



**Council**  
**2 May 2017**  
**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>	None
<b>Equality and diversity implications</b>	Ongoing monitoring of equality and diversity trends forms part of the Regulation department's future quality assurance framework.
<b>Communications implications</b>	None
<b>Annex</b>	Fitness to practise dataset
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## **Fitness to practise case trends**

1. The latest quarterly fitness to practise dataset is attached at the Annex to this paper.
2. As previously reported to Council, the GOsC now uses the term fitness to practise 'concern' to describe any professional conduct communication containing information which is capable of amounting to an 'allegation' or 'complaint' under the Act. Previously, the GOsC used the phrase 'informal complaint' for this purpose, as distinct from a 'formal complaint' (i.e. any allegation or complaint which had been found to satisfy the threshold statutory requirements for recognition as such). This change in terminology is reflected throughout the fitness to practise quarterly report.
3. In this reporting period, the Regulation Department received 15 concerns and 11 formal complaints. During the same period last year, the figures were 110 'informal complaints' (concerns) and 11 formal complaints.
  - a. Of the 15 concerns: four related to concerns about treatment; four to patient modesty and dignity and/or transgressing sexual boundaries; two related to issues of general conduct; two related to advertising (non-Good Thinking Society (GTS)); two referrals from our registration department concerning a failure to complete the renewal of registration form; and one concerning practice hygiene.
  - b. Of the 11 formal complaints: four related to treatment; two concerned conduct; two related to advertising (GTS); one to patient modesty and dignity; one related to indemnity; and one to a conviction.
4. One application was made to the Investigating Committee for the imposition of an Interim Suspension Order, and two applications were made to the Professional Conduct Committee. During the same period last year, the number of applications made was two and one respectively.
5. The three Interim Suspension Order (ISO) applications made during this reporting period concerned the provision of treatment provided to vulnerable patients.
6. Two of the three ISO applications were granted and the other concluded with undertakings agreed by the PCC in January 2017.
7. As reported in detail within the quarterly report to Council in November 2015, since July 2015, we have been receiving approximately 25 concerns per month relating to osteopaths advertising on their websites. No further advertising concerns have been received since July 2016. However, in March 2017, we received a further communication from the Good Thinking Society which included a report raising queries regarding the advertising on 15 osteopaths

websites. We have agreed to forward these queries to each of the osteopaths concerned.

8. As at 31 March 2017, the total number of advertising concerns the Regulation Department has received is 337. The current position and progression of the advertising concerns is summarised in the table below:

Total number of advertising concerns received (=A+B+C)	337
Number closed under the threshold criteria	272
Number closed other than under the threshold criteria <sup>[1]</sup>	43
Total number closed (A)	315
Number screened in for consideration by the Investigating Committee (B)	19
Number closed by the IC	7
Number referred by IC to a Professional Conduct Committee hearing	0
Number awaiting screening (C)	2

9. During this reporting period, the Regulation Department serviced 20 Committee and hearing events, including substantive, review, IC and ISO hearings before the PCC and IC.

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

10. As at 31 March 2017, the Regulation Department's fitness to practise caseload was 86 fitness to practise cases (54 formal complaints and 32 concerns). In the corresponding quarter the preceding year in 2016, the fitness to practise case load was 185 cases (58 formal and 127 'informal complaints' (concerns).

11. The performance against KPIs for this reporting period are as follows:

<b>Case stage</b>	<b>Key Performance Indicator</b>	<b>Median figures achieved this quarter</b>
Screening	3 weeks	1 weeks
Investigating Committee	17 weeks	17 weeks
Professional Conduct Committee	52 weeks	53 weeks
Health Committee	52 weeks	0 (no cases heard)

12. In this reporting period, the median figures for the length of time taken for cases to be screened and for an IC decision are within KPI. However, the PCC median figure has increased from 46 weeks to 53 weeks due to the consideration of 7 cases which exceeded the 52 weeks KPI. We are currently

<sup>[1]</sup> This figure includes concerns closed under the Initial Closure Procedure.

listing cases for PCC consideration in advance of the KPI and it is expected that the KPI for PCC will decrease during 2017-18.

13. The Professional Conduct Committee heard 18 cases at 15 hearings during the period. All of the cases considered were concluded. Seven cases resulted in no UPC, four cases concluded with an admonishment, two cases resulted in the removal of the registrants, two cases concluded under Rule 19, two cases without the need for a substantive hearing (Rule 8) and one case concluded at the expiry of the order.
14. During the reporting period, the Investigating Committee considered 22 cases and concluded 20. The IC adjourned two cases in order to obtain further information or to consider raising additional allegations.

### **Section 32 cases**

15. 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.
16. The Regulation department continues to act on reports of possible breaches of section 32 and as at 31 March 2017, is currently handling 24 active section 32 cases.
17. The GOsC has commenced a section 32 prosecution against Mr Nigel Graham who was removed from the register on 24 May 2016 following fitness to practise proceedings. On 24 January 2017, at Willesden Magistrates Court, Mr Graham pleaded guilty and was sentenced to a conditional discharge of twelve months. He was also ordered to pay a contribution towards our costs of £200.

### **Training and development/working with others/ feedback loops**

18. The Regulation Manager attended a Crisis Planning seminar at Bates Wells Braithwaite (BWB) on 16 February 2017. The seminar covered key topics of regulation including regulatory obligations, risk assessment and risk management.
19. The Head of Regulation and Regulation Manager met with the Interim Director of Fitness to Practise and the Quality Assurance Manager of the General Optical Council on 24 March 2017. Several topics were covered with the possibility of joint chair training for GOC and GOsC chairs later this year.
20. The Head of Regulation met with the Director and Assistant Director of Scrutiny and Quality at the PSA offices on 13 March 2017. The meeting related to a recent PCC final hearing which was considered at a section 29 case meeting. The PSA has determined that it will not be referring this case to the Higher Courts under the provisions of section 29 of the National Health Service Reform and Health Care Professions Act 2002. A learning points letter will be issued by

the PSA in due course and will form the basis for the annual PCC training day scheduled for November 2017.

### **Determination Review Group (DRG)**

21. The 2017-18 Business Plan states that we will establish and hold regular determination review group meetings (with inter regulatory participation) to review final outcomes from PCC decisions. The purpose of DRG is to provide quality assurance, gain learning and bring continuous improvement by monitoring the Fitness to Practise decision making process and reviewing learning points issued by the Professional Standards Authority. The inaugural meeting of the DRG is due to take place on 9 May 2017. Attendees include two senior lawyers from the General Optical Council and a senior manager from the Care Quality Commission. The DRG will be chaired by the Head of Regulation.

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

22. Induction training for new committee members took place on 21 March 2017. The agenda included a well received session on equality and diversity training followed by an overview of the fitness to practise process with separate, breakout sessions led by external trainers in the afternoon for panellists.
23. The Investigating Committee all members training day has been confirmed for 3 July 2017. At present, the draft agenda includes an interactive session on the planned review of the current Investigating Committee Guidance document. Responses from this training session with panelists will form part of our pre-consultation activities for this guidance before a 3 month public consultation takes place towards the end of this year.
24. Preliminary planning has commenced on identifying suitable topics for a separate, half day training event specifically for committee chairs scheduled for early autumn. Topics for this event will include effective time management and control of a hearing and management of witnesses and counsel.
25. The annual training day for the Professional Conduct Committee has been confirmed as 2 November 2017. Proposed agenda items include a session on listening and questioning skills and a case law update.

### **Hearings and Sanctions Guidance**

26. Since the publication of the current Indicative Sanctions Guidance (ISG) there have been numerous developments in healthcare regulation and the regulatory landscape generally, which require a review of the ISG. We plan to review the ISG and want to explore in advance a range of topics relevant to Unacceptable Professional Conduct (UPC) and sanction including the relevance of remediation and insight at the UPC stage and taking account of time spent on an Interim Suspension Order when determining sanction.

27. As part of our pre-consultation engagement plan, we have sought input from the GOsC Fitness to Practise Forum (which includes the views of experienced regulatory lawyers) including the Professional Conduct Committee Chairs and members and GOsC legal assessors. The discussion paper was presented at the Policy Advisory Committee meeting on 9 March 2017 and feedback received at this meeting has been taken into account. A six week public engagement exercise is currently in progress with interested parties, including: the Professional Standards Authority, the Institute of Osteopathy and the GOsC Patient and Public Partnership Group. The deadline for receipt of responses is 1 May 2017.
28. Based on the input from this six week public engagement activity, a revised version of the ISG will be brought to the Council in July for discussion prior to approval by Council for a three month consultation.

**Recommendation:** to note the report.