



Council
10 May 2022
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 Annex B of the Chief Executive and Registrar Report.
Equality and diversity implications	Equality and Diversity monitoring data is requested and collected during the fitness to practise process.
Communications implications	None
Annex	A - Fitness to Practise Data Set
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Key messages from the paper:

- We continue to list and hold meetings and hearings remotely ensuring the safety and wellbeing of all participants but also, where necessary, by the means of 'blended' hearings. During this review period we held the first three days of an eight-day substantive hearing in person at Osteopathy House.
- At the time of writing, we have listed 4 of the 18 cases referred by the Investigating Committee (IC) to the Professional Conduct Committee (PCC). A further breakdown of these cases can be found within the accompanying dataset.
- In this reporting period, we received the same number of concerns as the previous quarter (14 concerns). 12 cases were made formal in this reporting period.
- We have exceeded our KPI's at screener stage however we have not met the IC or PCC KPIs in this quarter. This is expanded on below.
- The next FtP webinar is scheduled for 17 May 2022. We be joined by Victim Support to highlight and answer questions on the Independent Support Service we offer to all participants, including osteopaths, at all stages in a fitness to practice investigation.
- The consultation on our amended Remote Hearings Guidance and Protocol concluded at the beginning of April 2022. This guidance and the feedback we received is the subject of a separate paper to Council.

Fitness to practise case trends

1. In this reporting period, the Regulation Department received 14 concerns and 12 formal complaints were opened. During the same period last year, the figures were 19 concerns received and 13 formal complaints opened.
2. Of the 14 concerns, two related to a transgression of boundaries, two related to conduct not linked to treatment, one related to poor health, six related to inadequate treatment and three related to a lack of insurance.
3. The 12 formal complaints related variously to: a transgression of boundaries (1), conduct not linked to treatment (2), a registrant's health (1), inadequate treatment (5) and lack of insurance (3).
4. There were three applications made to the Investigating Committee (IC) for the imposition of an Interim Suspension Order (ISO). No ISOs were imposed. These cases related to a transgression of sexual boundaries (2) and poor clinical treatment (1).
5. Although the ISO's were not imposed in two cases where the allegation involved a breach of sexual boundaries, the IC, acknowledged the seriousness of the concerns in each case, but did not consider it necessary or proportionate to impose an

interim order. Whilst these cases are 'live' and it would not be appropriate to discuss each case in detail, some of the matters relevant to the IC's consideration in both cases encompassed: the registrant's extensive and previously blemish-free practice; the changes to their routine practice, the supportive testimonial evidence and an assessment that the risk of repetition of harm was low.

6. The Investigating Committee met twice in the reporting period considering, and concluding, six cases. All six were referred to the PCC.
7. In this quarter the PCC sat remotely for 6 hearings (part in-person in one hearing). This consisted of three substantive hearings, two review hearings and a rule 8 determination. A further resumed substantive hearing due to commence during this period had to be cancelled at the last minute due to a panel member being too ill to participate due to Covid-19. This hearing has since been rescheduled.
8. No PCC ISO hearings took place during the reporting period.

Fitness to practise case load and case progression

9. As at 31 March 2022, the Regulation Departments fitness to practice caseload was 54 (47 formal complaints and 7 concerns). In comparison, as at 31 March 2021, the fitness to practise case load was 40 cases (32 formal complaints and 8 concerns).
10. Performance against the new performance targets for this reporting period, is as follows:

Case stage	Key Performance Indicator	Performance Target	Median figures achieved this quarter
Screening	Median time from receipt of concern to the screener's decision	9 weeks	9 weeks
Investigating Committee	Median time from receipt of concern to final IC decision	26 weeks	30 weeks
Professional Conduct Committee	Median time from receipt of concern to final PCC decision	52 weeks	58 weeks

11. In this reporting period the Screener KPI was exceeded by two weeks.

12. The IC KPI was not exceeded in this quarter. This related to a delay from a third party in submitting material in two cases and another case where an extension in registrant's submissions was granted because of the registrant contracting and suffering with Covid-19.
13. The end-to-end KPI was not reached for this quarter. However, it is noted that one case concluded within 42 weeks.
14. We are continuing to run the majority of hearings remotely. However, we are individually reviewing all cases referred by the IC for hearing that have not yet been listed, to determine which cases may benefit from taking place in person.
15. In light of revisions we have made to our draft Remote Hearings Guidance and Protocol, we are planning to amend our listings questionnaire to include a specific section inviting the registrant to indicate, with reasons, whether they wish the hearing to take place either remotely, in-person or as a blended hearing. The purpose of this is to further enhance the fairness of our hearings by ensuring that all views are taken into account when determining the most appropriate forum to hold cases.
16. It is our experience that remote hearings generally take longer to conclude, despite scheduling longer time to take account of the exigencies associated with virtual hearings such as connection issues and longer, more frequent breaks. This is not assisted by hearing days generally starting later and finishing earlier than planned. We have also noted that in camera discussions by Panels generally take longer than in person hearings. This may also, in part, be due to the finalising of written reasons by Panels and the developments within case law requiring more detailed reasoning at each stage and the relative complexity of some of our cases.
17. However our experience and learning in managing remote hearings has also increased by taking account of outcomes within both our own hearings and across the sector and we have utilized this experience to inform the development of our remote hearings guidance moving forward.

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 31 March 2022, we are currently handling 23 active section 32 cases.
20. There have been no prosecutions commenced in this quarter.

FtP webinar - May 2022

21. We are planning to host a live FtP webinar on 17 May 2022, commencing at 6.30 pm. On this occasion we will be joined by Victim Support who will be highlighting and answering questions on our Independent Support Service for all participants involved in GOsC fitness to practise investigations and hearings.
22. The focus of this webinar will be on our guidance to osteopaths and special measures for vulnerable witnesses at hearings. This is part of an ongoing series of webinars and engagement opportunities where we intend to share insights on fitness to practise, familiarising our processes for the profession and the public while 'myth busting' common misconceptions.

Training for the Investigating Committee and Professional Conduct Committee

23. Following the successful appointment of two new members to the Investigating Committee and Professional Conduct Committee this year, induction training for these new Committee members is due to take place on 22 April 2021.
24. The final agenda included an interactive session on equality and diversity training delivered by an external consultant and fee paid judge followed by a joint session on interim orders and separate breakout sessions on investigating committee meetings and professional conduct hearings. Leading counsel, Jonathan Whitfield QC, will also deliver a session on our Remote Hearings Guidance Protocol and shared insights and learning on hearings in the virtual environment.

Recommendation:

To note the report.