



**Council**  
**18 November 2020**  
**Draft Screeners Guidance**

<b>Classification</b>	Public
<b>Purpose</b>	For decision
<b>Issue</b>	This paper invites Council to consider draft Screeners Guidance. An external audit in 2019 recommended that the Screeners guidance is consolidated. The guidance has also been substantially updated and modified to enable Screeners to make consistent, fair and proportionate decisions.
<b>Recommendation</b>	To approve the draft Screeners Guidance for consultation.
<b>Financial and resourcing implications</b>	Within existing budget.
<b>Equality and diversity implications</b>	An EDI Impact Assessment has been carried out.
<b>Communications implications</b>	A public consultation will be undertaken.
<b>Annexes</b>	A. Draft Screeners Guidance B. EDI Impact Assessment C. Draft Consultation document
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### Key messages from paper:

- An independent audit of the initial stages of our investigations was undertaken in 2019. One of the key recommendations was to consolidate the guidance for screeners. This aligned with our existing reform agenda given the changes we have implemented in the initial stages of our FtP processes over the past 5 years.
- Work on the consolidated guidance was paused at the beginning of the pandemic; however, we are now in a position to commence the consultation following pre-consultation engagement with the Investigating Committee (February 2020) and feedback from the Policy and Education Committee (October 2020).

### Background

1. The Regulation department reviews all concerns received and conducts an initial risk assessment to ensure there is no immediate risk to public protection. We gather as much information as possible at this initial stage before referring the concern to a 'Screener' (an osteopath member of the GOsC Investigating Committee).
2. As part of our information gathering, we usually seek additional information or clarification from the person raising the concern. If the person raising the concern does not provide the further information within 42 days of the request, the papers will then be referred to a Screener with a recommendation for closure under the Initial Closure Procedure on the basis that there is insufficient relevant and credible supporting material.
3. If we do receive the information, the case is passed to the Screener who reviews the concern to determine whether it is capable of amounting to an allegation under the Osteopaths Act 1993.
4. In reaching a decision, the Screener can refer to 'Threshold Criteria' to help decide whether an activity complained about constitutes unacceptable professional conduct, which is 'conduct which falls short of the standard required of a registered osteopath'.
5. If the Screener decides that the GOsC has no power to investigate the concern against the osteopath, the matter is referred to a Lay Screener to review the documentation and the Screener's decision. If they both agree, the matter can be closed. If they disagree, then the matter is referred to the Investigating Committee.
6. An independent audit of the initial stages of our investigations took place over July/August 2019. In summary, the audit reviewed 20% of all concerns/cases closed at the different decision points during the initial stages of the GOsC fitness to practise processes, up to and including, Investigating Committee decisions.

7. The audit focused on the decisions of Screeners and the Investigating Committee in relation to concerns/cases that were closed under the initial closure procedure/threshold criteria with no case to answer. The key finding that emerged from the review related to the adequacy of reasons given in screening decisions where concerns were closed under the Initial Closure Procedure. However, the auditor also recommended that comprehensive, consolidated Guidance for Screeners be produced.
8. Because of the auditor's recommendation we incorporated this activity within our Business Plan for 2020-21, which states that we will, 'Update and consolidate the guidance to Screeners'.

## Discussion

9. At the start of lockdown, on 26 March 2020, we decided to temporarily pause the progress of the Screeners Guidance as originally planned. Public protection took precedence as we concentrated on triage of concerns and risk management activity, prioritising high-risk investigations and interim order and review cases. Over a short period of time, we have adapted to the many challenges thrown up by the pandemic and in the process have transformed many of our FtP core activities at an unprecedented pace. Most notably, this can be seen through our activity around holding hearings remotely.
10. Part of our reform programme over the past five years has included the introduction of the Threshold Criteria and Initial Closure Procedure. The introduction of these initiatives brought step changes in our processes in the initial stages of our investigations. Whilst all members of the Investigating Committee have received training on these processes, it is essential that the training is augmented by up-to-date, accessible guidance which continues to support Screeners in their decision-making role.
11. The key changes in the draft Screener guidance include:
  - A separate section on the application of the initial closure procedure
  - Generally refreshing the guidance on applying and incorporating the threshold criteria
  - A section on 'regulatory concerns' and the documents that will be considered by the Screener
  - A separate section on interim orders
  - A Screener decision making flowchart
  - Added appendices on the Initial Closure Procedure, the Threshold Criteria and an amended template Screener's Report
12. We do not plan to consult on either the Initial Closure Procedure or the Threshold Criteria, as both documents have been approved by Council in 2015

and 2016 and are both publicly available<sup>1</sup>. These guidance documents have been included in this paper for completeness.

13. As part of our pre-consultation engagement plan, a first draft of consolidated Guidance for Screeners was prepared for consideration by the Investigating Committee at a training day which took place on 21 February 2020 and feedback we received has been incorporated in the current draft.

#### *Policy and Education Committee meeting*

14. At the meeting in October 2020, the Policy and Education Committee (PEC) considered the draft Screeners Guidance. Amongst other comments and questions regarding the work of Screeners, the use of the male gender within the guidance was queried. It was explained that both the Osteopaths Act and the Investigating Committee Rules employ gender specific language, and this cannot be changed. However, we have ensured that gender-neutral terminology was used in the guidance itself and this is in line with current parliamentary counsel drafting guidance.<sup>2</sup>
15. The PEC agreed that the guidance should be recommended to Council for consultation.

#### *Consultation principles*

16. The consultation will be conducted in line with the consultation principles approved by Council:

<b>Principle</b>	<b>Description</b>	<b>Screeners Guidance consultation</b>
Formative	Consultations should be conducted at an early stage to be meaningful	This issue was identified as part of an independent audit and the recommendation for consolidated guidance aligned with our reform agenda. We paused work on this guidance at the start of the pandemic; however, we are now in a position to restart the activity and commence a public consultation.
Authentic	Consultations should be truly seeking views and scrutiny	We are interested in the views of all our stakeholders to this proposal and we welcome feedback and while we have asked specific questions in the consultation

<sup>1</sup> <https://www.osteopathy.org.uk/news-and-resources/document-library/fitness-to-practise/threshold-criteria-for-upc/> ; <https://www.osteopathy.org.uk/news-and-resources/document-library/fitness-to-practise/initial-closure-procedure/>

<sup>2</sup>

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/892409/OPC\\_drafting\\_guidance\\_June\\_2020-1.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/892409/OPC_drafting_guidance_June_2020-1.pdf)

Principle	Description	Screeners Guidance consultation
		documents, we have invited general comments on improving the guidance.
Accessible	Consultations should be made available for anyone to respond	We will make the consultation available in different formats to allow anyone to respond.
Inclusive	Consultations should consider the audience(s) needs	We have considered the audience needs and this is reflected in the Equality Impact Assessment.
Transparent	An analysis of consultation responses and outcomes should be made	We are committed to publishing the results of this consultation fully and transparently and all feedback will be reported to Council following the consultation.

**Recommendation:** to approve the draft Screeners Guidance for public consultation.