

Annual review of performance 2016/17

**General Osteopathic Council**



## About the Professional Standards Authority

The Professional Standards Authority for Health and Social Care<sup>1</sup> promotes the health, safety and wellbeing of patients, service users and the public by raising standards of regulation and voluntary registration of people working in health and care. We are an independent body, accountable to the UK Parliament.

We oversee the work of nine statutory bodies that regulate health professionals in the UK and social workers in England. We review the regulators' performance and audit and scrutinise their decisions about whether people on their registers are fit to practise.

We also set standards for organisations holding voluntary registers for people in unregulated health and care occupations and accredit those organisations that meet our standards.

To encourage improvement, we share good practice and knowledge, conduct research and introduce new ideas including our concept of right-touch regulation.<sup>2</sup> We monitor policy developments in the UK and internationally and provide advice to governments and others on matters relating to people working in health and care. We also undertake some international commissions to extend our understanding of regulation and to promote safety in the mobility of the health and care workforce.

We are committed to being independent, impartial, fair, accessible and consistent. More information about our work and the approach we take is available at [www.professionalstandards.org.uk](http://www.professionalstandards.org.uk).

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<sup>1</sup> The Professional Standards Authority for Health and Social Care was previously known as the Council for Healthcare Regulatory Excellence

<sup>2</sup> *Right-touch regulation revised (October 2015)*. Available at [www.professionalstandards.org.uk/policy-and-research/right-touch-regulation](http://www.professionalstandards.org.uk/policy-and-research/right-touch-regulation)

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## About the General Osteopathic Council

The General Osteopathic Council (the GOsC) regulates the practice of osteopathy in the United Kingdom. Its work includes:

- Setting and maintaining standards of osteopathic practice and conduct
- Maintaining a register of qualified professionals
- Assuring the quality of osteopathic education and training
- Taking action to restrict or remove from practice individual registrants who are considered not fit to practise.

As at 31 December 2016, the GOsC was responsible for a register of 5,210 osteopaths. The fee for registration is £320 for the first year, £430 for the second year and £570 for each subsequent year.



# At a glance

Annual review of performance

Regulator reviewed: **General Osteopathic Council**

## Standards of good regulation

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### Core functions

**Met**

Guidance & Standards

**4/4**

Education & Training

**4/4**

Registration

**6/6**

Fitness to Practise

**10/10**

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# 1. The annual performance review

- 1.1 We oversee the nine health and care professional regulatory organisations in the UK, including the GOsC.<sup>3</sup> More information about the range of activities we undertake as part of this oversight, as well as more information about these regulators, can be found on our website.
- 1.2 An important part of our oversight of the regulators is our annual performance review, in which we report on the delivery of their key statutory functions. These reviews are part of our legal responsibility. We review each regulator on a rolling 12-month basis and vary the scope of our review depending on how well we see the regulator is performing. We report the outcome of reviews annually to the UK Parliament and the governments in Scotland, Wales and Northern Ireland.
- 1.3 These performance reviews are our check on how well the regulators have met our *Standards of Good Regulation* (the Standards) so that they protect the public and promote confidence in health and care professionals and themselves. Our performance review is important because:
  - It tells everyone how well the regulators are doing
  - It helps the regulators improve, as we identify strengths and weaknesses and recommend possible changes.

## The Standards of Good Regulation

- 1.4 We assess the regulators' performance against the Standards. They cover the regulators' four core functions:
  - Setting and promoting guidance and standards for the profession
  - Setting standards for and quality assuring the provision of education and training
  - Maintaining a register of professionals
  - Acting where a professional's fitness to practise may be impaired.
- 1.5 The Standards describe the outcomes we expect regulators to achieve in each of the four functions. Over 12 months, we gather evidence for each regulator to help us see if they have been met.
- 1.6 We gather this evidence from the regulator, from other interested parties, and from the information that we collect about them in other work we do. Once a year, we collate all this information and analyse it to make a recommendation to our internal Panel of decision-makers (the Panel) about how we believe the regulator has performed against the Standards in the previous 12 months. We use this to decide the type of performance review we should carry out.

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<sup>3</sup> These are: the General Chiropractic Council; the General Dental Council; the General Medical Council; the General Optical Council; the General Osteopathic Council; the General Pharmaceutical Council; the Health and Care Professions Council; the Nursing and Midwifery Council; and the Pharmaceutical Society of Northern Ireland.

- 1.7 We will recommend that additional review of their performance is unnecessary if:
  - We identify no significant changes to the regulator’s practices, processes or policies during the performance review period; and
  - None of the information available to us indicates any concerns about the regulator’s performance that we wish to explore in more detail.
- 1.8 We will recommend that we ask the regulator for more information as part of a targeted review if:
  - There have been one or more significant changes to a regulator’s practices, processes or policies during the performance review period (but none of the information we have indicates any concerns or raises any queries about the regulator’s performance that we wish to explore in more detail), or
  - we consider that the information we have indicates a concern about the regulator’s performance in relation to one or more Standards.
- 1.9 This targeted review will allow us to assess the reasons for the change(s) or concern(s), and the expected or actual impact of the change(s) or concern(s) before we finalise our final view on the regulator’s performance and write our report
- 1.10 We have written a guide to our performance review process, which can be found on our website [www.professionalstandards.org.uk](http://www.professionalstandards.org.uk)

## 2. What we found – our judgement

- 2.1 During February 2017, we carried out an initial review of the GOsC's performance from 1 January 2016 to 31 December 2016. Our review included an analysis of the following:
- Council papers, including performance and committee reports and meeting minutes
  - Policy, guidance and consultation documents
  - Statistical performance dataset (see sections 2.8 to 2.11 below)
  - A check of the GOsC register
  - Information available to us through our review of final fitness to practise decisions under the Section 29 process.<sup>4</sup>
- 2.2 Following this assessment, we decided that a targeted review was required of the GOsC's performance against Standard 6 for Fitness to Practise.
- 2.3 We sought and obtained further information from the GOsC in relation to this Standard, and carried out a detailed analysis. As a result, we decided that the GOsC had met this Standard. The reasons for this are set out in the following sections of this report.

### Summary of the GOsC's performance

- 2.4 For 2016/17, we have concluded that the GOsC:
- Met all of the *Standards of Good Regulation* for Guidance and Standards
  - Met all of the *Standards of Good Regulation* for Education and Training
  - Met all of the *Standards of Good Regulation* for Registration
  - Met all of the *Standards of Good Regulation* for Fitness to Practise.
- 2.5 The GOsC has maintained its good performance since last year.<sup>5</sup>

### Key comparators

- 2.6 We have identified with all of the regulators the numerical data that they should collate, calculate and provide to us, and which items of data we think provide helpful context about each regulator's performance.
- 2.7 We expect to report on these comparators both in each regulator's performance review report and in our overarching reports on performance across the sector.

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<sup>4</sup> Each regulator we oversee has a 'fitness to practise' process for handling complaints about health and care professionals. The most serious cases are referred to formal hearings in front of fitness to practise panels. We review every final decision made by the regulators' fitness to practise panels. If we consider that a decision is insufficient to protect the public properly we can refer it to Court to be considered by a judge. Our power to do this comes from Section 29 of the [NHS Reform and Health Care Professions Act 2002 \(as amended\)](#).

<sup>5</sup> The 2015/16 GOsC performance review report is available at: [www.professionalstandards.org.uk/docs/default-source/publications/performance-reviews/performance-review-gosc-2015-16.pdf](http://www.professionalstandards.org.uk/docs/default-source/publications/performance-reviews/performance-review-gosc-2015-16.pdf)

We will compare the regulators' performance against these comparators where we consider it appropriate to do so.

2.8 Set out below is the comparator data which the GOsC has provided to us for the period 1 January 2016 to 31 December 2016.

The key comparators are:

	Comparator	Quarter 4 2015/16 <sup>6</sup>	Annual 2015/16 <sup>7</sup>	Quarter 1 2016/17 <sup>8</sup>	Quarter 2 2016/17 <sup>9</sup>	Quarter 3 2016/17 <sup>10</sup>
1	The number of registration appeals concluded, where no new information was presented, that were upheld	0	0	0	0	0
2	Median time (in working days) taken to process initial registration applications for <ul style="list-style-type: none"> <li>• UK graduates</li> <li>• EU (non-UK) graduates</li> <li>• International (non-EU) graduates</li> </ul>	2 53 56	Data not available <sup>11</sup>	2 No applicants 66	2 No applicants 100	2 49 59
3	Time from receipt of initial complaint to the final Investigating Committee/Case Examiner decision <ul style="list-style-type: none"> <li>• Median</li> <li>• Longest case</li> <li>• Shortest case</li> </ul>	16 32 8	Data not available <sup>12</sup>	15 65 7	14 34 10	18.5 67 6

<sup>6</sup> Quarter 4 refers to the period 1 January 2016 to 31 March 2016.

<sup>7</sup> Annual refers to the period 1 April 2015 to 31 March 2016.

<sup>8</sup> Quarter 1 refers to the period 1 April 2016 to 30 June 2016.

<sup>9</sup> Quarter 2 refers to the period 1 July 2016 to 30 September 2016.

<sup>10</sup> Quarter 3 refers to the period 1 October 2016 to 31 December 2016.

<sup>11</sup> <sup>12</sup> <sup>14</sup> Data was not collected in this form during 2015/16.



	Comparator	Quarter 4 2015/16	Annual 2015/16	Quarter 1 2016/17	Quarter 2 2016/17	Quarter 3 2016/17
4	Time from receipt of initial complaint to final fitness to practise hearing <ul style="list-style-type: none"> <li>• Median</li> <li>• Longest case</li> <li>• Shortest case</li> </ul>	Data not available <sup>13</sup>	47 127 25	Data not available	Data not available	Data not available
5	Time to an interim order decision from receipt of complaint	3	Data not available <sup>14</sup>	4	5	4
6	Outcomes of the Authority's appeals against final fitness to practise decisions <ul style="list-style-type: none"> <li>• Dismissed</li> <li>• Upheld and outcome substituted</li> <li>• Upheld and case remitted to regulator for re-hearing</li> <li>• Settled by consent</li> <li>• Withdrawn</li> </ul>	0 0 0 0 0	0 0 0 0 0	0 0 0 0 0	0 0 0 0 0	0 0 0 0 0
7	Number of data breaches reported to the Information Commissioner's Office	0	1	0	0	0
8	Number of successful judicial review applications	Data not available <sup>15</sup>	0	Data not available	Data not available	Data not available

<sup>13</sup> <sup>15</sup> We collect this data annually rather than quarterly.

## 3. Guidance and Standards

- 3.1 The GOsC has met all of the *Standards of Good Regulation* for Guidance and Standards during 2016/17. Examples of how it has demonstrated this are below each individual Standard.

**Standard 1: Standards of competence and conduct reflect up-to-date practice and legislation. They prioritise patient and service user safety and patient and service user centred care**

- 3.2 Last year we reported that the GOsC planned to review its *Osteopathic Practice Standards* (the OPS) during 2016/17. In February 2016, the GOsC finalised the principles for its review which included:
- A four-layer model for the implementation of the OPS including values, standards, guidance and learning resources
  - Retaining the existing four themes of the OPS<sup>16</sup>
  - A call for evidence to inform proposed revisions to the OPS in advance of a public consultation
  - A reference group to be engaged to ensure a balanced approach to the analysis of pre-consultation feedback and the development of new standards.
- 3.3 Between February and June 2016, the GOsC conducted a call for evidence from stakeholders to obtain feedback on the current OPS. The GOsC stated that feedback received indicated that it was not necessary to completely revise the OPS and that the overall content of the current standards should not change, although concluded that some standards would benefit from more supporting guidance to help enable compliance with the OPS.
- 3.4 In November 2016, the GOsC finalised the timetable for the OPS review, which had been revised following a decision to develop new supporting guidance and also to be more aligned with the introduction of its new Continuing Professional Development (CPD) scheme. Although the GOsC had planned to undertake a public consultation between January and March 2017, prior to implementing the revised OPS in Autumn 2018, it now plans to hold the public consultation between September and December 2017, with the revised OPS published during Spring 2018 and expected to come into force in Autumn 2019.
- 3.5 The GOsC has said that it will regularly report on the OPS review process in its newsletters to registrants and on its website dedicated to the review, and that it will continue to engage with the wider osteopathic community in the lead up to the implementation of the revised standards. The GOsC publishes a range of resources aimed at supporting compliance with the current standards, ensuring they reflect up-to-date expectations. This includes web-based guidance on the duty of candour and guidance on complying with advertising codes.

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<sup>16</sup> These are communication and partnership; knowledge, skills and performance; safety and quality; and professionalism.

- 3.6 We are satisfied that the GOsC is taking appropriate steps to assess and minimise any potential risks to patient safety while it revises the OPS. We will continue to monitor this piece of work.

**Standard 2: Additional guidance helps registrants apply the regulators' standards of competence and conduct to specialist or specific issues including addressing diverse needs arising from patient and service user centred care**

- 3.7 Last year, the GOsC issued joint guidance on advertising with the Advertising Standards Authority (ASA) and the Committee of Advertising Practice (CAP). The GOsC has continued to advise its registrants about the need for accurate advertising through its newsletters and has maintained a section of the registrant part of its website dedicated to information on complying with advertising rules.<sup>17</sup>
- 3.8 In November 2016, the GOsC helped publicise ASA guidance for osteopaths about marketing claims for pregnant women, children and babies.<sup>18</sup> The guidance provides guidance to osteopaths about what types of claims are and are not appropriate.

**Standard 3: In development and revision of guidance and standards, the regulator takes account of stakeholders' views and experiences, external events, developments in the four UK countries, European and international regulation and learning from other areas of the regulators' work**

- 3.9 We have seen evidence that the GOsC engages with stakeholders in developing guidance and standards. Under Standard 1 above, we have referred to the pre-public consultation call for evidence organised by the GOsC as part of the OPS review. It has also conducted desk-based research as part of this work, which involved looking at other regulators' standards of practice and trends in complaints against osteopaths.

**Standard 4: Standards and guidance are published in accessible formats. Registrants, potential registrants, employers, patients, service users and members of the public are able to find the standards and guidance published by the regulator and can find out about the action that can be taken if the standards and guidance are not followed**

- 3.10 The GOsC website provides information about its standards. The current version of the OPS is on the GOsC website, along with supporting guidance. The website also provides details about how to complain if an individual has a concern about a registrant, and what action can be taken against a registrant under the GOsC's fitness to practise procedures.

<sup>17</sup> Between July 2015 and July 2016, the GOsC received around 25 complaints per month about advertising from one organised campaign about osteopathic advertising, leading to the GOsC working with the CAP and the ASA on guidance to help registered osteopaths comply with advertising rules. See section six of this report for more information about how the GOsC has dealt with these concerns.

<sup>18</sup> Available at: [www.asa.org.uk/asset/44783612-C34B-4084-9B8A7036F01C43D7/](http://www.asa.org.uk/asset/44783612-C34B-4084-9B8A7036F01C43D7/)

- 3.11 Between May and June 2016, the GOsC surveyed registrants based in Wales to find out to what extent the registrants provided services in Welsh and whether they used the Welsh language versions of the GOsC's guidance. The results indicated low use of the Welsh versions of guidance and, as a result, the GOsC has reminded registrants through its newsletter that there is a dedicated Welsh language section of its website.
- 3.12 The accessibility section of the GOsC website allows users to change text size, colour and background. The website also states that the GOsC will accommodate requests for translations into other languages and for documents in other formats, wherever possible.

## 4. Education and Training

- 4.1 The GOsC has met all of the *Standards of Good Regulation* for Education and Training during 2016/17. Examples of how it has demonstrated this are below each individual Standard.

**Standard 1: Standards for education and training are linked to standards for registrants. They prioritise patient and service user safety and patient and service user centred care. The process for reviewing or developing standards for education and training should incorporate the views and experiences of key stakeholders, external events and the learning from the quality assurance process**

- 4.2 We reported last year that the GOsC had published *Guidance for Osteopathic Pre-Registration Education* in March 2015. This guidance aims to connect the learning outcomes from osteopathic training to the OPS and to help students meet the relevant standards when they apply for registration. The programme to highlight and implement the *Guidance for Osteopathic Pre-Registration Education* has been continuing during this performance review. Education Visitors receive training on the guidance.<sup>19</sup>
- 4.3 In March 2016, the GOsC produced revised draft guidance for students and educational institutions on fitness to practise. The guidance incorporated the outcomes of the *Francis Report* and the duty of candour. Following a public consultation between April and June 2016, the GOsC decided to publish the revised guidance in 2017.

### **Guidance about Professional Behaviours and Fitness to Practise for Osteopathic Students**

- 4.4 The guidance sets out to help students take responsibility to behave in a way that is in accordance with professional obligations and the expectations that the public have of healthcare professionals. They are reminded to consider the impact of their, and others' behaviour, on the perception of patient safety, including that of fellow students and staff, and the trust that the public places in the osteopathic profession.

<sup>19</sup> Education Visitors undertake GOsC reviews at osteopathic education providers, to ensure that their courses meet the requirements of the OPS.

- 4.5 The guidance provides specific examples about the types of activities, which might call into question a practitioner's fitness to practise, such as failing to obtain consent from a patient before treating them.

**Student Fitness to Practise: Guidance for Osteopathic Educational Institutions**

- 4.6 This guidance sets out the professional behaviour and fitness to practise expected of osteopathic students, in addition to the management of fitness to practise proceedings, during study for the award of a recognised qualification at an osteopathic educational institution. It states that fitness to practise issues might arise prior to, as well as during, the recognised qualification course, and that the standards of acceptable behaviour required of a student prior to and during their course may be different to those required of registered practitioners.

**Standard 2: The process for quality assuring education programmes is proportionate and takes account of the views of patients, service users, students and trainees. It is also focused on ensuring the education providers can develop students and trainees so that they meet the regulator's standards for registration**

- 4.7 We reported last year that the GOsC had renewed its contract with the Quality Assurance Agency for Higher Education (QAA) to support the quality assurance of its 23 recognised qualifications at 11 educational institutions. During 2016, one institution's course closed and another entered its final year. In the period under review, there were two reviews of recognised qualifications at two educational institutions, the conclusions of which are available on the GOsC's website. A further review took place at an educational institution which is seeking recognition for a qualification and to become a new provider of osteopathic education. Two reviews of existing qualifications are planned for 2017.
- 4.8 The GOsC's Policy Advisory Committee has discussed the removal of expiry dates on recognised qualifications.<sup>20</sup> They currently expire after five years and, before they expire, another recognised qualification must be approved, a process which needs to begin at least 18 months in advance of approval. The suggestion was that removing expiry dates would allow for greater flexibility in the timing of visits to educational institutions and would not mean an end to the ongoing cycle of reviews and visits. The GOsC is yet to make a final decision on this matter.

**Standard 3: Action is taken if the quality assurance process identifies concerns about education and training establishments**

- 4.9 Information about how to raise concerns about an educational institution and/or specific courses is available on the GOsC's website. We have not identified a

<sup>20</sup> The GOsC's quality assurance approach is to recognise qualifications for a period of up to five years. The expiry date is listed on the Privy Council recognised qualification approval order (which approves the decision of Council on the advice of the statutory Education Committee). An expiry date on the recognised qualification means that a renewal of that recognised qualification must be approved by the expiry date in order to ensure that students can continue to graduate with a recognised qualification and be eligible to apply for registration with the GOsC.

situation during this performance review in which the GOsC has had to take action.

**Standard 4: Information on approved programmes and the approval process is publicly available**

- 4.10 There have been no significant changes during the period under review to how the GOsC publishes information about approved programmes or the approval process. It has maintained and updated the section of its website dedicated to its training courses and quality assurance process. Decision papers about the award of recognised qualifications are available on the GOsC's website.

## 5. Registration

- 5.1 The GOsC has met all of the *Standards of Good Regulation* for Registration during 2016/17. Examples of how it has demonstrated this are below each individual Standard.

**Standard 1: Only those who meet the regulator's requirements are registered**

- 5.2 We have not seen any information which suggests that the GOsC has added anyone to its register who has not met the registration requirements.

**Standard 2: The registration process, including the management of appeals, is fair, based on the regulator's standards, efficient, transparent, secure, and continuously improving**

- 5.3 The GOsC receives applications for registration from UK graduates, European Union (EU)/European Economic Area (EEA) graduates and non-EU/EEA graduates. The table below sets out the time the GOsC has taken to process applications for registration. Whilst the median time taken to process applications from UK graduates has remained consistent at two days throughout the period of this performance review, the median time for non-EU/EEA graduates has varied from 56 days in quarter 4 of 2015/16 to 100 days in quarter 2 of 2016/17.
- 5.4 This table below compares the number of registration applications and the time taken to process them for each category of applicant. We assessed whether there was a link between an increase in UK applications and an increase in processing times for non-EU/EEA applications.

	GOSc target	15/16 Q1&2 <sup>21</sup>	15/16 Q3	15/16 Q4	16/17 Q1	16/17 Q2	16/17 Q3
UK graduates	5 working days	1	2	2	2	2	2
EU/EEA graduates	90 working days	58	30	53	No applicants	No applicants	49
Non-EU/EEA graduates	90 working days	79	63	56	66	100	59

- 5.5 The GOSc has told us that international applications are managed separately from UK applications and that the processing times for non-UK graduates are not linked to UK application activity. It has also provided a breakdown of non-EU/EEA registration applications for quarters 3 and 4 of 2015/16, and quarters 1, 2 and 3 of 2016/17. This detailed the stages of the registration process from receipt of the application to the decision for each application, and identified where the increase in processing times had occurred.<sup>22</sup>
- 5.6 We are satisfied from the information provided to us that there is no link between processing times for non-EU/EEA graduates and UK application activity. Rather, delays that affected a small number of applications were a result of specific and unavoidable circumstances.
- 5.7 We also recognise that within a small caseload, processing times will fluctuate, as a delay in a single case can have an adverse impact on median processing times. The information received from the GOSc did not raise any general concerns with the registration processes in place and therefore this Standard continues to be met.

**Standard 3: Through the regulator’s registers, everyone can easily access information about registrants, except in relation to their health, including whether there are restrictions of their practice**

- 5.8 As part of our performance review, we conducted a check of a sample of the entries on the GOSc’s register and did not identify any errors or inaccuracies. Information on the GOSc’s register remains accessible.

**Standard 4: Employers are aware of the importance of checking a health professional’s registration. Patients, service users and members of the public can find and check a health professional’s registration**

- 5.9 The registration search function is visible on the front page of the GOSc website and accessible through online searches.

<sup>21</sup> Figures not broken down into separate quarters.

<sup>22</sup> The registration process for non-EU/EEA applicants consists of four stages: (1) assessment of non-UK qualification; (2) further evidence of practice questionnaire; (3) assessment of clinical performance; and (4) completion of registration application forms.

**Standard 5: Risk of harm to the public and of damage to public confidence in the profession related to non-registrants using a protected title or undertaking a protected act is managed in a proportionate and risk-based manner**

- 5.10 The GOsC website provides information about protection of title.<sup>23</sup> This includes information about how to raise a concern and the process the GOsC follows when it receives information about unregistered practice. It explains that the GOsC can send a ‘cease and desist’ letter to individuals who practise as osteopaths when they are not on the register and can prosecute if the letter is not successful.<sup>24</sup>
- 5.11 In the period under review, the GOsC has:

- Received 74 protection of title concerns
- Sent 70 cease and desist letters
- Resolved 35 cases
- Prosecuted three cases.

	2015/16 Q4	2016/17 Q1	2016/17 Q2	2016/17 Q3
<b>Concerns received</b>	25	16	22	11
<b>Cease and desist letters sent</b>	40	8	18	4
<b>Resolved</b>	13	5	10	7
<b>Prosecutions</b>	1	0	1	1

- 5.12 The GOsC has told us that the reason its closure figures were high for quarter 4 of 2015/16 (during which 40 cease and desist letters were sent and 13 cases resolved) was because additional resources were set aside for working on protection of title cases from October 2015. As such, many of the closures from the quarter in question were in relation to older rather than current cases. The GOsC said that the relevant team now had an officer dedicated to progressing protection of title cases.

**Standard 6: Through the regulator’s continuing professional development / revalidation systems, registrants maintain the standards required to stay fit to practise**

- 5.13 We previously reported that the GOsC was developing a new CPD scheme. The current scheme requires registrants to complete a minimum of 30 hours of CPD activities within a 12-month period, split into two categories: ‘learning with others’ – any relevant learning activity that involves interaction with osteopaths, healthcare practitioners or other professionals; and ‘learning by oneself’ – any relevant learning activity that does not involve other people.

<sup>23</sup> A title or job description, legally restricted to use by persons who have completed a specific training course and/or are members of a particular association.

<sup>24</sup> A ‘cease and desist’ letter is a legally enforceable order directing someone to stop engaging in a particular activity, such as working as an osteopath when not registered to do so.



- 5.14 A minimum of 15 hours of the CPD must fall within the category 'learning with others'. There is no minimum requirement for 'learning by oneself', which means that registrants can choose to complete the full 30 hours with activities that fall within the category 'learning with others'. The responsibility to choose CPD activities rests with the registrant, with the onus on the registrant to choose activities that enhance or develop their professional knowledge and skills.
- 5.15 The proposed CPD scheme requires osteopaths to undertake 30 hours of CPD per year, including 15 hours of learning with others. A complete scheme cycle will take three years, making a total of 90 hours of CPD, which must include a minimum of 45 hours learning with others. CPD will remain primarily self-directed, but must include the following:
- CPD in each of the themes of the OPS
  - A CPD activity in communication and consent
  - An objective activity, for example case-based discussion, peer observation and feedback, patient feedback or clinical audit
  - At the end of the three-year CPD cycle, a Peer Discussion Review with a colleague to discuss CPD and practice, demonstrating engagement with the CPD scheme.
- 5.16 The GOsC carried out a public consultation on its draft proposals, the results of which were in favour of the proposed scheme. In February 2016, the GOsC said that the scheme would be implemented in line with the model proposed in the consultation and that there would be a two-wave approach to its implementation during 2016/17.
- 5.17 The first wave, in November 2016, consisted of those osteopaths who chose to be 'early adopters' before the scheme is introduced for all registrants during 2017 and 2018. Throughout 2016, the GOsC provided updates on the new CPD scheme's progress. It has met with educational institutions to develop resources and case studies to complement the scheme and the National Health Service (NHS) to discuss how the scheme fits with the NHS appraisal system. It has also liaised with osteopathic representative organisations to discuss issues such as the peer review component of the scheme, and ways in which osteopaths could identify peer reviewers at an early stage in the CPD cycle so that collaborative peer support is available at the earliest opportunity.
- 5.18 The GOsC has created a CPD Partnership Group, comprising patients, osteopaths and osteopathic groups, to oversee the scheme's implementation. The GOsC is planning to evaluate the effectiveness of the scheme by seeking feedback from the early adopters, which would help inform the mandatory introduction of the scheme in 2018.

## 6. Fitness to Practise

- 6.1 As we set out in Section 2, we identified concerns about the GOsC's performance against Standard 6, and carried out a targeted review. The reasons for this, and what we found as a result, are set out under the relevant

Standard below. Following the review, we concluded that the GOsC has met all of the *Standards of Good Regulation* for Fitness to Practise during 2016/17.

**Standard 1: Anybody can raise a concern, including the regulator, about the fitness to practise of a registrant**

- 6.2 The GOsC website gives instructions on how to raise concerns and describes the process that then follows. A complaint form is available and complainants can discuss their concerns by telephone. An enquiry form also enables members of the public to contact the GOsC if they have a concern or enquiry about an osteopath or treatment but are unsure if they want to make a complaint. The website provides details on how to contact the GOsC.
- 6.3 Last year we noted that the GOsC had published guidance on the new *Threshold Criteria for Unacceptable Professional Conduct* (the criteria) in February 2015, the purpose of which was to provide advice to complainants, registrants and internal fitness to practise decision-makers (screeners and Investigating Committee members) about the types of issues which the GOsC might or might not investigate.<sup>25</sup>
- 6.4 The GOsC told us in 2014 that the reason for the introduction of the criteria was a concern that some complainants might be seeking to use the GOsC's fitness to practise procedures as a means of determining employment or contractual issues, or issues of civil liability.
- 6.5 In May 2016, the GOsC said that an internal audit of formal cases (complaints) spanning 1 May to 31 December 2015 had reviewed, among other items, the impact of the introduction of the criteria. No detailed commentary on the impact of the criteria is publicly available. However, the audit recommended that a comprehensive evaluation of the fitness to practise process should be undertaken to look at how the GOsC manages formal (complaints) and informal cases (concerns where insufficient information is available to amount to an allegation) and that it should involve an appraisal of existing published key performance indicators and internal timescales.
- 6.6 We are aware that the high number of complaints about advertising that the GOsC has received since April 2015 (337 by December 2016) distorts its fitness to practise data in this area. The GOsC has told us that the number of advertising cases has decreased in 2016/17. While 231 cases were received in 2015/16, 106 cases were received in the first three quarters of 2016/17.
- 6.7 Whilst on the information available we are not able to properly assess the impact of the criteria, we can see that the number of cases referred to the Investigating Committee by screeners before its introduction (51 cases in 2014/15), remains broadly the same as after its introduction (49 cases in

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<sup>25</sup> When the GOsC receives a completed complaints form, an independent osteopath with no links to the case (known as a 'screener') will look at the complaint to make sure it is something the GOsC can deal with. If it is, the complaint goes to the Investigating Committee. This Committee comprises osteopaths and lay members (non-osteopaths without professional or specialised knowledge), and is chaired by a lay person. The Committee will decide whether the information collected supports the complaint and whether the allegations could amount to any of the following: unacceptable professional conduct; professional incompetence; a criminal conviction in the UK that is relevant to the work of the osteopath; a medical condition that seriously affects the osteopath's ability to practise.

2015/16 and 56 cases during the first three quarters of 2016/17). This suggests that the criteria have not deterred concerns being raised with the GOsC. We will continue to monitor the GOsC's activity in this area.

**Standard 2: Information about fitness to practise concerns is shared by the regulator with employers/local arbitrators, system and other professional regulators within the relevant legal frameworks**

- 6.8 The GOsC has amended its *Policy on Notification of Fitness to Practise Investigations and Outcomes* due to the introduction of the Internal Market Information (IMI) system from January 2016.<sup>26</sup> When an osteopath's practice has been restricted or removed, temporarily or otherwise, in circumstances where a registrant represents a risk to patients or the professions, the GOsC will alert all other Competent Authorities in European Union member states.<sup>27</sup> This information would include the registrant's identity and the scope of the restriction or prohibition. The GOsC tells the registrant about the alert, along with their right to appeal. Other than this, the GOsC has not significantly changed the way in which it shares information with employers, system and other regulators.
- 6.9 In November 2016, the GOsC announced that it had agreed a new Memorandum of Understanding with The Australasian Osteopathic Accreditation Council, the Osteopathic Board of Australia and the Osteopathic Council of New Zealand, which includes provisions in relation to the sharing of fitness to practise concerns.

**Standard 3: Where necessary, the regulator will determine if there is a case to answer and if so, whether the registrant's fitness to practise is impaired or, where appropriate, direct the person to another relevant organisation**

- 6.10 As noted under Standard 1, the GOsC introduced new threshold criteria in May 2015. The GOsC has indicated that the criteria have enabled it to deal with cases in a proportionate and appropriate manner that would otherwise have been referred to the Investigating Committee. As we said under Standard 1, the introduction of the criteria has not so far resulted in a significant change to the proportion of cases referred to the Investigating Committee but we recognise that, at this stage, it is too early to identify trends. We have not identified any concerns with the GOsC's performance against this Standard in 2016/17 and we will continue to monitor the criteria's impact.

**Standard 4: All fitness to practise complaints are reviewed on receipt and serious cases are prioritised and where appropriate referred to an interim orders panel**

- 6.11 We ask the regulators to provide us with (1) the median time from receipt of a complaint to the interim order decision and (2) the median time from receipt of

<sup>26</sup>IMI is an IT-based information network that links up national, regional and local authorities across borders. It enables them to communicate quickly and easily with their counterparts abroad.

<sup>27</sup>A competent authority is any person or organisation that has the legally delegated or invested authority, capacity, or power to perform a designated function.

information indicating the need for an interim order and the decision. The former is an indicator of how well the regulator's initial risk assessment process is working – whether it is risk-assessing cases promptly on receipt, identifying potential risks and prioritising higher risk cases so that it can quickly obtain further information. The latter indicates whether the regulator is acting as quickly as possible once it identifies the need for an interim order application.

- 6.12 The time taken from receipt of complaint to interim order decision has remained constant at around four weeks during the period under review. The GOsC told us in May 2016 that the median time from a decision that there is information indicating the need for an interim order to a decision being made had reduced from 10 weeks in quarter 3 of 2015/16 to three weeks in quarter 4 of 2015/16. In quarter 3 of 2015/16, there were only two cases, one of which was subject to delay before the obtainment of an interim order, and the GOsC suggested that this delay did not indicate a decline in performance. The figures for the first three quarters of 2016/17 reflect this, with the GOsC's performance remaining constant at round four weeks.

#### **Standard 5: The fitness to practise process is transparent, fair, and proportionate and focused on public protection**

- 6.13 We noted last year that the GOsC were planning to publish *Guidance on Drafting Determinations*, primarily for its Professional Conduct Committee (but it also could be of use for the Health Committee).<sup>28</sup> Following a three-month public consultation, the GOsC agreed in February 2016 to its publication. The GOsC said the aim of the guidance was to improve both the quality and consistency of the Committees' decision-making. The guidance is intended to be a 'living document' and will be amended from time to time, to consider developments in the case law, and any feedback and learning points provided by the Authority.
- 6.14 The guidance states that:
- The determination should be accessible and understood as a stand-alone document
  - The Professional Conduct Committee should consistently structure its determinations and in writing its determination the Committee should be careful to distinguish between facts and assumptions
  - While the production of the initial draft determination lay with the legal assessor, responsibility for producing the Committee's final determination ultimately sat with the Chair of the Committee hearing the case
  - However, all members of the Committee hearing a case hold a collective responsibility for the decisions made by the Committee and the reasons for those decisions
  - The determination should set out clearly any mitigating or aggravating factors identified by the Committee and must refer to the *Indicative*

<sup>28</sup> The Health Committee considers cases where an osteopath is alleged to be in poor physical or mental health. It consists of up to 18 members, osteopaths and lay persons.

*Sanctions Guidance* (see below) produced by the GOsC. Both documents are available on the GOsC website.

- 6.15 The GOsC is currently reviewing its *Indicative Sanctions Guidance*, to take account of changes in healthcare regulation, principally around the duty of candour. The GOsC intends to include detailed expectations of registrants on the seriousness of failures in this area and would encompass failures by osteopaths to raise concerns about both themselves and others. The GOsC also proposed that the updated guidance would give further advice in the areas of dishonesty, sexual misconduct and the impact of a registrant’s conduct (for example, insight and remediation) on sanction.
- 6.16 The GOsC said that as part of its pre-engagement plan, it would be working with key external stakeholders such as defence organisations and patient groups on the usability/accessibility of the draft guidance. The GOsC plan to publish the updated guidance in late 2017.

**Standard 6: Fitness to practise cases are dealt with as quickly as possible taking into account the complexity and type of case and the conduct of both sides. Delays do not result in harm or potential harm to patients and service users. Where necessary the regulator protects the public by means of interim orders**

- 6.17 We carried out a targeted review of this Standard this year. Although the GOsC met this Standard last year, we said then that we had identified an increase in the median time taken by the GOsC in progressing cases from receipt of initial complaint to the final Investigating Committee decision – up from 11 weeks in 2014/15 to 16 weeks in 2015/16. We noted, however, that this figure was within the GOsC’s target time of 17 weeks and, when looked at in the context of its performance in this particular area over the last five performance reviews, it was indicative of a fluctuation rather than a decline in performance.
- 6.18 The table below shows that the median time has increased from receipt of initial complaint to final Investigating Committee decision to 18 and a half weeks (one and a half weeks outside the GOsC’s key performance indicator) during quarter 3 of 2016/17.

	2014/15	2015/16	2016/17 Q1	2016/17 Q2	2016/17 Q3
Median time from receipt of complaint to final fitness to practise decision	51 weeks	47 weeks	44 weeks	29 weeks	46 weeks
Median time from final Investigating committee decision to final fitness to practise decision	35 weeks	31 weeks	No quarterly figures available	No quarterly figures available	No quarterly figures available
Median time from receipt of initial complaint to final Investigating committee	11 weeks	16 weeks	15 weeks	14 weeks	18.5 weeks

decision					
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6.19 We also noted that there had been a substantial increase during the period of this performance review in the number of open cases older than 52 weeks. The table below indicates an increase in the number of open cases older than 52 weeks, from three in quarter 4 of 2015/16 to 19 at the end of quarter 3 of 2016/17.

Number of open cases (at the end of the quarter) which are older than:	Q3 15/16	Q4 15/16	Q1 16/17	Q2 16/17	Q3 16/17
<b>52 weeks</b>	6	3	9	17	19
<b>104 weeks</b>	1	3	1	3	3
<b>156 weeks</b>	0	0	1	1	1

6.20 During the targeted review, the GOsC told us that over the past 18 months, an organised campaign resulted in it receiving high numbers of cases about advertising. Since June 2015, the GOsC had received 337 cases of this nature, which is nearly three times more than the total number of other cases received in the same period. The GOsC said that whilst screeners had closed most of these cases at an early stage, all of them had to be risk assessed and processed in accordance with the GOsC's statutory duties which created additional work for its fitness to practise staff and adversely impacted on its ability to process non-advertising cases in a timely manner.

6.21 At the start of this campaign, the GOsC said it was not clear how long it would last and what the scale of the challenge would be. As this became clearer, it deployed additional staffing resources in order to manage both the advertising cases and the overall fitness to practise caseload. The GOsC said, however, that it was progressively closing the older cases.

6.22 Of the 19 open cases aged 52 weeks or over at the end of quarter 3 2016/17, the GOsC told us that:

- Eight cases had now concluded
- Two cases were due to conclude before the end of quarter 4 of 2016/17
- Five cases are listed for quarter 1 of 2017/18
- Two cases remain to be listed
- Two cases await consideration by the Investigating Committee.

6.23 With regard to those two cases that remain to be listed and the two cases that have yet to be considered by the Investigating Committee, the GOsC has told us external factors beyond its control have caused the delay in progressing these cases.

6.24 The GOsC told us that it reviews all cases regularly and actively monitors risk. A preliminary risk assessment takes place at the case triage stage, with a further risk assessment at the point of allocation to a case officer. Case officers complete regular risk assessments throughout the lifecycle of the case, and a manager reviews all cases on a fortnightly basis to ensure that they are progressing appropriately. The GOsC said it had introduced a new Listings Protocol in August 2016 that has helped to improve the timeliness of referrals

from the Investigating Committee to the Professional Conduct Committee. In summary, following the referral of a case, the case officer will send a listings questionnaire to the registrant asking a series of questions relevant to listing, including admissions, likely length of the case and hearing dates to avoid. Witnesses are also contacted at this point.

- 6.25 The GOsC is in the process of developing an escalation policy for case officers to follow should they fail to obtain requested information from parties within set timeframes. The policy will direct officers to send requests and chasers in accordance with internal procedures. If they do not receive information by the deadline, officers should escalate the matter to the Regulation Manager to attempt to obtain the requested information.
- 6.26 The information provided by the GOsC as part of the targeted review has assured us that it is taking steps to improve its performance under this Standard, and therefore we consider that this Standard is met. The GOsC is currently running or initiating a number of measures which it expects to result in improved timeliness in fitness to practise. It also has several longer-term plans which it expects to reduce timescales, including the implementation of an electronic case management system.
- 6.27 In order to continue to meet this Standard in the next performance review, the GOsC will need to ensure that the measures it has taken, and will be taking, result in sustainable improvements to its timeliness.

**Standard 7: All parties to a fitness to practise case are kept updated on the progress of their case and supported to participate effectively in the process**

- 6.28 Last year, we noted that the GOsC had produced Witness Guidance (in print and video format). It developed a witness feedback form which it piloted with all witnesses at the conclusion of hearings for a three-month period up to and including hearings which commenced in December 2016. The GOsC said that a review of the feedback, (not arranged at the time of writing this report), would assist in providing an objective measure of the effectiveness of the witness guidance.
- 6.29 In November 2016, the GOsC discussed its *Complaints and Hearings Guidance for Registrants*. It noted that there was currently no guidance about the GOsC fitness to practise procedures specifically designed for osteopaths. As a result, the GOsC drafted two separate booklets, which it plans to provide to registrants at the appropriate stage of an investigation.
- 6.30 The GOsC proposes that the first booklet will explain the GOsC's fitness to practise procedures generally and set out what an osteopath needs to do if a complaint is made about them. Registrants will receive this guidance when notified about a complaint. The second booklet will contain detailed guidance about preparing for and attending a hearing. This guidance document will be provided to registrants if their case is referred for a hearing. Initial advice has been sought from the Institute of Osteopathy. The wider involvement of individual osteopaths, who have been involved in the fitness to practise process, will be sought before a public consultation is undertaken on both draft guidance documents in 2017.

**Standard 8: All fitness to practise decisions made at the initial and final stages of the process are well reasoned, consistent, protect the public and maintain confidence in the profession**

- 6.31 The Authority sees all final fitness to practise decisions and is able to refer to court cases which we consider insufficient to protect the public. In the period under review, we did not refer to court any decisions made by the GOsC.
- 6.32 The GOsC instructed external solicitors to conduct an audit of a sample of decisions made by the Professional Conduct Committee between January and December 2015. The audit criteria covered a range of aspects of the hearing process together with an assessment of the final written determinations produced by the Committee. The GOsC reported that the audit made a number of suggestions, in the main concentrating on witness management and witness questioning skills and recommended that its committees should refer to the Council for Healthcare Regulatory Excellence (the Authority's previous name) guidance *Clear sexual boundaries between healthcare professionals and patients* (2008) in cases involving sexual allegations.<sup>29</sup>
- 6.33 In July 2016, the GOsC approved the *Initial Closure Procedure*, which provides guidance on decisions made at the initial stages of the fitness to practise process. In particular, this has revised the terminology for its processes.
- 6.34 The purpose of the *Initial Closure Procedure* was said to improve transparency in the GOsC's investigative process while clarifying the timeframe over which it would undertake its initial information-gathering to determine whether there was sufficient information to assess whether a fitness to practise enquiry may amount to a 'complaint' or 'allegation'.
- 6.35 The impact of this change has yet to be evaluated by the GOsC, but as already noted in paragraph 6.5, in May 2016 an internal audit of complaints recommended that a comprehensive evaluation of the fitness to practise process should be undertaken to look at how the GOsC managed complaints and concerns which are not investigated. We are not aware that the GOsC has, at this time, acted on this recommendation. However, we have not identified concerns about decision-making, either from our scrutiny of the GOsC's fitness to practise decisions or from the publicly available information.

**Standard 9: All fitness to practise decisions, apart from matters relating to the health of a professional, are published and communicated to relevant stakeholders**

- 6.36 The GOsC publishes its fitness to practise decisions on its website, apart from matters relating to health. We have seen no information to suggest that the GOsC is failing to publish or communicate fitness to practise decisions and no such concerns were identified in the course of our check of a sample of entries on the register.

<sup>29</sup> The guidance is available at: [www.professionalstandards.org.uk/docs/default-source/publications/policy-advice/sexual-boundaries-report-on-education-and-training-2008.pdf?sfvrsn=6](http://www.professionalstandards.org.uk/docs/default-source/publications/policy-advice/sexual-boundaries-report-on-education-and-training-2008.pdf?sfvrsn=6)



**Standard 10: Information about fitness to practise cases is securely retained**

- 6.37 During the period of this performance review, the GOsC has not reported any data breaches from any area of its operations to the Information Commissioner's Office. It has taken steps to safeguard its data security through the introduction of a secure download system that allows the exchange of confidential fitness to practise documents between members of the Investigating Committee and Professional Conduct Committee.

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