



**Council**  
**29 January 2020**  
**Fitness to Practise report**

<b>Classification</b>	Public
<b>Purpose</b>	For noting
<b>Issue</b>	Quarterly update to Council on the work of the Regulation department and the GOsC's Fitness to Practise committees.
<b>Recommendation</b>	To note the report.
<b>Financial and resourcing implications</b>	Financial aspects of Fitness to Practise activity are considered in Annex B of the Acting Chief Executive and Registrar Report.
<b>Equality and diversity implications</b>	Ongoing monitoring of equality and diversity trends will form part of the Regulation department's future quality assurance framework.
<b>Communications implications</b>	None
<b>Annex</b>	A - Fitness to Practise Data Set
<b>Authors</b>	Sheleen McCormack and Hannah Smith

## **The future of fitness to practice (FtP) reporting**

1. Council approved the new KPIs/targets for all pre-Investigating Committee (IC) cases at its meeting in November 2019. As a recap, the key areas to note that necessitated these changes are as follows:
  - Since April 2018, we have been reporting to the Professional Standards Authority (PSA) from when a concern is received by the General Osteopathic Council (GOsC). This means that time commences when 'any piece of information received and recorded by the regulator that potentially raises concerns with the regulator that require examination'.
  - The step changes we have implemented in the last four years in relation to the initial stages of our FtP processes through the initial closure procedure and the threshold criteria
  - The greater volume of activity being undertaken pre-IC meeting, including obtaining expert reports, supplementary statements and medical reports. The purpose of these actions is to provide the IC with a sufficient amount of information to enable it to reach decisions. It also enables the case to be 'hearing-ready' at the point of referral which means we can serve our case sooner post referral.
  - The Standard Case Directions (previously approved by Council) provide for a six-week period post IC to list a Professional Conduct Committee (PCC) hearing.
  - The overall 52-week target (a self-imposed target) remains unchanged.

## **Fitness to practise case trends**

2. In this reporting period (1 October 2019 – 31 December 2019), the Regulation Department received 20 concerns and 13 formal complaints were opened. During the same period last year, the figures were 11 concerns received and 14 formal complaints opened.
3. Of the 20 concerns, six related to inappropriate and/or forceful treatment and two related to inappropriate communication. The others related variously to: exploiting a patient by borrowing money; touching a patient without consent; an inadequate examination; misleading clinical advice; breach of patient confidentiality; misleading advertising; an employment dispute; arrest for a criminal offence; police caution; failure to cooperate with a GOsC request for information; failure to inform insurers of a complaint; and a health concern.
4. Of the 13 formal complaints, five related to inappropriate and/or forceful treatment, two related to a failure to maintain PII, and two related to sexually motivated conduct. The remaining cases related variously to: inappropriate content on social

media; misleading advertising; a conditional discharge for a criminal offence; and a failure to cooperate with a GOsC request for information.

5. One application was made to the IC for the imposition of an Interim Suspension Order (ISO). The ISO application related to an allegation of inappropriate conduct during treatment of patients. The IC determined that the ISO was not necessary for the protection of the public and did not grant the application.
6. One application was made to the PCC for the imposition of an ISO. The ISO application related to an allegation that the registrant had instigated a sexual relationship with a patient. The PCC determined that the ISO was not necessary for the protection of the public and did not grant the application.
7. During this reporting period, the Regulation Department serviced 12 Committee hearing and training events, including substantive hearings, ISO hearings, IC meetings and PCC training.

### **Fitness to practise case load and case progression**

8. As at 31 December 2019, the Regulation Department's fitness to practise case load was 67 fitness to practise cases (37 formal complaints and 30 concerns). At the 31 December 2018, the caseload was 51 fitness to practise cases (38 formal complaints and 13 concerns).
9. Performance against the new performance targets for this reporting period, as approved by Council in November 2019, is as follows:

<b>Case stage</b>	<b>KPI</b>	<b>Performance Target</b>	<b>Median figures achieved this quarter</b>
Screening	Median time from receipt of concern to the screener's decision	9 weeks	9 weeks
Investigating Committee	Median time from receipt of concern to final IC decision	26 weeks	27 weeks
Professional Conduct Committee	Median time from receipt of concern to final PCC/HC decision	52 weeks	50 weeks
Health Committee	Median time from receipt of concern to final PCC/HC decision	52 weeks	127 weeks

10. In this reporting period, the median figures for screening is on target. The IC median figure is one week outside target. The PCC median figure is within target.
11. The Health Committee (HC) considered one case with an end-to-end timeframe of 127 weeks. This case had been on hold pending the outcome of a linked Unprofessional Professional Conduct (UPC) investigation, which concluded in Q4 of 2018-2019.
12. The PCC heard seven cases over 18 days during the relevant period. In two cases no UPC was found; the remaining five cases resulted in suspension orders.
13. The case heard by the HC concluded in one day and a suspension order was imposed.
14. During the reporting period, the IC considered nine cases and referred four cases for a final hearing, closing five cases.

### **Section 32 cases**

15. 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.
16. The Regulation department continues to act on reports of possible breaches of section 32 and as at 31 December 2019, is currently handling 22 active section 32 cases.
17. The GOsC has commenced prosecutions in relation to two individuals who failed to respond to the GOsC's 'cease and desist' letters. Both cases are scheduled for preliminary hearings in January 2020. The case of Habib Chharawala is listed to be heard on 15 January 2020 at Westminster Magistrates Court. The case of Amanda Purcell is listed on 20 January 2020 at Bolton Magistrates Court. Progress and outcomes will be reported to Council at its meeting in May 2020.

### **Working with other regulators/stakeholders**

18. We have finalised contractual arrangements with Victim Support to provide services to witnesses involved in our fitness to practise investigations. Under the terms of this agreement, Victim Support provides confidential support to witnesses at all stages of the process, including information, advice and emotional help.
19. A dedicated telephone number has been set up for GOsC witnesses, which is open 24 hours a day, 365 days a year. This service is also available to vulnerable registrants under investigation by the GOsC. The Regulation Manager will be attending Victim Support's office in Cardiff on 28 January 2020 to deliver training to the call handlers who run the GOsC support service.

## **Draft guidance on Insurance Requirements for Osteopaths Consultation**

20. We are currently undertaking a three month public consultation on the draft guidance on Insurance Requirements for Osteopaths. The consultation commenced on 16 January 2020 and will close on 9 April 2020. The outcomes of this consultation will be reported to Council in May.
21. The intended purpose of the guidance is to provide clear information for registrants and those wishing to register with the GOsC about the requirement to have adequate professional indemnity Insurance and public liability insurance in place while registered with the GOsC. It addresses the main issues that have arisen in practice at indemnity insurance cases at the PCC over the last five years. In addition, the proposed draft guidance also captures key points derived from feedback we have received from the PSA to assist the PCC in the approach they take to PII cases. These learning points were published in an article about PII in the February/March 2018 edition of the Osteopath Magazine.

## **Training for the IC and PCC**

22. The PCC all members training day took place on 18 November 2019. The training event focused on questioning and managing witnesses at hearings and included input from senior disciplinary and regulatory specialists together with a consultant with extensive experience of the complainant/victims' perspective. Committee members provided detailed feedback on a draft practice note on questioning in hearings which we have produced. We are currently reviewing this feedback to assist in the further development of the practice note.
23. As reported to Council in November 2019, one of the key findings of the independent audit of our initial stages processes, conducted in July and August 2019, related to the adequacy of reasons given in screening decisions where concerns are closed under the Initial Closure Procedure. To address this concern, we have arranged for bespoke training to be provided to all members of the IC on drafting reasons (all Screeners are members of the IC). This training has been scheduled to take place on 21 February 2020.

**Recommendation:** To note the report.