

**Council**  
**9 July 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 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
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## COVID-19

1. On 16 June 2020, we issued an updated statement on our fitness to practise activities during the ongoing pandemic. As reported to Council at its meeting in May, at the start of lockdown, on 26 March 2020, the GOsC took the decision to postpone all final hearings that had not yet commenced until after 3 July 2020. This followed government advice on COVID-19 and is in line with the other healthcare regulators. This decision was taken to help protect the health of osteopaths, witnesses, and all parties who were scheduled to attend our hearings at Osteopathy House in London.
2. To continue to meet our public protection duties, we identified those hearings which needed to take precedence throughout this period, and we have been managing urgent hearings remotely, including hearings of interim suspension orders, reviews and some part-heard cases. This has worked well with all parties able to fully participate in the hearings.
3. As part of our evolving approach to our adjudication function and remote hearings, we have been exploring how we can progress cases given some form of social distancing measures may be in place for an extended period of time. We have reviewed all cases awaiting consideration by the Professional Conduct Committee (PCC) and have identified those which can be heard at remote hearings. We have also been liaising with other regulators who have been running some hearings remotely and have started to extend online facilities to substantive hearings. We have therefore started to list substantive hearings remotely and, at the time of writing, have listed 8 of the 25 cases referred by the Investigating Committee (IC) but not yet heard.
4. We are also considering holding some cases as 'blended' (or 'hybrid') hearings (hearings in which some people attend virtually, and others are present at Osteopathy House) to ensure that those involved fitness to practise hearings can participate in proceedings safely.
5. As transparency is of fundamental importance in promoting public confidence in our regulatory processes, we have therefore developed an interim Remote Hearings Protocol. This interim protocol is presented as a separate paper to Council. The protocol sets out what to expect and how to participate in remote hearings covering the whole hearing process and addressing anticipated questions about joining and participating in remote hearings.

## Fitness to practise case trends

6. Council approved the new KPIs/targets for all pre-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 PSA from when a concern is received by the 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 4 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 PCC hearing.
  - The overall 52-week target (a self-imposed target) remains unchanged.
7. In this reporting period, the Regulation Department received 16 concerns and 15 formal complaints were opened. During the same period last year, the figures were 29 concerns received and 10 formal complaints opened.
  8. Of the 16 concerns, five related to comments online or on social media regarding COVID-19 and two related to concerns about COVID-19 infection control measures. Of the remaining concerns, five related to inappropriate and/or forceful treatment, one related to poor communication; one related to sexual misconduct; one related to the misuse of a protected title; and one related to a conviction.
  9. The 15 formal complaints, related variously to: a failure to obtain valid consent; a health condition; inappropriate treatment; poor communication; dishonesty in a business dispute; inappropriate statements on social media and in marketing material; data protection; inappropriate conduct not connected with practice; COVID-19 infection control measures; insurance fraud; and a conviction. There was also one allegation of sexually motivated conduct.
  10. No applications were made to the IC for the imposition of an Interim Suspension Order (ISO).
  11. One application was made to the PCC for the imposition of an ISO. The ISO application related to an allegation that the registrant's conduct towards a patient was sexually motivated. The PCC determined that the ISO was necessary for the protection of the public and granted the application.

12. During this reporting period, the Regulation Department serviced seven remote Committee hearing and training events remotely, including one resumed substantive hearing, one review hearing, one ISO hearings, three IC meetings and a PCC training event on the management of remote hearings.

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

13. As at 30 June 2020, the Regulation Department's fitness to practise case load was 56 fitness to practise cases (40 formal complaints and 16 concerns). At 31 March 2020, the caseload was 67 fitness to practise cases (37 formal complaints and 30 concerns).
14. Performance against the new performance targets for this reporting period, is as follows:

<b>Case stage</b>	<b>KPI*</b>	<b>Performance Target</b>	<b>Median figures</b>
Screening	Median time from receipt of concern to the screener's decision	9 weeks	10 weeks
Investigating Committee	Median time from receipt of concern to final IC decision	26 weeks	21 weeks

*\* As all substantive PCC cases have been postponed this quarter due to the COVID-19 outbreak, the performance target for PCC consideration is not included.*

15. In this reporting period, the median figures for screening is one week outside target. The IC median figure is within target.
16. During the reporting period, the IC considered 14 cases and referred seven cases for a final hearing, closing the other seven cases.
17. As part of our move to reduce our use of paper in fitness to practise hearings, we are currently piloting Caselines, an electronic evidence preparation and presentation system for fitness to practise hearings. The pilot will conclude in August 2020.

### **Section 32 cases**

18. 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.

19. The Regulation department continues to act on reports of possible breaches of section 32. As at 30 June 2020, we are currently handling 14 active section 32 cases.
20. There is one prosecution pending for an alleged breach of section 32. As reported to Council in May, this case has been delayed by the COVID-19 outbreak and has been listed for a case management hearing in September 2020.

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

21. Throughout this reporting period, we have continued to liaise regularly with other healthcare regulators with the Directors of Fitness to Practise meeting regularly via on-line platforms. A cross-regulator meeting hosted by the PSA and the Directors of Fitness of Practise of all the health and care professions took place on 16 June 2020. The agenda covered was wide ranging and encompassed: levels of complaints, progress or investigative work, estimates of backlog of hearings and plans for restarting substantive hearings.

### **Training for the Investigating Committee and Professional Conduct Committee**

22. To support our work in holding remote hearings, our panellists need to feel enabled to continue to play a proactive role in fitness to practise proceedings. We therefore arranged virtual training which took place on 22 June 2020 with all the PCC panellists. The updated draft practice note on questioning witnesses, together with the interim remote hearings protocol, formed the basis of the training day where we split the panellists into morning and afternoon sessions to ensure smaller numbers which facilitated greater participation.

**Recommendation:** To note the report.