



Council
16 July 2015
Interim Suspension Order Guidance

Classification	Public
Purpose	For decision
Issue	This paper proposes updated and modified guidance which will enable the Committees to make consistent, reasoned and legally sound decisions when determining whether to impose an Interim Suspension Order (ISO).
Recommendation	To agree to consult on new draft guidance on imposing interim suspension orders at the Annex.
Financial and resourcing implications	None.
Equality and diversity implications	None identified.
Communications implications	Views from selected, experienced members of FTP users forum and the Chairs of the Fitness to Practise Committees have been sought. In line with our standard practice, a public external consultation will be undertaken.
Annex	Draft Guidance on imposing Interim Suspension Orders
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Background

1. Under sections 21 and 24 of the Osteopaths Act 1993, a fitness to practise committee of the GOsC has the power to impose an interim suspension order (ISO) on a registrant, if it considers it necessary to do so in order to protect the public.
2. As part of our key initiatives within the Regulation team, we are conducting a review of GOsC guidance documents. As the Osteopaths Act dates back some time it does not accord with the current approach to interim orders found in more modern healthcare regulatory legislation in a number of key respects, including the period of time that an ISO can be imposed by a Committee. The current 2012 version of the guidance appears to encourage the PCC and the HC to impose an order for a specified period (less than 18 months) and to suggest that it is possible for the order to be reviewed before its expiry and be potentially extended.
3. Unlike other healthcare regulatory regimes, the GOsC's statutory scheme as set out in the Osteopaths Act and the associated rules, does not provide explicit powers to the Fitness to Practise Committees to review or vary an ISO. The legislation clearly envisages that any ISO imposed by the PCC or HC would remain in place until the case was substantively disposed of at a final hearing. Consequently, the GOsC does not have the power afforded to other healthcare regulators to apply to the relevant Court to extend any ISO imposed.
4. However, at a number of recent hearings, an ISO has been extended by the PCC/HC following the current 2012 guidance. This may make the GOsC vulnerable to successful challenge by way of an appeal or judicial review.
5. The Professional Standards Authority (PSA) within its 2012-13 annual performance review of the fitness to practise functions of the GOsC recommended that a shorter time frame should be agreed between reviews of GOsC guidance.

Discussion

6. The draft guidance has been developed to be more consistent with the powers as set out in the Osteopaths Act whilst endeavouring to interpret those powers in accordance with current regulatory developments and case law.
7. The current ISO guidance was last reviewed some time ago in October 2011 and was approved in 2012. The draft guidance has therefore been substantially revised to reflect the up to date guidance and developments within recent case law in relation to interim orders in the intervening period.
8. Additionally, the opportunity has been taken to enhance the guidance generally by fully explaining the ISO referral process, the written reasons required of the Fitness to Practise Committees whilst setting out in more detail the different ISO

powers of each of the Committees (Investigating, Professional Conduct and Health).

9. The revised guidance is aligned to the GOsC strategic objective to promote public and patient safety through proportionate, targeted and effective regulatory activity. It will provide greater assistance to Committees in the task of deciding whether an ISO is appropriate in any given case and will assist other users of the guidance including legal assessors and registered osteopaths and their advisers.

Consideration by the Osteopathic Practice Committee

10. At its meeting on 18 June 2015, the Osteopathic Practice Committee (OPC) considered the draft guidance. The OPC agreed that the guidance should be recommended to Council for consultation subject to a few minor corrections and amendments.

Views from the FtP users' forum and Chairs

11. Views from the FtP users' forum and the Chairs of the Investigating Committee and Professional Conduct Committee were sought on the draft guidance to provide a quick 'snapshot' of feedback. Currently four responses have been received. A selection of comments are provided below:

"The revised guidance will no doubt be very useful for all parties involved in proceedings and I do not have any further comment to make on it."

"...a comprehensive document..."

"I like paragraph 19 and the bullets reconsidering risk, but wonder whether it should be emphasised more that the test is one of necessity and that mere desirability is not sufficient..."

"I think the note is a real improvement on previous guidance, particularly paragraph 31."

Recommendation: to agree to consult on new draft guidance on imposing interim suspension orders at the Annex.