

## Responses to the consultation on Draft Restoration Guidance

Consultation Question	Yes	No	Consultation response <sup>1</sup>	GOsC Response (where relevant)
<p>Did you find the draft Restoration Guidance helpful and informative?</p> <p>Please provide any suggestions about how the Guidance might be improved</p>	<p>3</p> <p>1 – in part</p>		<p>We are pleased that the GOsC is producing guidance on this process. While we appreciate that the GOsC receives only a small number of restoration applications, it is nevertheless important that there is clarity and transparency for osteopaths and patients on how the process works.</p> <p>In particular, we felt that the description of the test to be applied at the hearing placed insufficient emphasis on the over-arching duty that the Panel <i>must</i>, under the amended Osteopaths Act 1993....</p> <p>This duty is only referred to explicitly in a footnote in paragraph 11 and is not set out in the guidance document. It is not clear as a result how these three limbs should fit in with the other considerations, particularly those in paragraphs 11, 14, and 15, which the Panel is asked to take into account. While the factors set out under paragraph 15 appear to address public protection considerations (although they do not do so explicitly), the duties to maintain public</p>	<p>In response to feedback, we have amended the guidance and drafted a separate section headed 'the Approach to be taken by the Committee'. This includes a section on the public interest and the requirement that the Committee should exercise its discretion by reference to the overarching objective of protecting the public (in addition to the practical issues which need to be addressed evidentially by the Applicant).</p>

<sup>1</sup> Some responses have been shortened

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			<p>confidence and professional standards are not covered anywhere in the guidance, as far as we can see.</p> <p>Given the relatively permissive statutory framework pertinent to the GOsC (allowing both application after 10 months and conditions) it would be desirable to ensure that the new guidance sharpens the expectation that decision makers must uphold all the dimensions of the public interest.</p>	
After reading the draft Practice Note, did you get a clear understanding of how the restoration procedure will work in practice?	3	1	The guidance is a well laid out, useful resource that contains clear direction and relevant information on the subject.	
Please provide any suggestions about how the draft Guidance could be improved/what could be added to			It was not explained in the consultation document who this guidance would be for. If, as seems likely, it is intended to be read primarily by Professional Conduct Committee members, it might be helpful to set out more clearly and in more detail the tests that they	We have made additions to make it clear within the introduction that the guidance is designed to assist the Professional Conduct Committee in terms of the procedure at the hearing and the matters it must take into consideration as part of its decision making. This is because, save for the

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improve understanding of the procedure?			must apply in order to reach a decision – including on ‘exceptional circumstances’, assuming the GOsC goes ahead with this proposal.	<p>enabling provisions within section 8 of the 1993 Act for restoration hearings, the GOsC (Professional Conduct Committee) (Procedure) Rules 2000 (and associated rules) are silent as to the procedure to be followed both by the Registrar when making arrangements for a restoration hearing, and also the procedure to be followed by the Committee during the hearing.</p> <p>We have therefore ensured that safeguards for the fairness of the hearing are detailed within the guidance which has been designed to guide the Committee through the appropriate procedure to follow when considering the restoration hearing, including the provision of independent legal advice to the PCC and the requirement to produce written reasons for the decision reached.</p> <p>We note the feedback that separate guidance should be issued for Applicants. While the guidance provides information on the matters to be addressed, we acknowledge that there are benefits to producing guidance specifically addressed to the Applicant to assist with the process. This is an area we plan to look into further when we review our guidance to registrants generally.</p>

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			<p>If it is intended for applicants or patients, the GOsC might consider presenting the information in a more accessible format. In addition, applicants might need to be informed of which matters to address in their applications, both in relation to remediation and to the wider public interest.</p> <p>In paragraph 13, the final sentence states that “the Committee shall give its reasons for the decision.” This is an essential part of the process – for reasons of transparency, accountability, and fairness, the decision, and most importantly the reasons underpinning it, must be clearly set out in writing. This is not least so that the Authority can scrutinise the decision to determine if it is sufficient to protect the public. We therefore suggest that this should be made clear in the guidance, and that this stage of the process is given greater prominence.</p> <p>If the GOC do decide to proceed with route 2 outlined in the consultation paper, paragraph 11 of the guidance could include information in relation to this to ensure that an applicant is clear on what they must</p>	<p>The Restoration guidance is intended to be read in conjunction with the suite of fitness to practise guidance and practice notes. We have amended the draft restoration guidance to signpost our separate guidance to Professional Conduct Committees on drafting determinations.</p>

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			<p>satisfy the committee of in order for restoration to be granted.</p> <p>It may be helpful for the GOC to set out whether or not permission is granted for the members of the committee who imposed the original removal order to sit on the committee.</p>	<p>Committee members who sat on the substantive hearing involving the Registrant will not be eligible to sit on the Committee convened for that Registrant's restoration hearing.</p>
<p>What is your opinion on whether the Complainant's views (where there was one during the PCC hearing) on the former registrant's application be sought and placed before the PCC?</p>			<p>Sometimes. We agree that the complainant's views need not be sought as a matter of course for restoration hearings. However, the statements on page 5 suggest that there may be times when they would be: "where a review hearing has been directed [...] a complainant is not <i>usually</i> approached to provide their comments to the committee." It might therefore have been more congruent with the GOsC's stated person-centred approach if the guidance had made clear that the complainant's views <i>can</i> be sought and put before the Panel, assuming that is the case, and identified when and why that would be appropriate.</p> <p>The SSSC do not seek the views of the complainant on the former registrant's application for restoration. The purpose of the restoration hearing is not to re-hear the</p>	<p>We have added specific content to the draft guidance which explicitly states our position in relation to Complainants to the effect that where the substantive fitness to practise hearing involved a complainant the GOsC will ensure all reasonable and proportionate steps are undertaken to liaise with the complainant to ensure they are provided with information and support in advance of the Applicant's restoration hearing. We consider this reflects our person-centred approach where we put patients, families and the public at the heart of what we do.</p>

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			<p>evidence of the original hearing but simply to consider whether the test for restoration has been satisfied.</p> <p>At a restoration hearing, the SSSC have the option to lodge the transcript of the original Fitness to Practice Panel which imposed the removal order and therefore any evidence given by the complainant during the original hearing will be before the Panel considering restoration. In addition, the SSSC may also lodge the original bundle of documents placed before the original Fitness to Practise Panel which may contain the original complaint and/or any statement taken from the complainant. The Panel then have the complainant's original evidence available to them albeit not their views on the actual restoration application.</p> <p>While the SSSC do not seek the views of the complainant on the application for restoration, there are circumstances in which the complainant is given notice of the hearing on restoration.</p> <p>The GOC may wish to consider sending a Notice of Hearing to the complainant.</p>	

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<p>Should the draft guidance require the PCC to find exceptional circumstances before a former registrant is allowed to be restored to the register if s/he makes an application before five years has elapsed since their removal from the register?</p> <p>Please provide reasons</p>			<p>I agree with the reasoning set out in the consultation</p> <p>We support the policy objective but not the means by which the GOsC is attempting to introduce the reform. It is our view that registrants should only be allowed to apply for restoration five years after removal by a fitness to practise or conduct committee, for reasons of public protection. We would, therefore, be supportive of any attempts by the GOsC to amend its legislation to increase this minimum to five years.</p> <p>As stated in our response to question 2, if the GOsC does proceed with introducing this policy, we would expect the guidance to set out what might constitute exceptional circumstances. The current draft neither explains nor defines this term and it is hard to see how Panels would apply this test with any consistency.</p>	<p>Having explored this option, we will not be taking this suggestion forward at this time. We note the feedback provided by the PSA (which we share). We consider the requirement that the PCC must consider the overriding objective of protecting the public when exercising its discretion provides a sufficient safeguard in ensuring appropriate and proportionate decisions are reached.</p>

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Do you have any other comments?			As the guidance stands there is rather a heavy emphasis on 'good character' on the process of ordinary registration, and on the framework used by the Registration department. That is merged with material on the process of the hearing itself. This might well result in confusion. The annexed material should be recast so that it is addressed directly to the panel with clearer side headings and stepping stones to guide the reader to robust conclusions. This would enable the text at paragraph 11 to be amplified so that the focus shifts from ordinary registration to considerations to be weighed at restoration.	We have made amendments to the draft guidance and created an additional section on the approach to be taken by the Committee which has modified the content so that it is addressed to the Committee directly whilst still being aligned with the GOsC Good Character Framework utilised by the Registration department.