



Council
13 July 2015
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 will form part of the Regulation department's future quality assurance framework.
Communications implications	None
Annex	Dashboard Report
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Fitness to practise case trends and Dashboard reporting

1. Following discussion at Council in October 2013, it was agreed that a dashboard format would be introduced using the indicators of efficiency, effectiveness and economy, and including comparative trends over time.
2. The dashboard report is attached at the Annex. Comparative data from the same quarter last year has been included (the figures are bracketed and highlighted in red).
3. In this reporting period, the Regulation Department received 22 informal complaints and 14 formal complaints. During the same period last year, the figures were 28 informal complaints and 15 formal complaints.
4. Of the 22 informal complaints, 9 related to concerns about treatment; 4 about advertising; 3 concerning patient modesty and dignity and/or transgressing sexual boundaries; 2 with dishonesty with the remainder concerning a business dispute; acting outside of their area of competency and practising without insurance.
5. Of the 14 formal complaints, four related to advertising, four to treatment, two to dishonesty with the remainder four concerning patient modesty and dignity and/or transgressing sexual boundaries; insurance; discrimination of a patient and health.
6. In this reporting period, three applications were made to the Investigating Committee for the imposition of an Interim Suspension Order, and one application was made to the PCC. During the same period last year, the number of applications made was three and three respectively.
7. Of the four Interim Suspension Order (ISO) applications made during this reporting period, three related to alleged transgression of sexual boundaries/failing to uphold patient dignity and modesty and one related to a registrant's health.
8. All four ISO applications were granted.

Fitness to Practise case load

9. As at 30 June 2015, the Regulation Department's fitness to practise case load was 92 fitness to practice cases (44 formal and 48 informal).

Case Progression

10. In this reporting period, the median figures for the length of time taken for cases to be screened and to be considered by the Investigating Committee and Professional and Conduct Committees are all within KPI.

11. The median figures for this reporting period are as follows:

Case stage	Key Performance Indicator	Median figures achieved this quarter
Screening	3 Weeks	1
Investigating Committee	17 Weeks	14
Professional Conduct Committee	52 Weeks	25*
Health Committee	52 Weeks	53

*The KPI for the Professional Conduct Committee stage was significantly lower than the same quarter last year (55 weeks) because two of the three cases heard were not able to be completed during the allotted hearing time and were only part heard.

12. During the reporting period, the Investigating Committee adjourned one case in order to obtain further information.
13. The Regulation team is currently in the process of mapping out the fitness to practise process from end-to-end with the intention of increasing the functionality of the Integra database so that case workers can utilise this as an electronic case management system. For example, simple actions such as high alerts for cases passed their KPI's, a prompt for individual case managers re contacting and updating complainants and registrant's in cases, together with a daily task list which would appear when case managers log into Integra each morning.
14. An electronic case management system would also enable more extensive and precise reporting to be undertaken. This would include greater monitoring of legal costs which would assist in identifying areas where costs may be able to be saved. Developments on the progress of this initiative will be reported in the next paper to Council.

Indicators of whether cases are being properly brought

15. In relation to whether cases before the PCC have been properly brought, in this reporting period, there were no successful 'half time submissions' under rule 27(2) or 27(6) of the PCC Rules¹.
16. During this reporting period, UPC was found in one out of the four cases considered by the Professional Conduct Committee. Two cases were adjourned

¹ Under rule 27(2), a registrant may submit that any facts admitted are insufficient to support a finding of UPC or Professional Incompetence. Under rule 27(6), after the close of the Council's case, a registrant may submit that any facts adduced or admitted are insufficient to support a finding of unacceptable professional conduct ("UPC").

part heard, and the remaining case was a successful Rule 19 application brought by the GOsC.²

Section 32 cases

17. 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.
18. At its meeting in November 2014, the Council approved a new Section 32 Enforcement Policy.
19. The Regulation department continues to act on reports of possible breaches of section 32, and as at 31 March 2015, was currently handling 51 active section 32 cases.

Judicial Reviews and appeals of Decisions made by FTP Committees

20. As reported in the last quarterly report to Council in May 2015, there is currently one outstanding statutory appeal against a decision of the Professional Conduct Committee. This has now been listed for a one day hearing on 28 July 2015 at the Royal Courts of Justice, London.
21. On 5 May 2015, the GOsC received an application for permission to apply for judicial review against a decision of the Health Committee to impose an interim suspension order against a Registrant in February 2015. The application, considered by Her Honour Judge Walden-Smith on 11 June 2015, was refused as being totally without merit.
22. In February 2015, an application for judicial review against an interlocutory decision made by the Professional Conduct Committee was settled by consent between the parties. The settlement for costs was agreed on 24 June 2015.

Costs considerations

23. During this reporting period, the Regulation Department serviced 14 Committee and hearing events, including substantive, review and ISO hearings before the PCC and IC as well as IC meetings.
24. As previously indicated to Council, an increasing number of interim order applications, health cases, and increased use of conditions by the Professional Conduct Committee (which require a review hearing) all contribute to the increase in fitness to practise costs.

² Under rule 19 the Council can seek a ruling from the PCC that a substantive hearing against the registrant not be held due to 'exceptional circumstances'.

25. The Regulation and Registration and Resources Departments are continuing to monitor the effect of these increases in hearing costs and related matters.

Feedback loops

26. On 3 June 2015, the Head of Regulation met with key staff of the Institute of Osteopathy (IO) to discuss wide ranging matters relating to fitness to practise issues.
27. The meeting was both productive and informative. The GOsC and the IO discussed matters arising from the last meeting in April relating to: advice from the GOsC to registrants with blood borne conditions; the implementation of the threshold criteria and the practical impact of this upon screening of cases; issues to do with advertising; arranging a webinar event relating to fitness to practise hearings including viewing the hearing room; the conditions bank for conduct cases and the development of a phone line and mentoring scheme for the profession.
28. An initial meeting has been arranged for 1 July 2015 with the charity, Witness Support, to develop a service where complainants and witnesses giving evidence on behalf of either party involved in a hearing are able to access support from the Witness Service.
29. The Regulation team has developed what is the first in a series of circulars designed specifically for GOsC fitness to practise committees. The intention behind this initiative is to keep committees up to date on developments and issues relevant to fitness to practise within the GOsC and more widely in relation to professional regulation. The first circular was issued in June 2015. It is intended that this will be issued at least quarterly or more frequently if required.

Training and development/working with other regulators/keeping abreast of good practice

30. On 13 May 2015, the Head of Regulation and the Senior Regulation Officer attended a seminar hosted by the Non-Departmental Public Body Lawyers group on the topic of Personal Data in the Disciplinary Context.
31. On 22 June 2015, the Head of Regulation attended the Law Commission, Inter-Regulator Forum hosted by the General Medical Council. At this meeting the group discussed, amongst other matters, the future prospects for the Regulation of Health and Social Care Professions Bill and the likelihood of the Bill being brought forward in the second term of parliament.
32. On 3 June 2015 the Regulation Manager attended the Cross Regulatory FtP Forum User Group. The Forum discussed the different Legal Assessor recruitment processes across regulators and the possibility of cross regulatory training for committee and panel members. Regulation Team members also

attended the FtP Law update seminar at Pennington's solicitors and the GOsC's Duty of Candour workshop.

Pilot scheme on implementing electronic case papers

33. As part of the GOsC web re-platforming project a document library was developed for Council members in the spring of 2014. From 13 July 2015, GOsC will be commencing a three month pilot extending this online facility to members of the Investigating Committee. During the pilot, members of the Investigating Committee and the Legal Assessors will have the access rights to case papers and other documents relevant to the cases they will be considering at the Investigating Committee meetings and interim suspension order hearings. During the pilot, paper copies of the bundles will continue to be made available to the Committee members on the day of the IC meeting.
34. The pilot will conclude in October 2015 when all feedback will be evaluated. It is anticipated that, following this feedback, the provision of electronic case papers and bundles will be extended to the PCC/HC. It is anticipated that this will reduce costs while improving hearing efficiency and data security.

Implementation of the guidance on Threshold Criteria for Unacceptable Professional Conduct

35. Subsequent to the Investigating Committee training day on 18 May 2015, the guidance on the Threshold Criteria for Unacceptable Professional Conduct came in effect on the same day. This necessitated a review of GOsC's existing guidance to Screeners and the Investigating Committee. Appropriate amendments have now been incorporated into these guidance documents to reflect the change in process required to the fitness to practise procedures.

Annual training for the Investigating Committee and Professional Conduct Committee

36. The annual training day for the Investigating Committee took place on 18 May 2015. The agenda included training on the Guidance of Threshold Criteria for Unacceptable Professional Conduct. The training day also included a facilitated workshop in the afternoon considering the duty of candour within fitness to practise proceedings through a series of case studies.
37. The annual training day for the Professional Conduct Committee/Health Committee has been confirmed as 27 November 2015. The provisional agenda includes an interactive session, involving role play using trained actor-facilitators. It is intended this training will focus on Committee members' listening and questioning skills of witnesses with an emphasis on recognizing and managing vulnerable witnesses.

Recommendation: to note the report.