



**Council**  
**20 November 2019**  
**Draft Guidance on Insurance Requirements for Osteopaths**

<b>Classification</b>	Public
<b>Purpose</b>	For decision
<b>Issue</b>	This paper proposes to consult on the introduction of guidance on the insurance requirements for registered osteopaths and those intending to register as osteopaths with the General Osteopathic Council.
<b>Recommendation</b>	To agree to consult on draft guidance on insurance requirements for osteopaths
<b>Financial and resourcing implications</b>	Within existing budget
<b>Equality and diversity implications</b>	These will be drawn out through the consultation process
<b>Communications implications</b>	A three-month public consultation will be undertaken commencing in January 2020. The results of the consultation will be reported to Council in May 2020.
<b>Annex(es)</b>	A. Draft Guidance on Insurance Requirements for Osteopaths  B. Consultation Paper on Draft Guidance on Insurance Requirements for Osteopaths
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## Background

1. It is a requirement of registration with the General Osteopathic Council (GOsC) that an osteopath should hold professional indemnity insurance and public liability insurance.
2. The Osteopathic Practice Standards (OPS) clearly set out these requirements under the themes of Professionalism and Safety and quality in practice:

<b>Professional Indemnity Insurance</b> (OPS Theme D, Professionalism)	<b>Public Liability Insurance</b> (OPS Theme C, Safety and quality in practice)
<b>D1.3:</b> You must have a professional indemnity insurance arrangement which provides appropriate cover in accordance with the requirements of the Osteopaths Act 1993 and the current Professional Indemnity Insurance Rules.	<b>C5.3:</b> You must have adequate public liability insurance.
<b>D4.5:</b> You should inform your professional indemnity insurance insurers immediately if you receive a complaint.	

3. The position statement of the GOsC is unambiguous: **a failure to hold insurance in accordance with the Osteopaths Act 1993 and the current Professional Indemnity Insurance Rules is a serious matter and will result in the commencement of fitness to practise proceedings as we have a duty to investigate.**
4. In order to address our concerns that osteopaths are placing their patients at risk by practising without appropriate insurance in place, the GOsC has been taking active measures to raise awareness amongst registrants about their duty to maintain both PII and also public liability insurance. For example,
  - a. the updated guidance to Standard D1 of the Osteopathic Practice Standards 2019, 'You must act with honesty and integrity in your professional practice', now provides explicitly that osteopaths 'must have a professional indemnity insurance arrangement which provides appropriate cover in accordance with the requirements of the Osteopaths Act 1993 and the current Professional Indemnity Insurance rules'.
  - b. we continue to publish articles in the osteopath magazine and other social media platforms. The March/April 2019 issue of the Osteopath magazine included an article outlining the difference between PII and public liability insurance and explaining osteopaths' requirements in relation to both.

5. The GOsC continues to receive concerns about professional indemnity insurance. Since the beginning of 2018, the GOsC has opened 14 investigations relating to an alleged failure to maintain adequate professional indemnity insurance (PII).
6. The GOsC Business Plan for 2018/19 states that we will 'develop separate guidance on Professional Indemnity Insurance (PII) for use by Fitness to Practise Committees'.
7. This was informed by the second Determination Review Group (DRG) meeting to review final outcomes from PCC decisions held on 15 November 2017. At this meeting the DRG reviewed determinations of four final PCC hearings all relating to professional indemnity insurance cases, including three learning points issued by the Professional Standards Authority (PSA). The key points derived from the learning points is set out at paragraph 11 below.

## Discussion

8. The proposed draft guidance which appears at Annex A is part of our ongoing work to raise awareness about insurance requirements for the profession. The purpose of this guidance is to provide a clear overview for registrants of the requirements in relation to both PII and public liability insurance for osteopaths.
9. The proposed draft guidance outlines the provisions within the Osteopaths Act 1993 (as amended) and the General Osteopathic Council (Indemnity Arrangements) Rules Order of Council 2015 as they relate to PII cover. It also sets out the requirements as outlined in the Osteopathic Practice Standards.
10. The intended purpose of the guidance is to provide clear information for registrants and those wishing to register with the GOsC about the requirement to have adequate PII and public liability insurance in place while registered with the GOsC. It addresses the main issues that have arisen in practice at indemnity insurance cases at the Professional Conduct Committee (PCC) over the last five years. However, guidance cannot guarantee the consistency in how cases are brought / prosecuted by the GOsC. That is a matter of how allegations are drafted and is beyond the scope of the guidance which is provided for registrants. Additionally, matters related to the sanctions imposed by the PCC are beyond the scope of this guidance and are dealt with in separate guidance, namely the Hearing and Sanctions Guidance.<sup>1</sup>
11. In addition, the proposed draft guidance captures key points derived from feedback we have received from the PSA where 'learning points' were identified to assist the PCC in the approach they take to PII cases. These learning points were published in an article about PII in the February/March 2018 edition of the Osteopath Magazine. The key points are as follows:

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<sup>1</sup> <https://www.osteopathy.org.uk/news-and-resources/document-library/fitness-to-practise/hearings-and-sanctions-guidance/>

- Practising without indemnity insurance calls into question an osteopath's commitment to patient safety.
- It is important that patients can recover any compensation they might be entitled to in the event of a successful claim.
- An osteopath's failure to have insurance is not an 'administrative' failure and can potentially have wider consequences i.e. for the public interest.
- An osteopath practising without any/adequate indemnity insurance should be taken seriously as it is a statutory requirement.
- A failure to have appropriate PII will not be regarded as less serious by a Professional Conduct Committee simply because an osteopath has not seen patients during the relevant period.

#### *June 2019 Policy Advisory Committee*

12. At a meeting in June 2019, the Policy Advisory Committee (PAC) considered a draft guidance note on the requirements of professional indemnity insurance and public liability insurance for registrants to assist both the Investigating Committee (IC) and PCC and also registrants and legal representatives. The PAC made suggestions for improving the guidance and requested sight of the amended guidance note before consideration by Council at its meeting in November 2019. These suggestions included amending the wording of the final 'key point' in the guidance note so to avoid misinterpretation or ambiguity. It was suggested that the guidance could include a list of the factors to be taken into account when considering an indemnity insurance case to assist the decision-making process and ensure consistency with other practice notes. The PAC requested sight of the amended practice note before consideration by Council at its meeting in November 2019.

#### *Further pre-consultation engagement with Stakeholders*

13. As part of our pre-consultation engagement strategy, we requested feedback and comments on an amended practice note which was circulated to all IC and PCC members together with their legal assessors. We received several responses, including two detailed responses from legal assessors (one of whom is an experienced QC involved in providing advice at several PII cases). We have incorporated the feedback into the note. The guidance note also received endorsement at a recent Defence Organisations meeting in September 2019 by insurers where the feedback was it clarified expectations.

#### *October 2019 Policy Advisory Committee*

14. At a meeting on 9 October 2019, the PAC gave further consideration to the guidance note. It was explained to the PAC that, in light of feedback received, the guidance note should have wider application and should take the form of guidance about insurance requirements for the profession. The purpose being that the guidance should provide a clear overview of the requirements in relation to both professional indemnity insurance and public liability insurance for osteopaths.

15. The PAC requested that the draft guidance be presented in a similar format to an article drafted by the regulation team which appeared in an article in *The Osteopath* magazine (March/April 2019). The draft guidance at Annex A reflects the presentation of the article with some changes to the content.
16. To ensure that there would be no further delay the Committee agreed that the guidance should be submitted to Council at its meeting in November with the recommendation to approve for consultation.
17. Annex B to the paper provides the consultation document. It would be our intention to consult for a period of three-months commencing in January 2020. We wish to wait until the new year to begin the consultation as consulting over the Christmas period is not recommended good practice.
18. Council can expect to receive a paper setting out the consultation response analysis in May 2020.

**Recommendation:** To agree to consult on draft guidance on insurance requirements for osteopaths