



Council
12 July 2016
Fitness to practise report

Classification	Public
Purpose	For discussion
Issue	Quarterly update to Council on the work of the Regulation department and the GOSc's fitness to practise committees.
Recommendations	<ol style="list-style-type: none">1. To note the report.2. To consider the new fitness to practise dataset at Annex B.
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
Annexes	<ol style="list-style-type: none">A. Dashboard ReportB. Proposed fitness to practise dataset (to be tabled)
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Dashboard reporting and the future of fitness to practise 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 Annex A. Comparative data from the same quarter last year has been included (the figures are bracketed and highlighted in red).
3. In November 2015, the Professional Standards Authority (PSA) introduced a new fitness to practise dataset which it has requested each healthcare regulator to provide. Some of this information is asked for on a quarterly basis. As reported in the last fitness to practise report to Council in May 2016, the Regulation department has been in the process of developing an amended format for presenting fitness to practise data which is aligned with the PSA's key comparators. The new arrangement is designed to be more user-friendly. For example: the first page encompasses fitness to practise activities over the relevant quarter 'at a glance'. Subsequent pages of the new report feature data reflective of the PSA key comparators while highlighting any pinch-points in case progression.
4. Moving forward, it is intended that this new format will replace the dashboard format. A copy of the proposed new fitness to practise dataset (Annex B) will be tabled for consideration by Council.

Fitness to practise case trends

5. In this reporting period, the Regulation Department received 93 informal complaints and 13 formal complaints. During the same period last year, the figures were 22 informal complaints and 13 formal complaints.
 - a. Of the 93 informal complaints, 74 related to advertising, four related to concerns about treatment, four related to issues of general conduct, three concerning patient modesty and dignity and/or transgressing sexual boundaries, two with practising without insurance, two to insurance fraud, with the remaining four relating to advertising (from different sources), health, a police caution and treating outside area of competency.
 - b. Of the 13 formal complaints, six related to treatment concerns, three to general conduct matters (poor communication/ failure to obtain consent) two with failure to have in place professional indemnity insurance, with the remaining two related to advertising and health.
6. One application was made to the Investigating Committee for the imposition of an Interim Suspension Order, and one application was made to the PCC/HC.

During the same period last year, the number of applications made was three and one respectively.

7. Of the two Interim Suspension Order (ISO) applications made during this reporting period, one related to alleged transgression of sexual boundaries/failing to uphold patient dignity and modesty with the other application relating to professional incompetence.
8. One of the two ISO applications was granted.
9. 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. As at 30 June 2016, the total advertising complaints the Regulation Department has received is 312. The current position and progression of the advertising complaints is summarised in the table below:

Total number of advertising complaints received (=A+B+C)	312
Number closed under the threshold criteria	154
Number closed other than under the threshold criteria	2
Total number closed (A)	156
Number screened in for consideration by the Investigating Committee (B)	10
Number closed by the IC	3
Number referred by IC to a Professional Conduct Committee hearing	0
Number awaiting screening (C)	146

Cost considerations

10. During this reporting period, the Regulation Department serviced 17 Committee and hearing events, including substantive, review and ISO hearings before the PCC and IC. This also included a training day for new IC/PCC members as well as an IC all members' training day.

Fitness to practise case load

11. As at 30 June 2016, the Regulation Department's fitness to practise case load was 241 fitness to practise cases (53 formal, 32 informal and 156 advertising cases).

Case Progression

12. 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

Health Committee are all within KPI, with the exception of the screening of advertising cases. In these cases the complaints are risk assessed but may not be sent for immediate screening as, in most cases, the registrant is given a period of time in which respond to the complaint.

13. No cases were heard by the Health Committee during the quarter.

14. The median figures 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	10 weeks
Professional Conduct Committee	52 weeks	44 weeks
Health Committee	52 weeks	NO cases heard

15. During the reporting period, the Investigating Committee adjourned five cases in order to obtain further information.

16. During this reporting period, unacceptable professional conduct (UPC) was found in the three cases considered by the Professional Conduct Committee resulting in one registrant being admonished one registrant being removed from the register, and one being suspended for 4 months.

17. The Regulation department will be implementing a new Listings Protocol after the first of the two Investigating Committee meetings scheduled in August 2016. This protocol has been developed to enable the timely and advanced listing of cases for hearing directly following referral from the Investigating Committee.

18. It is anticipated that scoping will commence in July 2016 on revising how Committee members are empanelled which it is hoped will further modernise and improve the efficiency and effectiveness of how we empanel members for our final hearings. The views of the Fitness to Practise forum and committee members will be garnered before this project is commenced in the latter half of this year. Council will be updated on developments in this area in the next fitness to practise quarterly report.

Section 32 cases

19. 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.

20. The Regulation department continues to act on reports of possible breaches of section 32 and as at 30 June 2016, was currently handling 22 active section 32 cases.
21. The Regulation Department has sought legal advice and is currently in the process of commencing a prosecution under section 32 against a former registrant.

Training and development/working with other regulators/good practice

22. On 12 May 2016, the Chief Executive and Head of Regulation had a meeting with the PSA's new Director of Scrutiny and Quality, Mark Stobbs. This was a useful introductory meeting that covered a wide range of topics including the new PSA fitness to practise dataset, the section 29 framework and the new annual performance review model intended by the PSA to be less resource intensive from previous years and more focused on risk.
23. On 10 May 2016, the Head of Regulation and the Regulation Manager had a follow up meeting hosted at the GOsC offices with the Head of Fitness to Practise and the Fitness to Practise Investigations Lawyer from the GCC. At this meeting the discussion focused on the following: a new case management system that the GCC has only recently introduced; supporting vulnerable witnesses through the use of 'body maps' and advertising.
24. On 19 April 2016, the Head of Regulation and Regulation Officer attended a seminar hosted by the Association of Disciplinary and Regulatory Lawyers (ARDL) at Nabarro Solicitors entitled *Recent and Prospective Changes in the Regulation of Health Professionals*. This was a talk by Joanna Glynn QC, which centred on the piecemeal evolution of the regulation of health professionals and covered the GMC's power to appeal relevant decisions and other changes affecting hearings before the MPTS. It also covered the future more generally in the light of the PSA's paper *Rethinking Regulation* of August 2015 and the Ministerial Statement of 17 December 2015 regarding the creation of a new regulator for Social Workers.
25. On 14 June 2016 members of the Regulation Team attended a seminar at solicitors Blake Morgan. The seminar looked at the future of regulation and the new role and direction to be taken by the Professional Standards Authority (PSA).

Training for the Investigating Committee and Professional Conduct Committee

26. The annual training day for the Investigating Committee and its four new members took place on 17 June 2016. The agenda included a well received interactive session on equality and diversity training in the morning. This was followed by an afternoon seminar on drafting reasons and reports facilitated by

an external trainer from Pennington's Solicitors utilising fitness to practise case studies and examples.

27. The annual training day for the Professional Conduct Committee has been confirmed as 21 November 2016. At present, the draft agenda includes equality and diversity training and feedback on the external audit of PCC decisions conducted in March and April of this year.

External Audit of PCC decisions

28. As reported in the quarterly report to Council in May, an audit conducted by external legal auditors was undertaken of a sample of decisions made by the GOsC's Professional Conduct Committee during the year January – December 2015. The review criteria covered a range of aspects of the hearing process together with an assessment of the final written determinations produced by the Committee. The audit made a number of suggestions, in the main concentrating on witness management and witness questioning skills and recommended that Committees should refer to the CHRE (PSA) guidance *Clear Sexual Boundaries between healthcare professionals and patients* (2008) in cases involving sexual allegations. The majority of these issues had already been identified as part of our internal quality assurance processes and relevant training provided to the PCC at its annual training day in November 2015. Detailed feedback on all the findings of the audit will be provided to the PCC members at their annual training day in November 2016.

Recommendations:

3. to note the report.
4. to consider the new fitness to practise dataset at Annex B.