



Council
5 May 2016
Fitness to practise report

Classification	Public
Purpose	For noting
Issue	Quarterly update to Council on the work of the Regulation department and the GOSc's fitness to practise committees.
Recommendation	To note the report.
Financial and resourcing implications	Financial aspects of fitness to practise activity are considered in (Chief Executive's Report).
Equality and diversity implications	Ongoing monitoring of equality and diversity trends will form part of the Regulation department's future quality assurance framework.
Communications implications	None
Annex	Dashboard Report
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Fitness to practise case trends and Dashboard reporting

1. Following discussion at Council in October 2013, it was agreed that a dashboard format would be introduced using the indicators of efficiency, effectiveness and economy, and including comparative trends over time.
2. The dashboard report is attached at the Annex. Comparative data from the same quarter last year has been included (the figures are bracketed and highlighted in red).
3. In this reporting period, the Regulation Department received 110 informal complaints and 11 formal complaints. During the same period last year, the figures were 13 informal complaints and seven formal complaints.
 - a. Of the 110 informal complaints, 76 related to advertising, 11 related to concerns about treatment, nine with practising without insurance, five concerning patient modesty and dignity and/or transgressing sexual boundaries, two related to issues of general conduct, two to business disputes between osteopaths, two to working while suspended, two alleging defamation, and one related to an allegation made to another regulator.
 - b. Of the 11 formal complaints, five related to general conduct, which included patient modesty and dignity and/or transgressing sexual boundaries, four with failure to have in place professional indemnity insurance, with the remaining two related to treatment.
4. Two applications were made to the Investigating Committee for the imposition of an Interim Suspension Order, and one application was made to the PCC/HC. During the same period last year, the number of applications made was four and two respectively.
5. Of the three Interim Suspension Order (ISO) applications made during this reporting period, two related to alleged transgression of sexual boundaries/failing to uphold patient dignity and modesty with the remaining application relating to an alleged criminal offence.
6. All three ISO applications were granted.
7. As reported in detail within the quarterly report to Council in November 2015, since July 2015, we have been receiving approximately 25 complaints per month relating to osteopaths advertising on their websites. As at 31 March 2016, the total advertising complaints the Regulation Department has received is 231. The current position and progression of the advertising complaints is summarised in the table below:

Total number of advertising complaints received (=A+B+C)	231
Number closed under the threshold criteria	108
Number closed other than under the threshold criteria	3
Total number closed (A)	111
Number screened in for consideration by the Investigating Committee (B)	9
Number closed by the IC	2
Number referred by IC to a Professional Conduct Committee hearing	0
Number awaiting screening (C)	111

Costs considerations

8. During this reporting period, the Regulation Department serviced six Committee and hearing events, including substantive, review and ISO hearings before the PCC and IC as well as IC meetings.
9. The Regulation and Registration and Resources Departments are continuing to monitor the effect of these increases in hearing costs and related matters and are actively developing effective cost saving strategies (e.g. using in-house case presenters and negotiating fixed fees with external legal providers) which will not compromise the quality or effectiveness of the fitness to practise function.

Fitness to practise case load

10. As at 31 March 2016, the Regulation Department's fitness to practise case load was 185 fitness to practise cases (58 formal and 127 informal).

Case Progression

11. In this reporting period, the median figures for the length of time taken for cases to be screened and to be considered by the Investigating Committee and Health Committee are all within KPI, with the exception of the screening of advertising cases. In these cases the complaints are risk assessed but may not be sent for immediate screening as, in most cases, the registrant is given a period of time in which respond to the complaint.
12. The Professional and Conduct Committee heard only one case during the period. The reason for the case not being heard within the KPI was due to the difficulty of finding a hearing date that could accommodate the overseas working commitments of the GOSC's main witness.
13. The median figures for this reporting period are as follows:

Case stage	Key Performance Indicator	Median figures achieved this quarter
Screening	3 weeks	1 week
Investigating Committee	17 weeks	16 weeks
Professional Conduct Committee	52 weeks	60 weeks (one case only)
Health Committee	52 weeks	24 weeks (one case only)

14. During the reporting period, the Investigating Committee adjourned five cases in order to obtain further information.
15. As reported in in the last quarterly report to Council in July 2015, one of the initiatives currently being implemented within the Regulation team is the development of an electronic case management system (CMS) utilising and building on the existing Integra system. Moving to a fully integrated CMS would enable more extensive and precise reporting to be effected while enabling enhanced monitoring of legal costs.
16. The CMS will be rolled out in stages as this will help facilitate embedding of the new changes while providing the opportunity for close monitoring of its operational effectiveness to be undertaken. In the next quarter the Regulation team will commence testing of the new informal complaints case management component developed for Integra with a view to going 'live' in Quarter 2.
17. During this reporting period, UPC was found in the one case considered by the Professional Conduct Committee resulting in the registrant being removed from the register.

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, and as at 31 March 2016, was currently handling 19 active section 32 cases.
20. The GOsC brought a successful prosecution against a former registrant, Bruce Carnegie for misuse of title on 18 March 2016. This matter was heard before Reading Magistrates Court. Mr Carnegie appeared unrepresented and pleaded guilty to the charge. Having considered Mr Carnegie's means, the Court fined

him £500 for the offence and ordered him to pay £450 towards the Council's costs.

Judicial Reviews and appeals of decisions made by FTP Committees

21. As reported in the last quarterly report to Council in February 2016, on 4 January 2016, the GOsC was served with a number of claim forms stamped by the Queens Bench Division at the RCJ, pertaining to what would appear to be a claim for damages. On 7 March 2016, this claim was struck out by Master Fontaine as being wholly devoid of merit.

Training and development/working with other regulators/good practice

22. On 20 January 2016, the Head of Regulation had a teleconference with the Director of Fitness of Practise at the General Optical Council (GOC) and an external consultant regarding best practice areas and improvements in the fitness to practice process. This was followed up with a meeting with the GOC's Director of Fitness at the GOC's new offices in St Pauls on 28 January 2016. The meeting was helpful and informative and covered a wide range of topics including mechanisms for the performance appraisals of legal assessors; support given to registrants in fitness to practise proceedings and improving the quality and efficiency of fitness to practise investigations through the provision of early specialist osteopathic/ophthalmic input in the investigation of cases.

Training for the Investigating Committee and Professional Conduct Committee

23. Following the successful appointment of four new members to the Investigating Committee and five new members to the Professional Conduct and Health Committee on 1 April 2016, we have finalised the agenda for the induction training taking place on 17 May 2016. The agenda includes a separate breakout session in the afternoon for members facilitated by an external trainer from Penningtons Solicitors utilising fitness to practise case studies. Further training on equality and diversity will be taking place on 17 June 2016.
24. The annual training day for the Investigating Committee has been confirmed as 17 June 2016. The agenda includes interactive sessions on equality and diversity training and drafting reasons and determinations.

Internal/External Audits

25. The GOsC instructed external legal auditors to conduct a qualitative review of a sample of decisions made by the GOsC's Professional Conduct Committee during the year January – December 2015. The review was undertaken in March and April 2016 with the final draft report being provided to the GOsC on 15 April 2016. The cases reviewed represented a sample of all the decisions made by the PCC in the relevant period. Sample cases were randomly selected from the list of

cases provided by the GOsC by a reviewer with no previous knowledge of the cases. Each decision was assessed against review criteria as specified in the terms of reference agreed with the external auditors. These review criteria covered a range of aspects of the hearing process together with an assessment of the final written determinations produced by the Committee. We are still in the process of reviewing the findings of the draft report. Council will be updated on the findings of this audit in the next fitness to practise quarterly report.

26. During March and April 2016, the Head of Regulation undertook an internal audit of formal cases. The cases chosen for review represented a cross section of formal cases spanning the period 1 May 2015 up to and including December 2015. Each decision was assessed against an internal review checklist. Broadly, the remit of the audit encompassed whether there is evidence that the Regulation team are continuously monitoring and assessing risk in cases and whether there is active case progression. In summary, there is evidence of risk assessment on all cases reviewed and generally efforts are made to update parties on the progress of their case. The audit also reviewed the impact of the introduction of the threshold criteria on our performance in case handling. To ensure our fitness to practise process continues to be efficient and fit for purpose a key recommendation is that a comprehensive evaluation of our current FtP processes should be undertaken. This review will specifically focus on our current approach to informal and formal cases and will involve an appraisal of our existing published KPIs and internal time scales and how we measure them. The methodology and timescale for this review has yet to be finalised.

Future of fitness to practise reporting

27. We are currently in the process of developing an amended format for presenting fitness to practice data which is intended to be reflective of the new fitness to practice dataset requested from all healthcare regulators by the Professional Standards Authority (PSA) following its introduction in November 2015. It was anticipated that a draft of this revised format would be provided to Council in May. However, the draft is still in the process of being developed and will now be provided to Council for discussion at the meeting in July.

Recommendation: to note the report.