

Council
16 November 2022
Fitness to Practise report: Quarter 2 - 01 July 2022 to 30 September 2022

Classification	Public
Purpose	For noting
Issue	Quarterly update to Council on the work of the Regulation department and the GOSc's Fitness to Practise committees.
Recommendation	To note the report.
Financial and resourcing implications	Financial aspects of Fitness to Practise activity are considered in Annex B of the Chief Executive and Registrar Report.
Equality and diversity implications	Ongoing monitoring of equality and diversity trends forms part of the Regulation department's future quality assurance framework.
Communications implications	None
Annex	Annex A - Fitness to Practise Data Set
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Key messages from the paper:

- At the time of writing, we have listed 7 of the 19 cases referred by the Investigating Committee (IC) to the Professional Conduct Committee (PCC). There are currently no substantive hearings to be considered by the Health Committee, although there was one Health Committee review hearing that took place during the reporting period.
- In this reporting period, we received an increased number of concerns from the previous quarter. Six concerns were made formal in this reporting period.
- We have met our screener KPI and exceeded the end-to-end PCC KPI by three weeks. The IC KPI however was not met.
- The GOsC continues to support an external research project relating to witness harm throughout the FtP process. More details on this project can be found below.
- We have commenced a section 32 prosecution case against an individual who is currently suspended from the register on an interim basis while an FtP investigation is concluded.

Fitness to practise case trends

1. In this reporting period, the Regulation Department received 16 concerns and six formal complaints were opened. During the same period last year, the Regulation Department received 27 concerns and 15 formal complaints were opened.
2. Of the 16 concerns, five related to a transgression of boundaries, one related to poor communication, four related to conduct not linked to treatment, three related to a conviction, two related to inadequate treatment and one related to a misuse of social media.
3. The six formal complaints related to a conviction (1), a transgression of sexual boundaries (2), poor communication (1) and cases alleging inadequate treatment (2).
4. In several cases, we have encountered delays in the progress of cases in a timely manner because of on-going challenges engaging with complainants. This is due to a range of reasons including: patients disengaging for lengthy periods of time before re-engaging or disengaging completely in serious cases; complainants who are managing complex mental health conditions or disabilities; and not having electronic means of communication to enable effective communication.
5. Over the relevant reporting period, there was one application made to the Investigating Committee (IC) for the imposition of an Interim Suspension Order (ISO), in which the ISO was not granted. This particular case involved an alleged clinical failing, which emerged after information had been received during the progression of the investigation.

6. The IC met four times during the reporting period considering and concluding all nine cases. In two cases the IC found no case to answer. In one case, although the IC found no case to answer they issued advice to the registrant. In the remaining six cases the IC referred the case to the PCC.
7. There was one application made to the Professional Conduct Committee (PCC). In this case an ISO was directed by the PCC until the conclusion of the case.
8. In this quarter the PCC sat remotely for five substantive hearings, one PCC review hearing and one rule 8 meeting, reaching a final determination in all but one case, which is now part heard. During this quarter, the Regulation department serviced a total of 24 days of hearings. This represented the highest volume since Q4 2020-21.

Fitness to practise case load and case progression

9. As at 30 September 2022, the Regulation Department fitness to practise caseload is 50 cases (38 formal complaints and 12 concerns). In comparison, the Regulation Department's fitness to practise case load as of 30 September 2021 was 53 fitness to practise cases (38 formal complaints and 15 concerns).

10. Performance against the performance targets for this reporting period, is as follows:

Case stage	Key Performance Indicator	Performance Target	Median figures achieved this quarter
Screening	Median time from receipt of concern to the screener's decision	9 weeks	9 weeks
Investigating Committee	Median time from receipt of concern to final IC decision	26 weeks	59 weeks
Professional Conduct Committee	Median time from receipt of concern to final PCC decision	52 weeks	49 weeks

11. In this reporting period the Screener KPI was met.
12. The IC KPI was not met. On the nine cases considered by the IC, six of these were made up of a complaint relating to six registrants with historical allegations spanning almost 15 years. The complexity of this case has impacted on the progression of this case and effected the IC KPI. However, the remaining three cases considered by the IC in this quarter were all progressed and exceeded KPI.

13. The end-to-end KPI was exceeded in this reporting period.
14. We have held two in-person hearings at Osteopathy House during the reporting period. Both cases concluded. As previously reported to Council, there are advantages to in-person hearings. We continue to individually review all cases referred by the IC for hearing that have not yet been listed, to determine which cases may benefit from taking place in person or remotely.
15. Since August 2022, GOsC has been running a pilot for anonymising information considered by screeners and the IC. The purpose of the anonymisation is to minimise the possibility of any conscious or unconscious bias (or its appearance) and to support and promote a consistent and fair approach to Screener and IC decision making. In practice, the osteopath's identity and other features have been anonymised throughout papers uploaded to Caselines by way of redaction. We have decided to extend the deadline to the end of November 2022, as we want to encourage greater feedback from the IC. We will then carefully review before making a decision on the next steps.

Section 32 cases

16. Under section 32 of the Osteopaths Act 1993, it is a criminal offence for anyone who is not on the GOsC's register to describe themselves (either expressly or by implication) as an osteopath. There were 16 active Section 32 investigations as at 30 September 2022, five less than last quarter – a reduction of 53% since this time last year.
17. GOsC commenced a prosecution in relation to an individual who is currently suspended on an interim basis while a FtP investigation is conducted. The case of Ms Michelle Davies was scheduled for preliminary hearing on 3 October 2022 before Kidderminster Magistrates Court. The progress and outcome of this prosecution will be reported to Council at its next meeting.

Witness to Harm Research Project

18. The GOsC continues to be involved in this important research and we have facilitated observers from the external project team to observe two of our hearings (one remote and one in-person). The full title of this project is 'Improving patient, family and colleague witnesses' experiences of Fitness to Practise proceedings: A mixed methods study'. The research is being led by the Open University and funded by the National Institute of Health Research (NIHR).
19. It is the first independent multi-regulator research conducted on Fitness to Practise (FtP) processes in the UK. The focus of which is a comprehensive literature review and consultation, focusing on cases of serious misconduct before professional regulators involving allegations of harm to the witness, to a family member, or to themselves as a colleague professional. The purpose of the is to improve

understanding of the expectations, experiences and recommend improved processes for witnesses involved in FtP proceedings.

20. We have also attended an update from the external project team on their progress. At this stage the material that was presented focused on findings of available online material. These findings will be shared with the GOsC, and other regulators, in due course.

Training for the Investigating Committee and Professional Conduct and Health Committee

21. The Investigating Committee all members training day has been scheduled for 29 November 2022. The agenda for the day will encompass training arising from recommendations from the external audit report findings reported to Council last year. The legal auditor who conducted the audit will cover topics on risk assessment; proportionality and undertakings in interim order applications.
22. The Professional Conduct Committee and Health Committee all members training day has been scheduled for 1 December 2022. Currently, the agenda will encompass a session on maintaining effective control of remote / blended hearings and questioning witnesses at hearings with particular emphasis on vulnerable witnesses and those involved in sexual boundaries cases.
23. We are intending to hold both training days in person at Osteopathy House

Recommendation: To note the report.