



Council
3 May 2018
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	None
Equality and diversity implications	Ongoing monitoring of equality and diversity trends forms part of the Regulation department's future quality assurance framework.
Communications implications	None
Annex	Fitness to practise dataset
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Fitness to practise case trends

1. The quarterly fitness to practise dataset for the relevant reporting period is attached at the Annex to this paper.
2. As previously reported to Council, the GOsC 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 and dataset.
3. In this reporting period, the Regulation Department received 23 concerns and 18 formal complaints. During the same period last year, the figures were 15 concerns and 11 formal complaints.
 - a. Of the 23 concerns: five related to Communicating inappropriately; five involved consent; three involved sexual impropriety; two related to a referral from another regulator; two concerned professional indemnity insurance; one related to a police investigation; one concerned data protection; one concerned non-engagement with the regulator; one pertained to record keeping; one concerned treatment causes; and one involved advertising.
 - b. Of the 18 formal complaints: one case related to advertising/misleading information; two relate to communicating inappropriately; one concerned substance abuse; five related to communication/consent; three related to the registrant not having insurance; two related to sexual impropriety; one concerned a conviction; one was a referral from another regulator and two related to data protection.
4. Two applications were made to the Investigating Committee for the imposition of an Interim Suspension Order. There were no applications made to the Professional Conduct Committee. During the same period last year, the number of applications made was one and two respectively.
5. The Interim Suspension Order (ISO) applications made during this reporting period concerned allegations of sexual misconduct and substance abuse.
6. The IC considered that an interim suspension order was necessary for public protection in one case and accepted undertakings offered by the Registrant in the other case.
7. During this reporting period, the Regulation Department serviced 13 Committee and hearing events, including substantive, review, IC meetings and ISO hearings including a Registration Appeal Hearing.

Fitness to practise case load and case progression

8. As at 31 March 2018, the Regulation Department's fitness to practise case load was 72 fitness to practise cases (46 formal complaints and 26 concerns). At the 31 March 2017, the fitness to practise case load was 86 cases (54 formal and 32 concerns).
9. The performance against KPIs for this reporting period is as follows:

Case stage	Key Performance Indicator	Median figures achieved this quarter
Screening	3 weeks	2 weeks
Investigating Committee	17 weeks	16 weeks
Professional Conduct Committee	52 weeks	64 weeks
Health Committee	52 weeks	n/a (no cases heard)

10. In this reporting period, the median figures for the length of time taken for cases to be screened and considered by the IC are within KPI. The PCC median exceeded the KPI as the PCC considered our oldest case (at 139 weeks). The delay in this case concluding at a substantive hearing before the PCC impacted significantly upon the PCC KPI median figure.
11. The Professional Conduct Committee heard eight cases over thirty one days during the relevant period. Two of these cases are part heard and both have been re-listed for conclusion by the PCC later in 2018. In two cases no UPC was found, one case resulted in removal, one case resulted in suspension (extended for twelve months) and one case concluded with an admonishment.
12. During the reporting period, the Investigating Committee considered eleven cases and referred seven cases for a final hearing and closed three cases. The IC adjourned one case to enable additional particulars of allegation to be put to the Registrant.

Section 32 cases

13. 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.
14. The Regulation department continues to act on reports of possible breaches of section 32 and as at 31 March 2018, is currently handling 31 active section 32 cases.

Judicial Reviews and appeals of decisions made by FTP Committees

15. In November 2017, the GOsC was notified that a statutory appeal had been lodged at the High Court against a determination of the Professional Conduct Committee which related to a finding of Unacceptable Professional Conduct and the imposition of a conditions of practice order against the Registrant.
16. Counsel has been instructed and we will be resisting the appeal which has been listed for one day at the Royal Courts of Justice on 9 May 2018.

Training for the Investigating Committee and Professional Conduct Committee

17. Following the successful appointment of four new members to the Professional Conduct and Health Committee in February of this year, induction training for these new Committee members has been scheduled for 9 May 2018. The final agenda includes an interactive session on equality and diversity training and bespoke training on professional conduct hearings and interim orders delivered by external specialist trainers.
18. The Investigating Committee all members training day has been scheduled for 28 June 2018. Currently, the agenda includes: a case law update on recent developments in professional regulatory law including dishonesty and lack of integrity; a session on the revised osteopathic practice standards and a series of interactive sessions focusing on aspects of the amended Investigating Committee Decision Making guidance.

Investigating Committee Decision Making Guidance Consultation

19. We are currently undertaking a three month public consultation on a revised and updated draft *Investigating Committee Decision-Making Guidance*. The consultation commenced on 19 February 2018 and will close on 14 May 2018. The outcomes of this consultation will be reported to Council in July.
20. One of our purposes in reviewing the guidance is to ensure that the IC decision making is more fully understood which in turn will enhance the transparency of our procedures. Additionally, it is essential that the IC is supported by up-to-date guidance which clearly sets out the decision-making framework and the outcomes they can decide on. The draft Guidance has therefore been updated to take account of the threshold criteria and contains detailed guidance on all the relevant information that the IC requires to reach a decision.

Recommendation: to note the report.