



Council
17 May 2023
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	Ongoing monitoring of equality and diversity trends will form part of the Regulation department's future quality assurance framework.
Communications implications	None
Annex	A - Fitness to Practise Data Set
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Key messages from the paper:

- In this reporting period, we received an unexpected decrease in the number of new concerns received over the reporting, having seen a 31% increase in the total of the number of concerns received in the previous quarter.
- We exceeded our screener KPI however did not meet the IC or PCC (end-to-end) KPI's during the reporting period.
- At the time of writing, we have listed 5 of the 18 cases referred by the Investigating Committee (IC) to the Professional Conduct Committee (PCC).
- A Crown Court appeal hearing against a section 32 conviction took place at Worcester Crown Court on 17 March 2023. The appeal was dismissed.

Fitness to practise case trends

1. In this reporting period, the Regulation Department received 12 concerns and 7 formal complaints were opened. During the same period last year, the Regulation Department received 14 concerns and 12 formal complaints were opened.
2. Of the 12 concerns, five related to a transgression of boundaries, two related to poor communication, one related to a conviction, three related to inadequate treatment and one related to misuse of social media.
3. The seven formal complaints related to: a transgression of sexual boundaries (3), poor communication (1), poor conduct (1), conviction (1) and inadequate treatment (1).
4. As reported to Council at its meeting in February 2023, we have continued to encounter delays in the progress of some cases because of on-going challenges engaging with complainants especially in serious and complex cases, and third-party investigations. Until recently, 40% of our caseload was under police investigation / within the criminal courts. This figure has now decreased to 31%. However, it is the delay in these cases, as well as difficulties with engaging complainants in serious matters including transgression of sexual boundaries cases, that has impacted on our ability to meet certain timescales.
5. Over the relevant reporting period, there were no applications to the Investigating Committee (IC) for the imposition of an Interim Suspension Order (ISO). There was one application to the Professional Conduct committee (PCC) for the imposition of an ISO and the suspension was granted by the Committee.
6. The IC met remotely on two occasions and considered six cases, of which four were no case to answer and two were referred to the PCC. Due to the issues stated above at paragraph 4, we have recently encountered difficulties in preparing cases for the IC, and on one occasion we had no option but to cancel a pre-scheduled IC

meeting due to the lack of cases. Naturally we are working to ensure that all cases are progressed in a timely manner, where possible.

7. In the reporting period the PCC sat remotely for two substantive hearings, one PCC Interim Suspension Order hearing and one PCC review hearing, of which all concluded.

Fitness to practise case load and case progression

8. As at 31 March 2023, the Regulation Departments fitness to practise caseload was 51 cases (39 formal complaints and 12 concerns). In comparison, the Regulation Department's fitness to practise case load as of 31 March 2023, was 54 fitness to practise cases (47 formal complaints and 7 concerns).
9. 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	8 weeks
Investigating Committee	Median time from receipt of concern to final IC decision	26 weeks	46 weeks
Professional Conduct Committee	Median time from receipt of concern to final PCC decision	52 weeks	70 weeks

10. In this reporting period the Screener KPI was exceeded by one week.
11. The IC KPI was not met in this quarter. This was due to a combination of issue in relation to the six cases considered by the IC during the reporting period: in one case we experienced significant delays in the progression of the case to the IC because of sporadic engagement of a vulnerable complainant which required careful management; two cases were considered having been cancelled from a previous IC meeting that had been cancelled due to sickness of the legal assessor, and in another two cases we experienced delays due to awaiting material from third parties (medical information). We were able to progress the sixth case, involving a conviction, in a timely manner and the KPI was exceeded.

12. The end-to-end KPI was not met during this reporting period. The KPI was 70 weeks. We had forecast to exceed this KPI during this reporting period. However, this was directly impacted by a substantive PCC hearing being postponed the day before it was scheduled to commence due to the sickness of the panel chair. Had the case concluded as expected, the KPI would have been 50 weeks for this quarter. Notwithstanding we report on the median figure to Council, this starkly reflects the impact on timeliness just one case can have on the overall output with regarding given our relatively small caseload.
13. Five out of 18 cases have been listed for a PCC hearing. The breakdown of these cases are as follows: five cases are with the police for investigation; five cases have been listed for hearing; we are currently actively seeking to list four cases and empanel a PCC and in another four cases we are progressing to ready for a hearing.

Section 32 Prosecution

14. 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. There were 12 active Section 32 investigations as at 31 March 2023.
15. We reported to Council at its meeting in February 2023, that Ms Davies was found guilty at Kidderminster Magistrates' Court on 3 October 2022, on one count of using the osteopathic title while suspended from the Register and was fined £800. Ms Davies was also ordered to pay costs of £500 to the GOsC and a Victim Surcharge of £85. Ms Davies appealed this conviction, and the appeal was heard on 17 March 2023 at Worcester Crown Court. The appeal was dismissed. The Crown Court did not interfere with the fine, which remains £800. Ms Davis was also ordered to pay prosecution costs of £1,728.

Quarterly meeting with other healthcare regulators

16. The Regulation Manager has been attending inter-regulatory FtP meetings on a quarterly basis. The purpose of these meetings is to share best practice in terms of the functionality of hearings. However recently the regulators have found this to be a useful platform to discuss other aspects of Fitness to Practise work such as caseloads, witness support, ongoing consultations and process enhancements or pilots.
17. The last meeting took place on 29 March 2023 where the agenda spanned backlogs in cases and reasons, scheduling hearings & difficulties with availability of panellists and legal assessors, supporting witnesses and recruitment campaigns for panellists.

Staff update

18. We would like to say a huge thank-you to Fameeda Shafiq from Ward Hadaway Solicitors, who joined the Regulation Team as a secondee Senior Regulation Officer for just over a year, covering maternity leave. Fameeda, who left us on 31 March

2023, has been an invaluable member of the team and will be greatly missed. We are however delighted to welcome back Sheena Wynn, Senior Regulation Officer, from maternity leave. Both Fameeda and Sheena were able to join us at the Regulation Team Away Day in February.

Recommendation:

To note the report.