



**Council**  
**18 November 2020**  
**Draft Guidance on Insurance Requirements for Osteopaths**

<b>Classification</b>	Public
<b>Purpose</b>	For decision
<b>Issue</b>	This paper proposes 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	To agree the draft guidance on insurance requirements for osteopaths
<b>Financial and resourcing implications</b>	Within existing budget.
<b>Equality and diversity implications</b>	The guidance is intended to provide clear information on the legal requirements for osteopaths to have insurance and is aligned with the Osteopathic Practice Standards
<b>Communications implications</b>	A public consultation was undertaken commencing in January 2020. The results of the consultation are set out in Annex A. The Guidance will be a publicly available document published on the GOC website.
<b>Annex(es)</b>	A. Consultation Responses  B. Draft Guidance on Insurance Requirements for Osteopaths
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### Key messages from the paper:

- We have concluded a public consultation on implementing draft guidance on insurance requirements for osteopaths. We received 10 responses, including a detailed response from the Professional Standards Authority, which are supportive of the new guidance.
- The consultation was held in over two time periods (January – April 2020 and August – October 2020) to ensure the widest possible engagement due to the potential impact of the coronavirus pandemic. Extensive pre-consultation engagement with stakeholders has also been undertaken.

### Background

1. It is a legal 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. Since the beginning of 2018, the GOsC has opened 19 investigations relating to an alleged failure to maintain adequate professional indemnity insurance (PII).

5. 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 promote the importance of having adequate and appropriate insurance, including explaining the requirements through our communications.

For example, we have published articles in the latest issue in The Osteopath magazine (autumn 2020), featured it on the packaging of the magazine, promoted it every month since January 2018 through our monthly news ebulletin (apart from March 2020 when the country went into lockdown as a result of the pandemic) and via our social media platforms.

Articles in The Osteopath magazine include a look at two recent fitness to practise cases concerning PII (March/April 2020 issue) and a detailed article outlining the difference between PII and public liability insurance which also explained osteopaths' requirements in relation to both, which appeared the previous year in the March/April 2019 issue.

6. The GOsC Business Plan for 2018/19, stated that we would develop guidance on professional indemnity insurance requirements. 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 10 below.
7. The GOsC Business Plan for 2020/21 states that we will 'Undertake consultation on draft Guidance on Insurance Requirements for Osteopaths for Council approval and publication'.

## **Discussion**

8. The proposed draft guidance, which appears at Annex B, is part of our ongoing work to raise awareness of the legislative insurance requirements for the profession. The 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.

9. 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.
10. 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:
  - 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 wider public interest which encompasses the reputation of the profession and upholding standards of conduct and behaviour.
  - 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.
11. 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. The PAC requested sight of the amended practice note before consideration by Council at its meeting in November 2019.
12. 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 Defence Organisations meeting in September 2019 by insurers where the feedback was it clarified expectations.

13. 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. At its meeting in November 2019, Council agreed that the draft guidance should be consulted on.
14. A public consultation on our draft guidance ran from 16 January 2020 until 9 April 2020. Notwithstanding the amount of pre-consultation engagement we had undertaken with internal and external stakeholders at the time, we anticipated a greater response to the consultation given the centrality and importance of the draft PII guidance to the profession. We concluded that the national lockdown in March 2020, due to the Covid-19 pandemic, may have impacted upon this. We therefore decided to run a further period of consultation from 1 September – 13 October 2020, to provide a further period for stakeholder engagement with the draft guidance.
15. On 3 September 2020, we also held an online meeting with key stakeholders, including insurers and the Institute of Osteopathy, to gather more in-depth feedback on how we could potentially make the guidance clearer.
16. In total we received 10 responses to both consultations, including a detailed response from the PSA (enclosed). As a snapshot of the level of engagement, the news item on the consultation had 147 views with the consultation response form viewed 41 times. A summary of the responses we received is included in Annex A.

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

## Annex A to 11

### Responses to the consultation on Guidance on Insurance Requirements for Osteopaths

Consultation Question	Yes	No	Consultation response <sup>1</sup>	GOsC Response (where relevant)
Did you find the guidance clear and informative?	10	0		
Does the draft Guidance provide a comprehensive overview of the insurance requirements for osteopaths?  Please provide suggestions for what you consider could be added to the Guidance to improve understanding of osteopaths'	10	0	<p>The GOsC may wish to consider including indemnity insurance in the Hearing and Sanctions Guidance to reflect that it is a serious FtP concern in its own right. This may be something to consider the next time the Sanctions Guidance is reviewed.</p> <p>The GOsC may wish to amend the Investigating Committee Decision Making Guidance to reflect the detail of the learning points, and to emphasise that practising without adequate indemnity insurance should be taken seriously as it is a statutory requirement.</p> <p>Generally it is good but emphasis must also be given to Products Liability - it was present in the original - many osteopaths sell and</p>	<p>We consider that the Insurance Requirements guidance clearly states the position of the GOsC. GOsC accepted the recommendation of the DRG to develop separate guidance to emphasise the importance for osteopaths to have appropriate, adequate insurance.</p> <p>Equally, whilst primarily addressed to the profession, the guidance is for use by both the Investigating and Professional Conduct Committee.</p> <p>The guidance only covers insurance requirements specified within the Osteopaths Act and the</p>

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

## Annex A to 11

Consultation Question	Yes	No	Consultation response <sup>1</sup>	GOsC Response (where relevant)
insurance requirements			supply products and require a specific extension to ensure this risk is covered	associated Rules. Paragraph 1 of the guidance has been amended to make this clearer
What is your view on the inclusion of the key learning points in the draft Guidance that have arisen in fitness to practise hearings?			<p>The inclusion of the key learning points is helpful and we are happy that they are comprehensively captured.</p> <p>Useful to have practical examples</p> <p>They help emphasise the seriousness of not having insurance in place</p> <p>I think this is very useful as it helps to underline the necessity for compliance with the PII requirements</p>	
Do you consider that the approach proposed in this consultation supports our overarching objective of public protection?	10	0	<p>The guidance in itself is in accordance with the overarching objective; however, the current practise of looking back at insurance status, rather than looking forward (by checking insurance status on re-registration) presents unnecessary risks to patients. Osteopaths who are not insured are only identified after the fact, when patients will</p>	<p>This comment relates to the process of registration and renewal which is separate to the legal requirements for registered osteopaths to have appropriate insurance which is covered by the guidance.</p> <p>However, it may be helpful to note that checking an insurance policy when an osteopath renews</p>

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			<p>have already been put at risk. This seems to be in conflict with the overarching objective of protecting the public.</p> <p>We consider that the approach proposed supports the GOsC's overarching objective of public protection. In addition, the GOsC may wish to consider other ways of continuing to raise awareness about indemnity insurance requirements, such as through The Osteopath Magazine and newsletters to ensure maximum reach.</p>	<p>their registration does not minimise any potential risk. This is because this is a 'point in time' check, and the policy might be cancelled or not renewed, (as insurance dates and renewal dates do not always align), after the registration renewal 'check' has passed. The renewal of registration process is made up of a series of self-declarations around insurance, character and health and we need to be proportionate in how we manage that process and to treat osteopaths as professionals.</p>
Do you have any other comments on the draft guidance?			<p>I consider that a return to the previous system of requiring osteopaths to submit proof of their insurance status upon their re-registration would circumvent unnecessary risk to patients, as well as bringing insurance cases before FtP committees. It would thus</p>	<p>This comment relates to the process of registration and renewal which is separate to the legal requirements for registered osteopaths to have appropriate insurance.</p>



## Annex A to 11

Consultation Question	Yes	No	Consultation response <sup>1</sup>	GOsC Response (where relevant)
			save the Council considerable time and money.	We note the point about the process saving Council time and money; however, under the previous system, cases of failure to maintain insurance were still identified and referred to the PCC. Therefore, we do not agree that a point in time insurance check, when an osteopath is renewing their registration, would result in these breaches of the OPS coming to an end.