



Council
1 May 2014
GOsC Whistle blowing Policy

Classification	Public
Purpose	For discussion
Issue	The General Osteopathic Council is now a prescribed body to which protected disclosures under 'whistle blowing' legislation can be made. This paper proposes the introduction of a whistle blowing policy setting out how the General Osteopathic Council will deal with any disclosures which are made to it.
Recommendation	To agree the draft whistle blowing policy for consultation.
Financial and resourcing implications	None
Equality and diversity implications	None identified. Equality monitoring in relation to fitness to practise cases is part of the draft Quality Management and Assurance framework.
Communications implications	The GOsC intends to consult on the draft policy.
Annex	Draft Whistle blowing Policy
Author	David Gomez

Background

The relationship between 'whistle blowing' and 'the duty of candour'

1. The development of a whistle blowing policy is one of the work streams arising from the Francis Action Plan approved by Council in January 2014. It is the corollary to the work that the GOsC is undertaking, in conjunction with the other regulators of healthcare professionals, to implement 'the duty of candour.'
2. In the fifth report to the Shipman Inquiry, Dame Janet Smith noted the importance of whistleblowing thus:

'To modern eyes, it seems obvious that a culture in all healthcare organisations that encourages the reporting of concerns would carry with it great benefits. The readiness of staff to draw attention to errors or 'near misses' by doctors and nurses, and the facility for them to do so, could have a major impact upon patient safety and upon the quality of care provided.'¹

'I believe that the willingness of one healthcare professional to take responsibility for raising concerns about the conduct, performance or health of another could make a greater contribution to patient safety than any other single factor.'²

3. Every major healthcare inquiry since the Ledward inquiry in 1999, has emphasised the importance of having in place arrangements to raise concerns about healthcare professionals, and to learn from patient complaints.
4. Most recently, these themes were highlighted again in the Francis Report:

'Complaints, their source, their handling and their outcome provide an insight into the effectiveness of an organisation's ability to uphold both the fundamental standards and the culture of caring. They are a source of information that has hitherto been undervalued as a source of accountability and a basis for improvement.'³

5. One of the aims of the Francis recommendations is to embed a common culture across the system of health care which shares three characteristics⁴:

Openness: enabling concerns to be raised and disclosed freely without fear, and for questions to be answered

¹ Paragraph 11.50, Page 329, Fifth Report of the Shipman Inquiry, *Safeguarding Patients: Lessons from the Past - Proposals for the Future*, published 9 December 2004

² Ibid Paragraph 81, Page 23

³ Paragraph 1.152, page 72 *Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry Executive summary*, February 2013, HC 947 London: The Stationery Office

⁴ Ibid Paragraph 1.176, page 75

Transparency: allowing true information about performance and outcomes to be shared with staff, patients and the public

Candour: ensuring that patients harmed by a healthcare service are informed of the fact and that an appropriate remedy is offered, whether or not a complaint has been made or a question asked about it.

6. Recommendation 181 of the Francis Report was to the effect that there should be a statutory obligation of candour on healthcare providers, registered medical practitioners, nurses and other registered health professionals where there is a belief or suspicion that any treatment or care provided to a patient by or on behalf of their employing healthcare provider has caused death or serious injury.
7. In November 2013, the Government published its final response to the Francis Inquiry (<https://www.gov.uk/government/publications/mid-staffordshire-nhs-ft-public-inquiry-government-response>). The response also addressed six other reviews that the Government commissioned in the light of the Francis report.
8. The Government stopped short of introducing a statutory duty of candour for all healthcare professionals. Instead it believes that the professional duty of candour should be strengthened through changes to professional guidance and codes.
9. There is a clear expectation that the regulators will revise their guidance in relation to candour and the reporting of errors. The response says:

'The General Medical Council, the Nursing and Midwifery Council and the other professional regulators will be working to agree consistent approaches to candour and reporting of errors, including a common responsibility across doctors and nurses, and other health professions to be candid with patients when mistakes occur whether serious or not, and clear guidance that professionals who seek to obstruct others in raising concerns or being candid would be in breach of their professional responsibilities. We will ask the Professional Standards Authority to advise and report on progress with this work.'

'The professional regulators will develop new guidance to make it clear professionals' responsibility to report 'near misses' for errors that could have led to death or serious injury, as well as actual harm, at the earliest available opportunity and will review their professional codes of conduct to bring them into line with this guidance.'

'The professional regulators will also review their guidance to panels taking decisions on professional misconduct to ensure they take proper account of whether or not professionals have raised concerns promptly.'

10. On 3 February 2014, the regulators and the PSA held a preliminary meeting. Issues being considered by the regulators as part of this work stream are the development of common principles; the approach to be taken to issues such as near misses; and consideration of the effect of the duty on patients (including vulnerable patients).

Whistle blowing

11. Whistle blowing has been defined as: 'the raising of a concern, either within the workplace or externally, about a danger, risk, malpractice or wrongdoing which affects others'.⁵
12. The Public Interest Disclosure Act 1998 (PIDA) which inserted Part 4A into the Employment Rights Act 1996, was introduced to provide protection to employees raising concerns, where they do so in accordance with the provisions of the Act.
13. The protections of the PIDA were extended to all healthcare professionals by the Enterprise and Regulatory Reform Act, which received Royal Assent in April 2013.
14. Under PIDA, it is unlawful for an employer to dismiss or victimise a worker for having made a 'qualifying disclosure' of information. The protections afforded by the Act apply to a worker from their first day of employment, and there is no minimum qualifying period of employment.
15. In order for a disclosure to be protected, the worker who made it must have a reasonable belief that:
 - a. disclosure was made in the public interest, and
 - b. the disclosure tends to show one or more prescribed categories of wrongdoing.
16. These categories are set out in Section 43B of the Employment Rights Act 1996 (as amended by PIDA):
 - a. that a criminal offence has been committed, is being committed or is likely to be committed
 - b. that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject

⁵ *Report on the effectiveness of existing arrangements for workplace whistleblowing in the UK*, Public Concern at Work, November 2013 (at page 4), available at <http://www.pcaw.org.uk/whistleblowing-commission>

- c. that a miscarriage of justice has occurred, is occurring or is likely to occur
 - d. that the health or safety of any individual has been, is being or is likely to be endangered
 - e. that the environment has been, is being or is likely to be damaged, or
 - f. that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.
17. However, the disclosure will not be protected if by making the disclosure the worker commits an offence such as breaching the Official Secrets Act or misconduct in public office.
18. Under PIDA, disclosure of information by a worker will also be protected if the worker makes a qualifying disclosure to a 'prescribed person', reasonably believing that the information and any allegation contained within it are substantially true.
19. Section 43F of the Employment Rights Act 1996 (as amended by PIDA) protects disclosures made to a person prescribed by an Order made by the Secretary of State. The list of prescribed persons can be amended by the Secretary of State through statutory instrument. The current list is set out in the Public Interest Disclosure (Prescribed Persons) Order 1999 (as amended).
20. A disclosure which is made by a worker to a regulatory body that is not included in the prescribed list would not be protected.
21. During the passage of the Enterprise and Regulatory Reform Bill through Parliament in 2012-13, in discussions between Department of Health and BIS, it was agreed that the Public Interest Disclosure (Prescribed Persons) Order 1999 should be updated to add the health and social care professional regulatory bodies.
22. The Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2013 came into force on 1st October 2013.
23. The effect of the amendment is that the GOsC is now a prescribed body to which qualifying disclosures may be made in respect of the following:
- 'Matters relating to-
- (a) the registration and fitness to practise of a member of a profession regulated by the Council; and
 - (b) any activities not covered by (a) in relation to which the Council has functions.'

24. Where an individual is subjected to a detriment by their employer for raising a concern, or dismissed in breach of PIDA, they can bring a claim for compensation in the Employment Tribunal. Awards are uncapped and based on losses incurred.
25. In relation to Northern Ireland, Part 5A of the Employment Rights (Northern Ireland) Order 1996 (the 1996 Order) gives protection to 'whistle blowers', who raise concerns by making a protected disclosure about dangerous or illegal activity that they are aware of in the workplace. The disclosures qualifying for protection are listed at Article 67B of the 1996 Order, which can be viewed at <http://www.legislation.gov.uk/nisi/1996/1919/article/67B>
26. The 1996 Order ensures that protection is provided against any consequent victimisation or dismissal, and is contingent on the whistle blower having acted in a responsible way in dealing with his/her concerns. Disclosures can be made to a person or body which has been prescribed by the Public Interest Disclosure (Prescribed Persons) Order (Northern Ireland) 1999 (the 1999 Order), for which the Department for Employment and Learning has responsibility.
27. In November 2013, a review of the Schedule to the 1999 Order was undertaken, and the intention is that the GOsC and other regulators of health care professionals will also become prescribed bodies for the purposes of disclosure in Northern Ireland.

Healthcare professionals working within the NHS (England)

28. The Handbook to the NHS Constitution explains that, under PIDA, workers who act honestly and reasonably are given automatic protection for raising a matter internally. In the NHS an internal disclosure can be escalated to a number of levels, ultimately to Ministers at the Department of Health. Legal protection is also available to individuals who make disclosures to prescribed regulators.
29. In addition to the statutory protection afforded by PIDA, health care professionals working within the NHS have contractual rights and obligations. The NHS Constitution was updated in March 2012 to include an expectation that NHS staff will raise concerns as early as possible and a pledge that NHS employers will support all staff in raising concerns, responding to and where necessary investigating the concerns raised. The amendments also sought clarify the existing legal rights for staff to raise concerns about safety, malpractice or other wrongdoing without suffering any detriment.
30. NHS Workers have access to the national whistleblowing helpline, provided by the Royal Mencap Society. The service provides free, confidential advice for NHS staff and can be used to assist individuals to identify how best to raise their concern, and for advise on their rights under the Public Interest Disclosure Act 1998.

31. The Care Quality Commission has also issued guidance for guidance for NHS staff about whistleblowing and how to raise concerns with the CQC – *Raising a concern with CQC: A quick guide for health and care staff about whistleblowing.*

Developing best practice in whistle blowing

32. In February 2013, the whistle blowing Charity -Public Concern at Work- established a Commission to examine the effectiveness of existing arrangements for workplace whistle blowing in the UK and to make recommendations for change. The remit of the Commission was to review all aspects of whistle blowing, including the current legal and governance arrangements, best practice and societal attitudes.
33. In November 2013, this Commission published its report: *Report on the effectiveness of existing arrangements for workplace whistle blowing in the UK* (available at <http://www.pcaw.org.uk/whistleblowing-commission>).
34. The report states (at page 2) that 'Effective whistle blowing arrangements are a key part of good governance. A healthy and open culture is one where people are encouraged to speak out, confident that they can do so without adverse repercussions, confident that they will be listened to, and confident that appropriate action will be taken. This is to the benefit of organisations, individuals and society as a whole.'
35. The report made a number of recommendations, including:
- a. The Commission recommends that the Government should do more to persuade regulators to require or encourage those they regulate to have in place effective whistleblowing arrangements in accordance with the code issued under PIDA.
 - b. The Commission recommends that regulators have a clear procedure for dealing with whistle blowers who come to them, including the provision of feedback and explaining when it is not possible or reasonable to do so.
 - c. The Commission recommends that regulators include whistleblowing in their annual reporting mechanisms, including in accountability hearings before parliament.

The information to be provided or published annually should include:

- i. the number and type of concerns received by regulators from whistle blowers
- ii. the number of enforcement actions that have been triggered or contributed to by whistle blowers

- iii. the number of PIDA claims that have been referred by the employment tribunal service
- iv. the number of organisations which failed to have in place effective whistle blowing arrangements and what action was taken as a result, and
- v. what action has been taken to promote and enforce the Code.

36. The Commission has produced a draft Code, which gives guidance on the content of whistle blowing arrangements. The relevant parts of the Code state:

5. The written procedures for raising and handling concerns:

- a) should identify the types of concerns to which the procedure relates, giving examples relevant to the employer;
- b) should include a list of the persons and bodies with whom workers can raise concerns, this list should be sufficiently broad to permit the worker, according to the circumstances, to raise concerns with:
 - i. the worker's line manager;
 - ii. more senior managers;
 - iii. an identified senior executive and /or board member; and
 - iv. relevant external organisations (such as regulators);
- c) should require an assurance to be given to the worker that he/she will not suffer detriment for having raised a concern, unless it is later proved that the information provided by the worker was false to his or her knowledge;
- d) should require an assurance to be given to the worker that his or her identity will be kept confidential if the worker so requests unless disclosure is required by law;
- e) should require that a worker raising a concern:
 - i. be told how and by whom the concern will be handled;
 - ii. be given an estimate of how long the investigation will take;
 - iii. be told, where appropriate, the outcome of the investigation

- iv. be told that if the worker believes that he/she is suffering a detriment for having raised a concern, he/she should report this; and
 - v. be told that he/she is entitled to independent advice.
7. In addition to the written procedure for raising and handling concerns, the employer should:
- a) identify how and when concerns should be recorded;
 - b) ensure, through training at all levels, the effective implementation of the whistleblowing arrangements;
 - c) identify the person with overall responsibility for the effective implementation of the whistleblowing arrangements;
 - d) conduct periodic audits of the effectiveness of the whistleblowing arrangements, to include at least:
 - i. a record of the number and types of concerns raised and the outcomes of investigations;
 - ii. feedback from individuals who have used the arrangements;
 - iii. any complaints of victimisation;
 - iv. any complaints of failures to maintain confidentiality;
 - v. a review of other existing reporting mechanisms, such as fraud, incident reporting or health and safety reports;
 - vi. a review of other adverse incidents that could have been identified by staff (e.g. consumer complaints, publicity or wrongdoing identified by third parties);
 - vii. a review of any relevant litigation; and
 - viii. a review of staff awareness, trust and confidence in the arrangements.
 - e) make provision for the independent oversight and review of the whistle blowing arrangements by the Board, the Audit or Risk Committee or equivalent body. This body should set the terms of reference for the periodic audits set out in 7(d) and should review the reports.

8. Where an organisation publishes an annual report, that report should include information about the effectiveness of the whistle blowing arrangements, including:
- a) the number and types of concerns raised;
 - b) any relevant litigation; and
 - c) staff awareness, trust and confidence in the arrangements.'

37. In relation to confidentiality, the draft code provides:

'A worker raises a concern confidentially if he or she gives his or her name on the condition that it is not revealed without his or her consent. It is important that this is a clear option for anyone to use when raising a concern.'

'A worker raises a concern anonymously if he or she does not give his or her name at all. If this happens, it is best for the organisation to assess the anonymous information as best it can to establish whether there is substance to the concern and whether it can be addressed. Clearly if no-one knows who provided the information it is not possible to reassure or protect them.'

Other developments

38. The Parliamentary Health Select Committee's 2011 inquiry into Complaints and Litigation recommended that the Government undertake a review of the NHS complaints system. It also made recommendations about the roles of the Ombudsman, advice and advocacy services, providers and commissioners, and about the co-ordination and monitoring of complaints handling across the NHS.
39. In February 2014, the Parliamentary Health Select Committee invited the Department of Health to submit written evidence to its Inquiry into complaints and raising concerns in health and care providers.
40. Along with providing evidence on how employers are handling concerns raised by staff, the Department has also been asked to provide information about the activities of professional regulators.
41. In this regard, the GMC, NMC and the HCPC have published guidance on raising and acting on concerns.
42. The *Osteopathic Practice Standards* say at Standard C9:
- 'Act quickly to help patients and keep them from harm.
1. You should take steps to protect patients if you believe that a colleague's or practitioner's health, conduct or professional performance poses a risk to

them. You should consider one of the following courses of action, keeping in mind that your objective is to protect the patient:

- 1.1 Discussing your concerns with the colleague or practitioner.
 - 1.2. Reporting your concerns to other colleagues or the principal of the practice, if there is one, or to an employer.
 - 1.3. If the practitioner belongs to a regulated profession, reporting your concerns to his or her regulatory body (including the GOsC if the practitioner is an osteopath).
 - 1.4. If the practitioner belongs to a voluntary council, reporting your concerns to that body.
 - 1.5. Where you have immediate and serious concerns for a patient, reporting the colleague to social services or the police.
2. If you are the principal of a practice, you should ensure that systems are in place for staff to raise concerns about risks to patients.'
43. In addition the Standards require osteopaths to have a procedure for considering and responding to complaints (Standard D7).
44. It is important to recognise that raising concerns can be challenging for the individuals concerned. The Executive will consider whether to issue further guidance to the osteopathic profession on raising and handling concerns. Any such guidance will form part of our work on implementing the duty of candour.

The GOsC's whistle blowing policy

45. The GOsC is now a prescribed body to which certain 'qualifying disclosures' may be made under PIDA. In accordance with best practice, the GOsC is required to set out its policy on how it will handle such disclosures and, in doing so, it should take account of the draft Code published by the Whistleblowing Commission.
46. The draft policy annexed to this paper sets out how disclosures will be handled upon receipt by the GOsC, and should not be confused with guidance to the profession on raising concerns.
47. There is an overlap between protected disclosures that may be made to the GOsC under the whistle blowing legislation, and the routine handling of fitness to practise concerns brought to the GOsC's attention. However, the GOsC may in future receive protected disclosures relating to Osteopathic Educational Institutions and other organisations which do not fall within the GOsC's fitness to practise remit.

48. The draft policy is not an attempt to expand the GOsC's jurisdiction into these areas; rather, it is a response to a new statutory requirement which establishes the GOsC as a body to which disclosures may be made, and which requires the GOsC to act upon such disclosures.
49. As noted above, the GOsC will also be expected to implement a requirement of candour as supplement to the *Osteopathic Practice Standards* in due course, and to amend the Indicative Sanctions Guidance issued to the Professional Conduct Committee.
50. In addition we expect to commence the scoping of a further review of the OPS in the course of this year before commencing a formal review in 2015-16.
51. The Department has indicated that it would expect individual regulators to publish the number of protected disclosures received by them, on a regular basis. The GOsC has reminded the Department that in view of the very small numbers of cases that it receives overall, it would be important to ensure that any blanket publication policy does not have the adverse effect of identifying individuals where they might otherwise want their identity protected.

Consideration by the Osteopathic Practice Committee (OPC)

52. The OPC considered the draft Whistle blowing policy at its meeting on 27 February 2014.
53. The OPC was concerned to ensure that stakeholders fully understood the reason for the GOsC establishing this policy – as a response to the coming into force, on 1 October 2013, of the Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2013, and that this should be made clear when the final guidance is published on the Website.
54. The OPC also considered whether the consultation might benefit from the inclusion of scenarios. However, on reflection, the Executive considers that scenarios might more usefully be included in any guidance to the profession on raising concerns.
55. The OPC considered the difficulties associated with raising concerns anonymously. The OPC noted the recent case of *White v NMC* (decided in February this year), in which the High Court held that the fact that anonymous evidence could not be properly tested impinged on the fairness of proceedings, and that therefore such evidence should not be admitted. The OPC recommended that this be highlighted at paragraph 8.3 of the draft policy and this change has been incorporated in the draft before Council.
56. The OPC recommended that the draft policy be approved by Council for consultation.

Recommendation: to agree the draft whistle blowing policy for consultation.

General Osteopathic Council

Whistle blowing Policy

1. Introduction and definitions

- 1.1 Whistleblowing is the raising of a concern, either within the workplace or externally, about a danger, risk, malpractice or wrongdoing which affects others.⁶
- 1.2 All registered osteopaths have a duty to raise concerns which may impact on the safety of patients.
- 1.3 The *Osteopathic Practice Standards* say at Standard C9:
'Act quickly to help patients and keep them from harm.
1. You should take steps to protect patients if you believe that a colleague's or practitioner's health, conduct or professional performance poses a risk to them. You should consider one of the following courses of action, keeping in mind that your objective is to protect the patient:
 - 1.1. Discussing your concerns with the colleague or practitioner.
 - 1.2. Reporting your concerns to other colleagues or the principal of the practice, if there is one, or to an employer.
 - 1.3. If the practitioner belongs to a regulated profession, reporting your concerns to his or her regulatory body (including the GOsC if the practitioner is an osteopath).
 - 1.4. If the practitioner belongs to a voluntary council, reporting your concerns to that body.
 - 1.5. Where you have immediate and serious concerns for a patient, reporting the colleague to social services or the police.
 2. If you are the principal of a practice, you should ensure that systems are in place for staff to raise concerns about risks to patients.'

1.4 In addition the OPS requires all osteopaths to have a procedure for considering and responding to complaints (Standard D7).

⁶ Report on the effectiveness of existing arrangements for workplace whistleblowing in the UK, Public Concern at Work, November 2013 (at page 4) , available at <http://www.pcaaw.org.uk/whistleblowing-commission>

- 1.5 We recognise that raising concerns can be very difficult. In the UK, 'Whistle blowers' are protected by legislation: the Public Interest Disclosure Act 1998 (as amended by the Enterprise and Regulatory Reform Act 2013) (PIDA).
- 1.6 Under PIDA, it is unlawful for an employer to dismiss or victimise a worker for having made a 'qualifying disclosure' of information. The protections afforded by the Act apply to a worker from their first day of employment, and there is no minimum qualifying period of employment. The protections also apply to agency workers, people who are training with an employer, and self-employed workers (if supervised or working off-site). However, PIDA does not cover the self-employed or volunteers.
- 1.7 The Act also provides protection in the event that individuals have difficulty gaining a reference from an employer because they have raised a concern. It makes it clear that any clause in a contract that purports to gag an individual from raising a concern that would be protected under the Act is void. For more information on the law visit: www.pcaw.co.uk/law/uklegislation.htm.
- 1.8. In order for a disclosure to be protected, the worker who made it must have a reasonable belief that:
 - a. disclosure was made in the public interest; and
 - b. the disclosure tends to show one or more specified categories of wrongdoing.
- 1.9. These categories are set out in Section 43B of the Employment Rights Act 1996 (as amended by PIDA):
 - a. that a criminal offence has been committed, is being committed or is likely to be committed
 - b. that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject
 - c. that a miscarriage of justice has occurred, is occurring or is likely to occur
 - d. that the health or safety of any individual has been, is being or is likely to be endangered
 - e. that the environment has been, is being or is likely to be damaged, or
 - f. that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.

- 1.10. However, the disclosure will not be protected if, by making the disclosure, the worker commits an offence such as breaching the Official Secrets Act or misconduct in public office.
- 1.11 Under PIDA, disclosure of information by a worker will also be protected if the worker makes a qualifying disclosure to a 'prescribed person', reasonably believing that the information and any allegation contained within it are substantially true.
- 1.12 Under the Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2013, the General Osteopathic Council ("GOsC") is now a prescribed body to which qualifying disclosures may be made.
- 1.13 However, the disclosures that can be considered by the GOsC are limited to:

 'Matters relating to

 (a) the registration and fitness to practise of a member of a profession regulated by the Council; and

 (b) any activities not covered by (a) in relation to which the Council has functions.'
- 1.14 Where an individual is subjected to a detriment by their employer for raising a concern, or is dismissed in breach of PIDA, they can bring a claim for compensation in the Employment Tribunal (or the Industrial Tribunal in Northern Ireland).
- 1.15 In Northern Ireland, Part 5A of the Employment Rights (Northern Ireland) Order 1996 (the '1996 Order') gives protection to 'whistle blowers', who raise concerns by making a protected disclosure about dangerous or illegal activity that they are aware of in the workplace. The disclosures qualifying for protection are listed at Article 67B of the 1996 Order, which can be viewed via the attached link - <http://www.legislation.gov.uk/nisi/1996/1919/article/67B>.
- 1.16. The 1996 Order ensures that protection is provided against any consequent victimisation or dismissal, and is contingent on the whistle blower having acted in a responsible way in dealing with his/her concerns. Disclosures can be made to a person or body which has been prescribed by the Public Interest Disclosure (Prescribed Persons) Order (Northern Ireland) 1999 (the '1999 Order'), for which the Department for Employment and Learning has responsibility.
- 1.17 Further information about whistleblowing in general, can be found at www.gov.uk/whistleblowing.

2.

Purpose of this policy

- 2.1 This policy sets out how the GOsC will deal with concerns which have been reported to it, in its role as a prescribed body under PIDA.
- 2.2 The policy sets out the type of concerns that can be considered by the GOsC; the action that the GOsC will take upon receipt of reported concerns; and the timescales for doing so.

3. Matters that the GOsC can not consider under the whistle blowing policy

- 3.1 Under this policy, the GOsC is not able to consider:
 - a. complaints relating to your employment
 - b. general contractual disputes about arrangements to provide
 - c. osteopathic services, room hire or partnership agreements
 - d. restraint of trade issues
 - e. ownership of websites and domain names, or
 - f. complaints about soliciting patients from another osteopathic practice.

4. Matters that the GOsC will consider under the whistle blowing policy

- 4.1 Under this policy, the GOsC can only consider matters relating to:
 - a. the registration and fitness to practise of an osteopath registered with the GOsC
 - b. any activities not covered by (a) in relation to which the Council has functions.
- 4.2 The functions of the GOsC are set out in the Osteopaths Act 1993: 'to develop and regulate the osteopathy profession'.
- 4.3 The GOsC also has functions in relation to approval of courses and Osteopathic Educational Institutions, and concerns about such matters can be considered under this policy.

5. How to report concerns ('whistle blow') to the General Osteopathic Council.

- 5.1 Concerns may be reported to the GOSC in the following ways:

By telephone: 0207 357 6655 x248

Annex A to 9

Healthcare Inspectorate Wales	Government Buildings Rhydycar Business Park Merthyr Tydfil CF48 1UZ	Email: hiw@wales.gsi.gov.uk Telephone: 0300 062 8163 Website: www.hiw.org.uk
Healthcare Improvement Scotland	Gyle Square 1 South Gyle Crescent Edinburgh EH12 9EB	Email: comments.his@nhs.net Telephone: 0131 623 4300 Website: www.healthcareimprovement.scotland.org
Regulation and Quality Improvement Authority	9th Floor Riverside Tower 5 Lanyon Place BELFAST BT1 3BT	Email: info@rqia.org.uk Telephone: 028 9051 7500 Website: www.rqia.org.uk
Monitor	Wellington House 133-155 Waterloo Road London SE1 8UG	Email: enquiries@monitor.gov.uk Telephone: 020 3747 0000 Website: www.monitor-nhsft.gov.uk

5.8 If you wish to raise concerns about a health care professional other than an osteopath, you may wish to contact one of the organisations listed below:

General Medical Council	3 Hardman Street Manchester M3 3AW Tel: 0161 923 6602 www.gmc-uk.org
Nursing and Midwifery Council	23 Portland Place London W1B 1PZ Tel: 020 7637 7181
Health and Care Professions Council	Park House, 184 Kennington Park Road, London SE11 4BU Tel: 44 (0)845 300 6184 www.hpc-uk.org
General Pharmaceutical Council	129 Lambeth Rd London SE1 7BT Tel: 020 3365 3400 www.pharmacyregulation.org
Pharmaceutical Society of Northern Ireland	73 University Street Belfast BT7 1HL Tel: 028 9032 6927 Email: info@psni.org.uk
General Chiropractic Council	44 Wicklow Street London WC1X 9HL Tel: 020 7713 5155 Email: enquiries@gcc-uk.org

General Optical Council	41 Harley Street London W1G 8DJ Tel: (0)20 7580 3898 Email: goc@optical.org
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6. Responsibilities under this policy

Person/Body	Responsibility
The Whistle blowing Officer	The Head of Regulation will act as the GOsC Whistleblowing officer. The Whistleblowing Officer will acknowledge concerns raised with GOsC; assess the concerns and decide on appropriate action, referring the matter to other departments or bodies where necessary.
The Chief Executive	The Chief Executive will provide a yearly report to the Audit Committee about: <ul style="list-style-type: none"> a. the number and type of concerns received by the GOsC from whistle blowers b. the number of enforcement actions that have been triggered or contributed to by whistle blowers
The Audit Committee	The Audit Committee will monitor the operation of this policy; consider a yearly report on any whistleblowing activity; and make recommendations as required to Council.
The GOsC Council	Council will consider any recommendations from the Audit Committee and keep this policy under review.

7. Confidentiality and concerns raised anonymously

7.1 The GOsC will not disclose your identity without your consent unless there are legal reasons that require us to do so. This might be, for example, where your information is about a child or vulnerable adult who is at risk, or where a possible criminal offence may have been committed. We may also have to disclose your identity if ordered to do so by a Court.

- 7.2 However, in order for us to be able to act upon your concerns, we may need your consent to disclose information to any osteopath or institution that we are investigating. If you do not provide this consent, we may not be able to investigate your concerns properly, or at all.
- 7.3 If you wish, you may give us information anonymously. However, in such circumstances, we would not be able to contact you to discuss your concern or ask you for further information, and we would not be able to give you any feedback about any action that we might be able to take.
- 7.4 Unless we consider that evidence or information might be available from other sources, we may decide not to act upon concerns that have been raised anonymously.

8. Action upon receipt of a concern

- 8.1 Where you have provided us with your contact details, we will acknowledge receipt of your concern in writing, within five days. We may also seek further information from you at this stage.
- 8.2 When we have sufficient information, we will make a preliminary assessment of your concern.
- 8.3 If we consider that the matter should be dealt with under our fitness to practise procedures, we will inform you of this, and will send you further information about how those procedures work. We may also wish to take a formal signed statement from you, and obtain your consent to obtain your treatment records and other documentation. Please note that under our fitness to practise arrangements, we are not able to deal with concerns anonymously.
- 8.4 If we decide that your concerns raise issues that the GOsC is not able to deal with, we may refer the matter to another body, and inform you of this. Alternatively, we may provide you with details of the appropriate body to contact.
- 8.5 If we consider that your concerns should be investigated under our whistleblowing policy, we will confirm this and provide you with an estimate of how long we think any investigation might take.
- 8.6 Wherever possible, we will seek to inform you of the outcome of our investigation and any action we have taken or recommendations that we have made to third parties.
- 8.5 The sorts of action that we can take in relation to your concern include:

- a. adding your concerns to the information that we hold about institutions that the law requires us to approve, and using your information in deciding whether or not to renew our approval of them
- b. raising your concerns directly with the institution or person if we consider this appropriate
- c. undertaking visits to institutions that we approve under our legislation, and seeking information and documents from them
- d. identifying learning points from your concerns and feeding these back to the organisations and individuals that we regulate, or amending our own policies and procedures
- e. seeking further information about your concerns from other sources
- f. if your concerns relate to an individual osteopath, dealing with the matter in accordance with our fitness to practise procedures
- g. referring the matter to another regulator, official body or the police.

9. Sources of further advice

- 9.1 Before you decide whether or not to raise a concern with the GOsC, you may want to get independent advice first, or contact your trade union or professional regulatory body.
- 9.2 If you work in the NHS, you can get free, independent and confidential advice from the Whistleblowing Helpline for NHS and Social Care on 08000 724725.
- 9.3 You can also call the independent whistleblowing charity Public Concern at Work for free and confidential advice on 020 7404 6609.

10. Review

- 10.1 This policy will be reviewed annually.
- 10.2 Ad hoc reviews will take place where relevant primary or secondary UK legislation is introduced, where codes of practice are updated, and where case law requires.