



General
Osteopathic
Council

Annex D to 10

Consultation on the Guidance on Imposing Interim Suspension Orders and the Practice Note on Undertakings

2023

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About the General Osteopathic Council

The General Osteopathic Council (GOsC) is the regulator for the osteopathic profession in the UK. Our role is to develop and regulate the profession of osteopathy which we do by setting standards of education, training, conduct and competence and keeping a Register of those who have qualified and met those standards. By law, osteopaths must be registered with us in order to practise in the UK; there are currently around 5,400 osteopaths.

One important aspect of our work is dealing with concerns and complaints about osteopaths. We have legal powers with clear and transparent processes to investigate and deal with osteopaths who may fall short of the standards we have set.

Background

All osteopaths registered with us must be fit to practise. This means that they must have the skills, knowledge, good health and good character to do their job safely and effectively. If a concern is raised against an osteopath and our Investigating Committee believes there is a case to answer, a fitness to practise hearing will be held before either a Professional Conduct Committee or Health Committee to decide whether an osteopath's fitness to practise is impaired.

We have three statutory fitness to practise committees:

- [The Investigating Committee \(IC\)](#) carries out the initial scrutiny of concerns about osteopaths and decides whether the osteopath has a case to answer.
- [The Professional Conduct Committee \(PCC\)](#) hears cases involving criminal convictions or allegations against an osteopath's conduct or competence. If the Committee finds the allegation is well founded, it imposes an appropriate and proportionate sanction on the osteopath.
- [The Health Committee \(HC\)](#) considers cases where an osteopath is alleged to be in poor physical or mental health. Appropriate action is taken in the interests of the public and the osteopath.

The Investigating Committee, Professional Conduct Committee and Health Committee have the power to impose an interim suspension order on a registrant, if it considers it necessary to do so in order to protect the public. An interim suspension order means the osteopath's registration is suspended pending the investigation and outcome of the hearing. During the suspension the osteopath is not legally able to practise osteopathy.

An interim suspension order can be imposed by either the Investigating Committee for up to two months or by either the Professional Conduct Committee or the Health Committee up until the final hearing has concluded.

The Professional Conduct Committee or the Health Committee may also impose an interim suspension order to cover the 28-day appeal period after a final hearing has concluded.

Undertakings are defined as solemn written promises which are made by the registrant to the fitness to practise committee considering allegations against them. Undertakings set out the terms on which the registrant will voluntarily restrict their practice during a fitness to practise investigation. They can be either agreed by the Investigating Committee or the Professional Conduct Committee at an interim order application hearing.

The Guidance for the Fitness to Practise Committees on Imposing Interim Suspension Orders was last reviewed in 2015 and agreed by Council in 2016. The GOsC Practice Note on Undertakings was introduced in 2014. The policy and practice Note are available on the GOsC website at: [add links] and will remain in force until this consultation has ended and all responses are considered by Council.

The consultation

Risk Assessment, Proportionality, Written Reasons and Undertakings

Following the recommendations from an external audit of all our interim order application hearings between between January 2020 - March 2021, we conducted a review of both our guidance on Imposing Interim Suspension Orders and the Practice Note on Undertakings. We are proposing revisions to both the interim suspension order guidance together with the revised practice note on undertakings which are designed to provide greater assistance to Committees in the task of deciding whether an ISO is appropriate. By making the process around undertakings clearer we consider this will enhance transparency and will enable both the IC and PCC to utilise greater flexibility when deciding whether undertakings are sufficient in any given case. It will assist other users of the guidance including legal assessors and osteopaths and their advisers on the process involved.

We have highlighted in red within both the guidance and practice note where we are proposing changes in the following areas:

- The relevant sections of the Interim Orders Guidance, in relation to risk assessment and written reasons, have been refreshed to place enhanced focus on the issues of risk assessment and proportionality and the need to adequately explain the committees' decisions on these aspects within their written determinations.
- The Interim Orders Guidance and the Undertakings Practice Note have both been amended to set out the procedure for Committees considering an offer of undertakings by an Osteopath.

The Overarching Objective to protect the public

Section 1(2) of the Osteopaths Act provides that it is the duty of the Council to regulate and develop the profession of osteopathy. The Health and Social Care (Safety and Quality) Act 2015 amended the Act by inserting a new over-arching objective for the Council in the exercise of its functions which is 'the protection of the public'. This involves the pursuit of the following objectives:

- to protect, promote and maintain the health, safety and well-being of the public
- to promote and maintain public confidence in the profession of osteopathy; and
- to promote and maintain proper professional standards and conduct for members of that profession.

Paragraph 34B of the Schedule requires that the Professional Conduct Committee must have regard to the over-arching objective when determining restoration hearings and substantive hearings. The Health Committee has a corresponding duty contained in Paragraph 38B. This creates a mandatory obligation on both the Professional Conduct Committee and Health Committee to have regard to public protection and the wider public interest during substantive final hearings.

The Schedule is silent on parallel provisions for the Professional Conduct Committee, the Health Committee and the Investigating Committee on the exercise of their statutory functions at interim order application hearings.

There is no equivalent provision for the Investigating Committee, the Health Committee or the Professional Conduct Committee to have regard to the overarching objective in its functions in determining whether there is a case to answer or during interim order hearings.

We consider that specific provision to the overarching objective within the Schedule is not required given that both section 21(2) and section 24(2) of the Osteopaths Act enable the Investigating Committee, the Professional Conduct Committee and the Health Committee to impose an interim suspension order if satisfied that it is necessary to do so in order to protect members of the public. Axiomatic to this is the wider public interest (namely, maintaining public confidence in the profession of osteopathy and promoting and maintaining proper professional standards and conduct for members of the osteopathic profession). Therefore, by virtue of the Health and Social Care (Safety and Quality) Act 2015, protection of the public also encompasses the wider public interest. We have highlighted in red within the guidance on imposing interim suspension order the changes we are proposing where:

- We have made it clearer within the Guidance on Imposing Interim Suspension Orders that the Investigating Committee, Professional Conduct Committee and Health Committee are under a duty to have regard to the overarching objective within the Osteopaths Act when considering interim order applications.

Please read the [insert draft guidance and practice note] before answering the consultation questions below.

How to respond

The deadline for responses to this consultation is **xx xxxx 2023**

You can send us your views by responding to [insert] or if you would prefer, you can email your response to: regulation@osteopathy.org.uk.

Copies of the response form are also available on request in other formats by emailing regulation@osteopathy.org.uk

Information in responses, including personal information, may need to be published or disclosed under the access to information regimes (mainly the Freedom of Information Act 2000, the General Data Protection Regulation, the Data Protection Act 2018 and the Environmental Information Regulations 2004). We will publish a report about the consultation and the responses we have received. If you would prefer your name not to be made public, please indicate this when sending us your views.

The GOsC is a data controller registered with the Information Commissioner's Office. We use personal data to support our work as the regulatory body for osteopaths. We may share data with third parties to meet our statutory aims and objectives, and when using our powers and meeting our responsibilities under the Osteopaths Act and the associated rules made under the Act. We may use personal data to update the Register, administer and maintain the Register, process concerns, compile statistics and keep stakeholders updated with information about our work.

Consultation questions on the Guidance on Imposing Interim Suspension Orders and the Practice Note on Undertakings

1. Your name or your organisation if replying on behalf of an organisation (optional)

2. Do you agree that the Interim Suspension Orders Guidance and the Undertakings Practice Note procedure for accepting undertakings by the Osteopath is clearer?

Yes No

Please provide reasons for your response using the box below:

3. Do you agree with our proposed approach within the Guidance on Imposing Interim Suspension Orders that the Investigating, Professional Conduct and Health Committees should have specific regard to our overarching objective of public protection when making a decision on whether an interim suspension order should be imposed? The overarching objective includes:

- a) protecting, promoting and maintaining the health, safety and well-being of the public
- b) promoting and maintaining public confidence in the profession of osteopathy
- c) promoting and maintaining proper professional standards and conduct for osteopaths

Yes No

Please provide reasons for your response using the box below:

4. Do you agree that the sections on risk assessment and proportionality are clear and accessible?

Yes No

Please provide reasons for your response using the box below:

5. Do you think the proposed Interim Suspension Orders Guidance and Practice Note on Undertakings are likely to have any positive or negative effects on a person's opportunities to use the Welsh Language?

Positive Negative Don't know

a. Do you think the proposed Interim Suspension Orders Guidance and Practice Note on Undertakings can be revised in any way in order to increase a person's opportunities to use the Welsh Language?

Yes No

If yes, please explain how the policy could be revised:

b. Do you have any other comments in relation to how the guidance and practice note might affect a person's opportunities to use the Welsh language:

6. Except for issues relating to the Welsh language, do you consider there are any equality and diversity implications for groups or individuals related to the proposed Interim Suspension Orders Guidance and Practice Note on Undertakings?

Yes No

If yes, please explain what could be done to address this.

7. Please provide additional comments below. Are there any other areas that the policy should address? If so, please set out what these areas are.

All feedback will be taken into consideration.

Diversity questionnaire

We would like to ask some questions about you. Completing the diversity questionnaire is optional but we would welcome information about our respondents. We ask for this information to help us analyse the consultation responses to help ensure we are not inadvertently discriminating against any particular group. We are also required as an organisation to monitor diversity.

It would be very helpful to us if you would provide this information. You can skip any questions you do not wish to answer.

Please complete the [diversity questionnaire](#)

Thank you for your response to this consultation.