



Council
12 November 2015
Interim Suspension Order Guidance

Classification	Public
Purpose	For discussion
Issue	This paper proposes updated and modified guidance which will enable the Committees to make consistent, reasoned and legally sound decisions when determining whether to impose an Interim Suspension Order.
Recommendation	To agree the draft Guidance on Imposing Interim Suspension Orders.
Financial and resourcing implications	None identified
Equality and diversity implications	None identified
Communications implications	The GOsC has undertaken a three month consultation on the draft guidance on imposing interim suspension orders. If approved, the guidance will be published on the GOsC website.
Annexes	A. Summary of consultation responses B. Draft Guidance on imposing Interim Suspension Orders.
Author	Sheleen McCormack

Background

1. Under sections 21 and 24 of the Osteopaths Act 1993, a fitness to practise committee of the GOsC has the power to impose an interim suspension order (ISO) on a registrant, if it considers it necessary to do so in order to protect the public.
2. As part of our key initiatives within the Regulation team, we are conducting a review of GOsC guidance documents. As the Osteopaths Act dates back some time, it does not accord with the current approach to interim orders found in more modern healthcare regulatory legislation in a number of key respects, including the period of time that an ISO can be imposed by a Committee. The current 2012 version of the guidance appears to encourage the PCC and the HC to impose an order for a specified period (less than 18 months) and to suggest that it is possible for the order to be reviewed before its expiry and be potentially extended.
3. Unlike other healthcare regulatory regimes, the GOsC's statutory scheme, as set out in the Osteopaths Act and the associated rules, does not provide explicit powers to the Fitness to Practise Committees to review or vary an ISO. The legislation clearly envisages that any ISO imposed by the PCC or HC would remain in place until the case was substantively disposed of at a final hearing. Consequently, the GOsC does not have the power afforded to other healthcare regulators to apply to the relevant Court to extend any ISO imposed.
4. However, at a number of recent hearings, an ISO has been extended by the PCC/HC following the current 2012 guidance. This could make the GOsC vulnerable to successful challenge by way of an appeal or judicial review.
5. Additionally, account has been taken of the recommendation made by the Professional Standards Authority (PSA) within its 2012-13 annual performance review of the fitness to practise functions of the GOsC that a shorter time frame should be agreed between reviews of GOsC guidance.

Discussion

6. The draft guidance has been developed to be more consistent with the powers as set out in the Osteopaths Act whilst endeavouring to interpret those powers in accordance with current regulatory developments and case law.
7. The current ISO guidance was last reviewed some time ago in October 2011 and was approved in 2012. The draft guidance has therefore been substantially revised to reflect the up to date guidance and developments within recent case law in relation to interim orders in the intervening period.
8. Additionally, the opportunity has been taken to enhance the guidance generally by fully explaining the ISO referral process and the written reasons required of the Fitness to Practise Committees whilst setting out in more detail the different

ISO powers of each of the Committees (Investigating, Professional Conduct and Health).

9. The revised guidance is aligned to the GOsC strategic objective to promote public and patient safety through proportionate, targeted and effective regulatory activity. It will provide greater assistance to Committees in the task of deciding whether an ISO is appropriate in any given case and will assist other users of the guidance including legal assessors and registered osteopaths and their advisers.

Consideration by the Osteopathic Practice Committee

10. At its meeting on 18 June 2015, the Osteopathic Practice Committee (OPC) considered the draft guidance. The OPC agreed that the guidance should be recommended to Council for consultation subject to a few minor corrections and amendments.

Consideration by Council

11. The Council considered the draft policy at its meeting on 14 May 2015, where further minor amendments were suggested and made to the draft. Council members approved this draft of the guidance for consultation.

The consultation

12. The GOsC undertook a three month consultation from 31 July 2015 to 30 October 2015, in accordance with our engagement strategy. In addition to being published on our website, an article relating to the consultation was featured in the Aug / Sept 2015 issue of *the osteopath* and the September news e-bulletin sent to osteopaths.
13. Direct correspondence in the form of an email went to targeted stakeholders, including osteopathic educational institutions, other healthcare regulators and public/patient representatives shortly after the launch of the consultation (3 August 2015) and as a 'last chance' reminder email (26 October 2015) a week before the deadline. The consultation also featured in social media postings on Twitter and Facebook.
14. The GOsC received seven responses to the consultation. The majority of responses received were in the form of an email with general comments. Two respondents completed the consultation questionnaire.
15. All feedback received has been reviewed with revisions being made where it was considered this would clarify the guidance. The consultation responses are set out in Annex A. The revised guidance can be found at Annex B.

Recommendation: to agree the draft Guidance on Imposing Interim Suspension Orders.

Summary of consultation responses

Response¹	GOSc comments (where relevant)
<p>Paragraph 20, 21 etc relate to IC but this is not clear. For example, it states that it isn't the function of the Committee to find facts – but of course this is the function of the PCC & HC. This could be clarified.</p>	<p>It is not the function of the IC, PCC or HC sitting as an Interim Order Committee to make findings of fact or to resolve factual disputes. However, the Committee must consider the nature of the evidence on which the allegation is based and it is entitled to discount evidence that is manifestly unreliable. The guidance has been amended to make this clearer.</p>
<p>General</p> <p>The Guidance does not include any guidance to Screeners, who are members of the IC. Part of the role of a screener, as I understand it, is to refer appropriate cases to the Chair of the IC for a decision on whether a hearing to consider the imposition of an ISO should be held.</p> <p>Paras 15-18</p> <p>The removal of the old guidance (para 18) on what the Chair should take into account in reaching their decision on whether a hearing is to be held is unhelpful. The new guidance seems to contain just two relevant sentences (para 15 second sentence and para 16 first sentence). Para 18 as presently drafted ("will be asked") and given the very wide set of relevant allegations is likely to cover the great majority of allegations made against osteopaths (depending on what "serious departures" means) unlike the present situation where most allegations do not trigger a hearing for an ISO.</p>	<p>The role of the Screener is to recommend to the Executive that an interim order application should be considered. The decision to refer a case for an interim suspension order application has been delegated to the Chair of the relevant Committee.</p> <p>Guidance on what relevant factors the Chair should take into account, including the non-exhaustive list, is contained in paragraphs 15-18 of the ISO guidance. This list reflects the wide range of allegations where the threshold for an ISO application may be engaged. However, decisions are fact specific.</p>

¹ Some responses received have been shortened.

<p>Para 16</p> <p>Could the first sentence be made clearer? The first sentence seems to apply to the IC while the second applies to the PCC and HC. If that is right perhaps that could be made more explicit? Is it PC or PCC?</p> <p>Para 17</p> <p>Is it PC or PCC?</p> <p>Para 18</p> <p>Fifth bullet - "linked to the osteopath's regulated practice or to dealings with patients more generally"? Sixth bullet - "Failure to have adequate professional indemnity insurance"?</p> <p>Para 21</p> <p>Why "should" the osteopath's evidence be focussed on the effect of an ISO? The committee may well find it helpful to have evidence of a broader nature. If the osteopath gives evidence outside of the effects an ISO may have on her are any consequences intended to flow?</p> <p>Para 28</p> <p>Fourth bullet - isn't the second half of this all about the risk rather than the decision? Do "immediacy" and "urgency" address different points?</p> <p>Para 35</p> <p>First bullet - "of"</p>	<p>This has been amended.</p> <p>This has been amended.</p> <p>This has been amended to reflect observations derived from current case law.</p>
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<p>Third bullet - "the risk posed by the osteopath to the public"? Fourth bullet - might not the guidance say that proportionality must be addressed if an order is made and may be addressed if one is not made?</p>	<p>The principle of proportionality must be addressed as part of the Committee's decision making process.</p>
<p>Ignorance on the part of the registrant and their legal representative of the possibility of offering undertakings and their associated conditions; The legal representative of the registrant attempting to engage in negotiation on undertakings - i.e. what are the undertakings the panel would regard as acceptable in order to mitigate risks? The possibility of deciding not to impose an ISO alongside not taking up the undertakings offered by the registrant. There is a danger of accepting undertakings when imposition of an ISO is not proportionate to the risk 'just to be on the safe side'. The result could be unnecessary restrictions on the practice of an osteopath and damage to their reputation resulting from publication on the GOsC website.</p>	<p>Undertakings have been referenced within the guidance document. The registrant's representative cannot "negotiate" undertakings with the Committee. The Committee should have regard to the relevant practice note.</p>
<p>I like paragraph 19 and the bullets re-considering risk, but wonder whether it should be emphasised more that the test is one "necessity" and that "mere desirability" is not sufficient – i.e. "for you to be satisfied that it is necessary for public protection to impose an interim order, you must consider that there is a real risk of significant harm to the health safety or well-being of patients, visitors or colleagues if an order is not made. It is not enough for an order merely to be desirable" Paragraph 20 emphasising that it is not the Committee's function to determine facts is, of course, essential and I wonder</p>	<p>Amendments have been made to make this clearer.</p>

<p>if including some paraphrase of the observations from <u>Perry v Nursing and Midwifery Council</u> would assist. Sir Stanley Burnton said at paragraphs 19 and 20 of his judgement</p> <p>I think the second sentence under the heading "Remember" on page 6 could be amended as "assessing the credibility" on its own could be a hostage to fortune.</p>	<p>Amendment has been made.</p>
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**General
Osteopathic
Council**

Guidance for the Fitness to Practise Committees on imposing Interim Suspension Orders

Introduction

1. The General Osteopathic Council (GOsC) was established by the Osteopaths Act 1993 (the Act) to regulate and develop the profession of osteopathy. This guidance document is primarily for use by the GOsC's three fitness to practise committees ("the Committee"):
 - Investigating Committee (IC)
 - Professional Conduct Committee (PCC)
 - Health Committee (HC)
2. This guidance will also be of use to osteopaths who have been referred for an interim suspension order and their legal representatives and professional bodies. The Legal Assessor advising the Committee may also find this guidance a useful reference document as will members of the public.
3. The guidance is not meant to be exhaustive, nor is it intended to restrict or fetter the Committee in exercising its own judgement. Rather, the guidance has been developed to assist the Committee in being consistent, transparent and proportionate when determining whether to impose an Interim Suspension Order (ISO). However, the Committee should take account of the distinctive features and particular facts of cases individually when reaching a decision.
4. The guidance given in this document will be reviewed in light of developments in case law and the wider regulatory landscape generally and updated periodically. The most up-to-date version will be available on the GOsC website www.osteopathy.org.uk.

The Legislation

5. The rules which govern the interim suspension powers available to the Committee differ depending upon the stage at which a case has reached in the fitness to practise process. Set out below in the following section is the procedure to be followed and the relevant test to be applied by each Committee when considering whether to impose an ISO.

Investigating Committee

6. The Osteopaths Act 1993 (as amended) (the Act), section 21, and the GOsC (Investigation of Complaints)(Procedure) Rules 1999 (the IC Rules) together with rule 22 provides that, where the IC is investigating an allegation against a registered osteopath, it may order the Registrar to suspend the osteopath's

registration if it is satisfied that it is necessary to do so in order to protect members of the public.

In addition:

- the ISO must specify the period of suspension, which must not exceed two months;
- only one ISO may be made by the IC in respect of any allegation;
- the osteopath concerned shall be given an opportunity to appear before it to argue their case against the making of the proposed ISO;
- the osteopath has the right to be legally represented at any hearing;
- the IC should ensure that its decision is recorded in writing.

Professional Conduct Committee

7. Section 24 of the Act together with rule 40 of the GOsC (Professional Conduct Committee) (Procedure) Rules 2000 (the PCC Rules) provides that where the PCC is satisfied that it is necessary to protect members of the public it may impose an ISO at two different stages of its procedures as follows:
 - i) where an allegation against a registered osteopath has been referred to the PCC and the PCC has not reached a decision on the matter; and/or
 - ii) where the PCC has reached a relevant decision² on any such allegation.
8. An ISO made in a case falling within point i) will cease to have effect when the PCC reaches a decision in respect of the allegation in question.
9. An ISO made in a case falling within point ii) will cease to have effect:
 - if there is no appeal against the decision, when the period for appealing (28 days) expires; or
 - if there is an appeal against the decision, when the appeal is withdrawn or otherwise disposed of.
10. In addition:
 - The osteopath has a right to appear before the PCC to argue his case and question any witnesses called by the GOsC.
 - The osteopath has the right to be legally represented.
 - The PCC may decide to proceed in the absence of the osteopath.
 - A medical assessor may be present at the hearing.

² 'relevant decision' means an order under section 22(4)(c) or (d) or an order under section 23(2)(b) of the Act.

Health Committee

11. Section 24 of the Act together with rule 26 of the GOsC (Health Committee) (Procedure) Rules 2000 (the HC Rules) provides that, where the HC is satisfied that it is necessary to do so in order to protect members of the public, it may impose an ISO at two different stages of its procedures as follows:
 - i) where an allegation against a registered osteopath has been referred to the HC and the HC has not reached a decision on the matter; and/or
 - ii) where the HC has reached a relevant decision³ on any such allegation.
12. An ISO made in a case falling within point i) will cease to have effect when the HC reaches a decision in respect of the allegation in question.
13. An ISO made in a case falling within point ii) will cease to have effect:
 - if there is no appeal against the decision, when the period for appealing (28 days) expires; or
 - if there is an appeal against the decision, when the appeal is withdrawn or otherwise disposed of.
14. In addition:
 - The osteopath has a right to appear before the HC to argue his case and question any witnesses called by the GOsC.
 - The osteopath has the right to be legally represented.
 - The HC may decide to proceed in the absence of the osteopath.
 - A medical assessor may be present at the hearing.

Referral Process

15. The Committee has delegated the function of deciding whether an ISO should be considered at a hearing to the relevant Chair of either the IC or PCC/HC. When determining whether a hearing is appropriate⁴, the Chair shall have regard to all the circumstances of the case and should provide written reasons for every decision made as to whether an ISO hearing should be convened or not.
16. Cases should be referred for a hearing where the osteopath faces an allegation of such a nature that it may be necessary to protect members of the public for the osteopath's registration to be suspended whilst those allegations are investigated.

³ See note 1.

⁴ Rule 40(2) of the PCC rules; rule 26(2) of the HC rules; rule 22(1) of the IC rules.

An ISO can be considered at any stage during the lifecycle of a case pending resolution of the case as the GOsC is under a duty to ensure that continuous risk assessment is undertaken as to whether an ISO application should be made, for example where new or additional information is obtained during the investigation.

17. Additionally, an ISO may also be made where the PCC or HC, having made a final decision, decide that it is necessary to impose interim measures to cover the period of any appeal that may be made by the osteopath.⁵
18. The Committee will be asked to consider an ISO when an allegation has been made about the osteopath and which raises immediate concerns about the protection of the public. Such allegations may include one or more of the following (which is a non-exhaustive list):
 - A criminal investigation, charge or conviction for serious offences;
 - Sexual or violent misconduct or indecency;
 - Misuse of the patient / healthcare professional relationship by the osteopath;
 - Serious departures from the standards of practice laid down in the Osteopathic Practice Standards;
 - Dishonesty or fraudulent behaviour especially where it is linked to the osteopath's practice or dealings with patients;
 - Failure to have adequate professional indemnity insurance;
 - Risk of patient harm due to the osteopath's health, including alcohol or drug abuse.

Hearings

The test to be applied

19. There is only **one** statutory ground whereby the Committee may impose an ISO and that is where it is satisfied that it is necessary to do so in order to protect members of the public⁶. The test is one of necessity. What this means is that the Committee must be satisfied that there is a real continuing risk (actual or potential) to patients, colleagues or other members of the public if an ISO is not made. This requires the Committee to look to the future, albeit in light of what is alleged to have occurred in the past. What is crucial in any assessment undertaken by the Committee is the nature of the wrongdoing alleged against the osteopath. Assessing the risk involves a consideration of the following:
 - The nature and seriousness of the allegation(s) made about the osteopath;

⁵ Rule 40(1)(b) PCC rules; rule 26(1)(b) HC rules.

⁶ Note that this is a narrower test than that which may apply for other healthcare regulators, who may impose an order if it is in the public interest, or the interests of the registrant, to do so.

- The likelihood of the alleged conduct being repeated if an ISO was not imposed;
 - The severity of harm likely to result should the alleged conduct be repeated;
 - The weight of the information or evidence.
 - If there are other assurances in place which might indicate that an interim order is not necessary⁷.
20. The Committee should take into account any concessions made by the osteopath about the truth of the allegation. The Committee must permit both parties to make their submissions on the need for an interim order. For that purpose it must consider the nature of the evidence on which the allegation is based. The osteopath may also give evidence to establish that the information before the Committee is manifestly unfounded or exaggerated.
21. However, if an allegation is denied, it is not the function of the Committee in interim order hearings to determine the veracity of the allegation or make a finding of fact against the osteopath. The Committee can expect that the allegation has been made or confirmed in writing, albeit that it might not be reduced to a formal witness statement. The Committee will need to consider the source of the complaint. If there is evidence that the allegation is unfounded the Committee must take that evidence into account.
22. An ISO is capable of giving rise to serious consequences for the future professional career of an osteopath, as well as creating immediate consequences of hardship. The Committee may receive and assess any evidence on the effect of an interim order on the osteopath and he / she is entitled to give evidence on this. This must be taken into account by the Committee in conducting a balancing exercise as to whether the imposition of the ISO is proportionate to the risk it has identified. For example, would the consequences of an ISO for the osteopath be disproportionate to the risk the Committee is seeking to prevent.
23. Additionally, in deciding whether or not it is necessary to make an ISO, the Committee may take into account any Undertakings offered by the osteopath. In doing so the Committee should have regard to Practice Note 2014/01, Consideration of Undertakings at Interim Suspension Order Hearings.

Remember:

The role of the Committee (the IC, PCC or HC) at an Interim Suspension Order Hearing is **NOT** to decide whether allegations are proved or to make findings of fact. Rather the Committee should assess any continuing risk the osteopath may present to public protection.

⁷ See Practice Note 2014/01, Consideration of Undertakings at Interim Suspension Order Hearings

Applications for postponement or adjournment

24. The IC Rules are silent about the powers or procedures for postponing or adjourning ISO hearings. The IC should, however, allow all reasonable applications for a postponement of a hearing or adjournment of proceedings to be made, even if not subsequently granted.
25. The PCC (rule 40(3)) and HC (rule 26(4)) Rules provide for the Committee to postpone a hearing or adjourn proceedings as it thinks fit. This may be on the Committee's own motion or on the request of the osteopath.
26. As interim orders are designed to provide immediate protection of the public, hearings can be arranged at short notice. This immediacy is provided for in the legislation. It is not uncommon for an application for postponement to be made on the basis that a longer notice period should be provided. When considering applications made on this basis, the Committees should be mindful of the statutory notice period⁸ and consider whether this has been met.
27. Before reaching a decision upon whether an adjournment should be made in an individual case, the Committee should first invite submissions from both parties. The Committee, having sought advice from the Legal Assessor, should then consider the application for an adjournment in private in the absence of the parties, before producing a decision which captures the reasons for the decision it has reached.

Proceeding in the absence of the osteopath

28. The fitness to practise committees may proceed with a hearing and decide whether to impose an ISO in the absence of the osteopath.
29. As a general principle, the osteopath has the right to be present and represented at a hearing. However, the following Rules do provide for the hearing to proceed in the absence of the osteopath:
 - Rule 22(4) of the IC Rules provides that the IC may proceed in the absence of the osteopath if it is satisfied that all reasonable efforts have been made to notify the osteopath of the hearing.

⁸ The IC's statutory notice period is 5 days (rule 22(2), IC Rules). There is no specified notice period for the PCC or HC who are required to have 'regard to the urgency and all the circumstances of the case' (rule 40(2) of the PCC Rules and rule 26(2) of the HCR).

- Rules 20 and 40(5) of the PCC Rules provide for the PCC to proceed in the absence of the osteopath if it is satisfied that all reasonable steps have been taken to serve notice of the hearing on the osteopath.
 - Rules 16(4) and (5) and 26(6) of the HC Rules provide for the HC to proceed in the absence of the osteopath if:
 - it is satisfied that the notice of hearing has been served in accordance with the rules; or
 - in its opinion all practicable steps have been taken to serve the notice
30. The decision to proceed with a hearing in the absence of the osteopath is a matter within the discretion of the Committee. The Committee should exercise that discretion with the utmost care and caution. In reaching a decision, the Committee should take account of the following (non-exhaustive) factors:
- the nature and circumstances of the osteopath’s absence;
 - whether the absence is deliberate or voluntary;
 - whether an adjournment might result in the osteopath attending the proceedings at a later date;
 - the likely length of any such adjournment and the immediacy AND urgency of ISO decisions;
 - whether the registrant wished to be represented at the hearing or has waived that right;
 - the extent to which any representative would be able to receive instructions from, and present the case on behalf of, the absent osteopath;
 - the extent of the disadvantage to the registrant in not being able to give evidence having regard to the nature of the case;
 - the seriousness of the allegation.
31. The IC and HC ISO hearings are held in private. If the decision is to impose an ISO, the decision is published on the GOsC website. The full written reasons of the Committee will also be published (with appropriate redactions where it includes information about the osteopath’s health or other sensitive information).

Length of ISO

Before the IC

32. When imposing an ISO, the IC must specify the period of the suspension, which must not exceed two months beginning with the date on which the ISO is made. In deciding the period of suspension, the IC must take into account the amount of time which is likely to be needed to complete any investigation.

Before the PCC and HC

33. The Act imposes no statutory requirement on either the PCC or HC regarding the period of interim suspension. The statutory scheme envisages that an ISO imposed by the PCC/HC will remain in place until the case is substantively disposed of⁹. The PCC and HC should bear in mind that the statutory scheme does not enable either the PCC or HC to review, vary or extend existing orders. As a consequence, and unlike other healthcare regulators that are required to specify a period (usually up to 18 months), there is no corresponding provision within either the PCC or HC rules that enables the GOsC to seek an extension of the ISO by applying to the appropriate Court. This does not prevent a new ISO from being imposed by the PCC or HC but only where new and/or additional information has come to light that was not before the original Committee that imposed the ISO.
34. Additionally, the Committee should bear in mind that there is no limit specified within the legislation on the number of applications for an ISO that the GOsC may make as part of its duty to continually risk assess a case upon the receipt of new or additional information.
35. The mechanism safeguarding the osteopath's interests is the power to apply for a revocation of the ISO or by way of an appeal.¹⁰ However, where permissible, the PCC/HC should endeavour to interpret its statutory powers in accordance with current, good regulatory practice. In this regard, principles derived from recent case law from other healthcare regulatory regimes, indicate that the length of any ISO imposed is a factor to be taken into account when considering whether the ISO is a proportionate and appropriate response. In light of this, and given that the current legislative framework does not confer powers to the PCC/HC to impose a time frame on an ISO imposed, the Committee may nevertheless wish to consider specifying the length of the ISO in an individual case. However, the Committee should bear in mind that any period of time specified by it would be a target or suggestion to the GOsC only. If the Committee chooses to indicate a particular timeframe, then it should take into account the likely time that will be required for the GOsC to bring the matter to a final hearing. The Committee should also provide reasons for any period stated.

Revocation of ISO

36. An osteopath may apply to the PCC or HC, as appropriate, to have the ISO revoked. The PCC or HC may revoke the ISO if there is a change in circumstances of the case which has made the ISO unnecessary¹¹. No such application can be

⁹ Section 24(3)(a) of the Act

¹⁰ Section 25; Section 24(6) of the Act

¹¹ Section 25(1) of the Act

entertained by the PCC or HC unless six months have passed since the imposition of the ISO.

Reasons for decisions

37. The Committee should provide written reasons for its decision in all cases, whether an ISO is granted or not. Reasons need to be sufficient but the decision can be fairly concise and reasons do not need to be long or detailed but must be clear and explain how the decision was reached. The Committee **must** include information with specific reference to the distinctive features and particular facts of the individual case. The reasons should include:

- a summary of the main submissions made by the parties or their representatives;
- any relevant practice standards;
- the risk posed by the osteopath to public protection;
- why the ISO is proportionate to the risk identified by the Committee after balancing this with the interests of the osteopath;
- reason(s) for any period of time the Committee recommends the ISO should be imposed for.

Remember:

Where no ISO is imposed, clear and intelligible reasons must also be given.

Appeals

38. There is no statutory right of appeal against an IC decision to impose an ISO. However, there may be an entitlement to Judicial Review.

39. Section 24 of the Act provides for an osteopath to appeal a decision of the PCC or HC to impose an ISO. Any such appeal must be made within 28 days of the date on which the ISO was made and to the appropriate court, which is:

- in the case of an osteopath whose registered address is in Scotland, the Court of Session
- in the case of an osteopath whose registered address is in Northern Ireland, the high court of Justice in Northern Ireland
- in any other case, the High Court of Justice in England and Wales

40. The appropriate court may terminate the interim suspension order. The court's decision is final.

Publication of decision

41. The IC/HC ISO hearings are held in private. If the decision is to impose an ISO, the decision (with appropriate redactions) is published on the GOsC website.
42. The PCC ISO hearings are held in public. If the decision is to impose an ISO, the full decision is published on the GOsC website.

ANNEX

Legislation

Osteopaths Act 1993, section 21

21 - Interim suspension powers of the Investigating Committee.

- (1) This section applies where, under section 20, the Investigating Committee is investigating an allegation against a registered osteopath.
- (2) If the Committee is satisfied that it is necessary to do so in order to protect members of the public, it may order the Registrar to suspend the osteopath's registration.
- (3) The order shall specify the period of the suspension, which shall not exceed two months beginning with the date on which the order is made.
- (4) The Committee shall not—
 - (a) make an order in any case after it has referred the allegation in question to the Professional Conduct Committee or the Health Committee; or
 - (b) make more than one order in respect of the same allegation.
- (5) Before making an order, the Investigating Committee shall give the osteopath concerned an opportunity to appear before it and to argue his case against the making of the proposed order.
- (6) At any such hearing the osteopath shall be entitled to be legally represented.

GOsC (Investigation of Complaints) (Procedure) Rules 1999, r22

22 - Interim Suspension

- (1) If the Committee considers that the nature of the complaint received is such that in order to protect members of the public it may be necessary to order the Registrar to suspend the osteopath's registration (an "Interim Suspension Order"), it shall—
 - (a) notify the osteopath of his opportunity to appear before it at a hearing to argue why an Interim Suspension Order should not be made and of his right to be legally represented at any hearing;
 - (b) proceed as provided in the following paragraphs of this rule.
- (2) Any hearing under this Rule shall not be fixed within a period of five days beginning with the day on which the notice under paragraph (1)(a) hereof is sent to the osteopath.
- (3) A legal assessor appointed by the Council shall be present at any such hearing.
- (4) Where the osteopath is neither present nor represented at the hearing, the Committee may, nevertheless, proceed with the hearing if it is satisfied that all reasonable efforts have been made in accordance with rule 22(1)(a) to serve notification of the hearing on the osteopath.
- (5) When considering whether to make an Order under this rule the Committee may invite the Solicitor to address it as to the circumstances of the case.
- (6) The Committee shall—
 - (a) ensure that its decision is recorded in writing; and

- (b) direct the Registrar as soon as practicable, after the hearing to send a copy of the Order to the osteopath.
- (7) Subject to the above, the Committee's procedure in dealing with Interim Suspension Orders shall be as it shall determine.

Osteopaths Act 1993, section 24

24 - Interim suspension powers of the Professional Conduct Committee and the Health Committee.

- (1) This section applies where—
 - (a) an allegation against a registered osteopath has been referred under section 20, or by virtue of any rule made under section 26(2)(a), to the Professional Conduct Committee or the Health Committee and the Committee has not reached a decision on the matter; or
 - (b) the Professional Conduct Committee or the Health Committee reaches a relevant decision on any such allegation.
- (2) The Committee concerned may, if it is satisfied that it is necessary to do so in order to protect members of the public, order the Registrar to suspend the registration of the osteopath concerned.
- (3) An order under subsection (2) (an "interim suspension order") shall cease to have effect—
 - (a) in a case falling within subsection (1)(a), when the Committee reaches a decision in respect of the allegation in question; and
 - (b) in a case falling within subsection (1)(b)—
 - (i) if there is no appeal against the decision, when the period for appealing expires; or
 - (ii) if there is an appeal against the decision, when the appeal is withdrawn or otherwise disposed of.
- (4) Before making an interim suspension order, the Committee shall give the osteopath in question an opportunity to appear before it and to argue his case against the making of the proposed order.
- (5) At any such hearing the osteopath shall be entitled to be legally represented.
- (6) Where an interim suspension order has been made, the osteopath concerned may appeal against it to the appropriate court.
- (7) Any such appeal must be brought before the end of the period of 28 days beginning with the date on which the order appealed against is made.
- (8) On an appeal under subsection (6) the court may terminate the suspension.
- (9) On such an appeal the decision of the court shall be final.
- (10) In this section "the appropriate court" means—
 - (a) in the case of an osteopath whose registered address is in Scotland, the Court of Session;
 - (b) in the case of an osteopath whose registered address is in Northern Ireland, the High Court of Justice in Northern Ireland; and
 - (c) in any other case, the High Court of Justice in England and Wales;

“relevant decision” means an order under section 22(4)(c) or (d), or an order under section 23(2)(b).

GOsC (Professional Conduct Committee) (Procedure) Rules 2000, r20 and r40

20 - Proceedings in the absence of the osteopath

Where the osteopath does not appear and is not represented, the Committee may nevertheless proceed with the hearing, make a finding and if appropriate apply sanctions provided the Solicitor satisfies the Committee that all reasonable steps have been taken to serve the notice of the hearing on the osteopath concerned.

40 - Interim Suspension Orders

- (1) Where a case has been referred to the Committee and—
 - (a) the Committee has not reached a final decision on the matter; or
 - (b) the Committee has reached a decision to impose a suspension order or to remove an osteopath’s name from the Register then the Committee may, if it is satisfied that it is necessary to do so in order to protect members of the public, order the Registrar to suspend the registration of the osteopath concerned (an Interim Suspension Order) in accordance with section 24 of the Act.
- (2) Where the Committee considers that an Interim Suspension Order may be appropriate, it shall fix a date, time and place for deciding that question, having regard to the urgency and all the circumstances of the case and shall notify the osteopath of his right to appear before the Committee and to argue his case and to be legally represented.
- (3) The Committee may postpone a hearing or adjourn proceedings as it thinks fit, either on its own motion, or on the request of the osteopath.
- (4) A medical assessor may be appointed by the Chairman to be present at any hearing under this rule.
- (5) Where the osteopath does not appear and is not represented, the provisions of rule 20 shall apply.
- (6) The Solicitor shall be requested to present the case to the Committee and call such evidence as he wishes to justify an Interim Suspension Order.
- (7) The osteopath or his representative shall have the right to cross-examine any witness called by the Solicitor who may in turn re-examine such witness.
- (8) The osteopath or his representative may then present the case against the making of such an Order by calling such evidence as he wishes and the Solicitor shall have the right to cross-examine such witness on behalf of the Council and the osteopath or his representative may in turn re-examine such witness.
- (9) The Solicitor and the osteopath or his representative may address the Committee.
- (10) Members of the Committee, the legal assessor, and the medical assessor may, with the consent of the Chairman, question a person giving evidence at the hearing.

- (11) Save as set out herein, the procedure of the Committee shall be as it may determine.
- (12) The Committee shall in private decide whether to impose an Interim Suspension Order and the decision of the Committee shall be given at the conclusion of the hearing.
- (13) The Committee shall direct the Registrar to confirm its decision in writing to the osteopath, informing him also of his right to appeal against the decision in accordance with section 24 of the Act.

GOsC (Health Committee) (Procedure) Rules 2000, r16(4) and (5), 26 and 42

16 - Opening of hearing

- (4) When the osteopath is neither present nor represented the Committee shall determine whether or not the notice of hearing has been served on the osteopath in accordance with rule 42.
- (5) If the Committee is satisfied that the notice has been so served the hearing may proceed if the Committee thinks fit, but if the Committee is not satisfied that the notice has been so served it may-
 - (a) if in its opinion all reasonable steps have been taken to serve the notice, proceed with the hearing; or
 - (b) if it is of the opinion that further steps should be taken to serve the notice, adjourn the hearing to a later date to allow this to happen.

26 - Interim Suspension Orders

- (1) Where a case has been referred to the Committee and
 - (a) the Committee has not reached a decision on the matter; or
 - (b) the Committee has decided to impose a suspension order under rule 22 then the Committee may, if it is satisfied that it is necessary to do so in order to protect members of the public, order the Registrar to suspend the registration of the osteopath concerned (an interim suspension order) in accordance with section 24 of the Act.
- (2) Where the Committee considers that an interim suspension order may be appropriate, it shall fix a date, time and place for deciding that question, having regard to the urgency and all the circumstances of the case and shall notify the osteopath of the date, time and place so fixed.
- (3) The Committee shall further notify the osteopath of his right to appear before the Committee and to be legally represented.
- (4) The Committee may postpone a hearing under this rule or adjourn proceedings as it thinks fit, either on its own motion, or on the request of the osteopath.
- (5) A medical assessor may be appointed by the Chairman to be present at any hearing under this rule.
- (6) Where the osteopath does not appear and is not represented, the provisions of rule 16(4) and (5) shall apply, and, if the Committee decides to proceed with the hearing—

- (a) the Solicitor shall be invited to present the case to the Committee and call such evidence as he wishes to justify an interim suspension order;
 - (b) the osteopath shall have the right to cross-examine any witness called by the Solicitor who may in turn re-examine such witness;
 - (c) the osteopath may then present his own case against the making of such an order by calling such evidence as he wishes;
 - (d) the Solicitor shall have the right to cross-examine such witness on behalf of the Council and the osteopath may in turn re-examine such witness;
 - (e) the Solicitor and the osteopath may address the Committee; and
 - (f) members of the Committee, the legal adviser, and the medical assessor may, with the consent of the Chairman, question a person giving evidence at the hearing.
- (7) Save as set out in this rule, the procedure of the Committee in deciding whether to impose an interim suspension order shall be as it may determine.
- (8) The Committee shall in private decide whether to impose an interim suspension order and the decision of the Committee shall be given at the conclusion of the hearing and confirmed in writing to the osteopath informing him also of his right to appeal against the decision in accordance with section 24 of the Act.

42 - Service of documents

- (1) In these Rules a reference to the sending of a notice or other communication required by these Rules to be served on an osteopath is a reference to delivering it to him or sending it to him by Registered Post or by the Recorded Delivery system to his address in the Register or if his last known address differs from the address in the Register then to his last known address.
- (2) Where such notice is sent by Registered Post or Recorded Delivery service it shall be treated as having been sent on the day it was posted.
- (3) Where personally delivered then it shall be treated as having been delivered when it is handed to the osteopath.

Osteopaths Act 1993, section 25

25 - Revocation of interim suspension orders.

- (1) On an application made by the osteopath concerned, in a case falling within section 24(1)(a), an interim suspension order may be revoked by the Committee which made it on the ground that a change in the circumstances of the case has made the order unnecessary.
- (2) Where an osteopath has made an application under subsection (1) which has been refused, he may appeal to the appropriate court against the refusal.
- (3) Where, in relation to an interim suspension order
 - (a) an appeal has been made under section 24(6) against the making of the order, or
 - (b) a further application for the order to be revoked has been made after an unsuccessful appeal under this section against the refusal of an earlier

application, leave of the appropriate court shall be required for any appeal under subsection (2) in relation to that order.

- (4) Except in a case falling within subsection (5), no application under subsection (1) shall be entertained by the Committee concerned if it is made before the end of the period of six months beginning
 - (a) with the date on which the order was imposed; or
 - (b) where an unsuccessful appeal against the order has been made under section 24(6), the date on which the appeal was dismissed.
- (5) Where a previous application has been made under subsection (1) in relation to an interim suspension order, no further such application shall be entertained by the Committee concerned if it is made before the end of the period of six months beginning with the date on which the previous application was finally disposed of.
- (6) Any appeal under subsection (2) must be brought before the end of the period of 28 days beginning with the date on which notice of the refusal is sent to the osteopath.
- (7) On an appeal under subsection (2) the court may terminate the suspension.
- (8) On such an appeal the decision of the court shall be final.
- (9) In this section "the appropriate court" has the same meaning as in section 24.