restrictions be placed on the osteopath's registration.

Part Two

Sanctions

58. The purpose of sanctions is not to be punitive, although they may have that effect. Rather, their purpose is to protect patients and the wider public interest, which includes the protecting of members of the public, maintaining public confidence in the profession and declaring and upholding proper standards of conduct and competence.

59. The PCC must impose a sanction when it finds unacceptable professional conduct, professional incompetence or that a criminal conviction is material to the registrant's practice of osteopathy.

60. The sanction must be proportionate and address the particular deficiencies highlighted by the case. For example, while an admonishment might address certain unacceptable professional conduct, where the osteopath has shown insight and is unlikely to repeat it, it is unlikely to address a finding of professional incompetence.

61. When determining an appropriate sanction, the PCC should consider each sanction in turn, in ascending order of seriousness, namely, admonishment, conditions of practice order, suspension, and removal from the Register.

62. The least severe sanction that deals adequately with the identified issues and concerns should be chosen.

Admonishment

63. An admonishment is the lowest sanction that can be applied and may be appropriate where the failing or conduct is at the lower end of the spectrum. An admonishment has no direct effect on an osteopath's practice and should only be taken if the osteopath is fit to continue practising without any restrictions. An admonishment is publicised and will remain on the osteopath's fitness to practise record.

64. An admonishment may be appropriate when most of the following factors are present (this list is not exhaustive):

a. There is no evidence to suggest that the osteopath poses any danger to the public.

b. The osteopath has shown insight into their failings.

c. The behaviour was an isolated incident.

d. There is no evidence to suggest that the osteopath poses any danger to the public.

e. The osteopath has shown insight into their failings.

f. The behaviour was an isolated incident.

g. The behaviour was not deliberate.

h. There has been no repetition of the behaviour since the incident.

i. The osteopath had acted under duress.

j. The osteopath has genuinely expressed remorse.

k. There is evidence that the osteopath has taken rehabilitative/corrective steps.

l. The osteopath has previous good history.

65. The decision to admonish an osteopath will take effect in 28 days, beginning with the date on which notification of the decision is served on the osteopath, unless there is an appeal against the decision.

Conditions of Practice Order

66. A conditions of Practice Order (the Order) allows the osteopath to continue practising whilst providing protection for the public and patients. This sanction will affect the osteopath's practice and may be appropriate when <u>most</u> of the following factors are apparent (this list is not exhaustive):

a. It is possible to identify discrete aspects of the osteopath's practice that are problematic.

b. Conditions are the most appropriate and proportionate way of addressing the PCC findings.

c. Any incompetence found is not to such a degree that patients will be put at risk directly or indirectly as a result of continued registration with conditions.

d. There is no evidence of harmful, deep-seated personality or attitudinal problems.

e. The osteopath has shown insight into their failings and there is evidence of a

willingness to respond positively to conditions that improve the quality of their work and promote patient safety.

f. The osteopath has shown willingness to be open and honest with patients if things go wrong.

g. The conditions will protect the public during the period they are in force.

h. It is possible to formulate appropriate and practical conditions that can be easily verified and monitored.

67. The conditions may prevent the osteopath from practising in a certain way or on a particular category of patient. The osteopath may be required to undergo additional training on specific areas of his practice and possibly be required to pass an independent and objective test of competence. When formulating conditions, the PCC should have regard to the Guidance for the Professional Conduct Committee on formulating Conditions of Practice Orders.11

68. The objectives of the conditions should be made sufficiently clear for the osteopath. The PCC should identify each of the shortcomings in turn and explain how the conditions are intended to address them. The PCC should also explain any proposals or information that would assist at a future review hearing. The conditions should be:

    a. necessary in order to protect the public

    b. relevant to the shortcomings

    c. proportionate to the shortcomings

    d. workable

    e. measurable

    f. capable of being monitored and

    g. should be addressed to the osteopath and not a third party.

69. The PCC must specify the period for which the Order is to have effect and/or specify that a test of competence must be taken by the registrant. Any set period should be the minimum that the PCC considers necessary for the protection of the public and it should not exceed three years.

[11] http://www.osteopathy.org.uk/news-and-resources/document-library/publications/conditions-of-practice-order-guidance/

70. An Order will take effect in 28 days, beginning with the date on which notification of the decision is served on the osteopath, unless there is an appeal against the decision. At any time while an Order is in force, the PCC may:

    a. extend the period for which the Order has effect

    b. revoke or vary any of the conditions

    c. require the osteopath to pass a test of competence and stipulate by when

    d. reduce the period for which the order has effect

    e. revoke the order.

Suspend the osteopath's registration

71. A Suspension Order will prevent the osteopath from practising as an osteopath for the duration of the Order. This sanction is appropriate for more serious offences and when some or all of the following factors are apparent (this list is not exhaustive):

    a. There has been a serious breach of the *Osteopathic Practice Standards* but the conduct is not fundamentally incompatible with continued registration.

    b. Removal of the osteopath from the Register would not be in the public interest, but any sanction lower than a suspension would not be sufficient to protect members of the public and maintain confidence in the profession.

    c. Suspension can be used to send a message to the registrant, the profession and the public that the serious nature of the osteopath's conduct is deplorable.

    d. There is a risk to patient safety if the osteopath's registration were not suspended.

    e. The osteopath has demonstrated the potential for remediation or retraining.

    f. The osteopath has shown insufficient insight to merit the imposition of conditions or conditions would be unworkable.

72. The PCC should specify the duration of the Order, which cannot exceed three years. The PCC must provide reasons for the length of the Suspension Order it decides to impose, including the factors that it considered in determining the

length.[12] The PCC may wish to consider the following factors when determining the length of the suspension:

a. The seriousness of the findings together with the mitigating/aggravating factors

b. Sufficient time is provided for the osteopath to develop insight and/or remediate their conduct

c. The extent to which the osteopath's behaviour put patients at risk/brought the reputation of the profession into disrepute

73. As a general principle, if the osteopath has been convicted of a serious criminal offence he should not be permitted to resume practice until he has satisfactorily completed his sentence.13

74. At any time while a Suspension Order is in force, the PCC may:

a. extend, or further extend, the period of suspension or

b. make a Conditions of Practice Order with which the osteopath must comply if they resume the practice of osteopathy after the end of their period of suspension.

75. A Suspension Order will take effect in 28 days, beginning with the date on which notification of the decision is served on the osteopath, unless there is an appeal.

76. The PCC should therefore consider whether, in order to protect members of the public, it is also necessary to impose an interim suspension order.

Removing the osteopath's name from the Register

77. A Removal is the most severe sanction that can be applied and should be used where there is no other means of protecting the public and/or maintaining confidence in the osteopathic profession. This sanction is likely to be appropriate when the behaviour is fundamentally incompatible with registration with the GOsC as an osteopath and involves <u>any</u> of the following (this list is not exhaustive):

a. A reckless or intentional disregard for the principles set out in the *Osteopathic Practice Standards* and for patient safety.

[12] The PCC should take into account the guidance for the Professional Conduct Committee on Drafting Determinations, February 2017

[13] CRHP v GDC and Fleischmann [2005]

b. A serious departure from the relevant professional standards outlined in the *Osteopathic Practice Standards* which is incompatible with continued registration.

c. The osteopath poses a risk of harm to others (patients or otherwise), either deliberately or through incompetence, particularly where there is a continuing risk to patients.

d. Serious abuse of position/trust (particularly involving vulnerable patients) or serious violation of the rights of patients.

e. Convictions or cautions for sexual offences, including involvement in any form of child pornography, or findings of sexual misconduct.

f. Offences involving violence.

g. A serious level of dishonesty (especially where persistent or covered up).

h. Persistent lack of insight into seriousness of actions or consequences.

i. A serious lack of competence and no evidence of improvement following a period of continuous suspension or conditions of practice.

j. A failure to engage in the fitness to practise process.

k. Evidence of harmful, deep seated personality or attitudinal issues / problems.

78. An order to remove an osteopath's name from the Register will take effect in 28 days, beginning with the date on which notification of the decision is served on the osteopath, unless there is an appeal.

79. The PCC should therefore consider whether, in order to protect patients and members of the public, it is also necessary to impose an interim suspension order.