



Education and Registration Standards Committee

12 March 2015

Concerns about transgression of professional and/or sexual boundaries with patients

Classification	Public
Purpose	For discussion
Issue	To review our regulatory approach to the patient safety issues highlighted by complaints about breaches of professional and/or sexual boundaries.
Recommendation	To consider our regulatory approach to the patient safety issues highlighted by complaints about breaches of professional and/or sexual boundaries.
Financial and resourcing implications	None arising from this paper.
Equality and diversity implications	In making decisions in relation to this area, we will need to ensure that equality and diversity issues are identified.
Communications implications	None arising from this paper.
Annex	Council for Healthcare Regulatory Excellence, <i>Learning about sexual boundaries between healthcare professionals and patients: a report on education and training, 2008</i>
Author	Fiona Browne

Background

1. In his Annual Report to Council from the Investigating Committee (IC), in November 2014, the Chair of the IC noted an increase in the number of cases coming before the IC which include allegations that a registrant has transgressed professional and/or sexual boundaries with patients.
2. The IC wished to highlight this observation to the Education and Registration Standards Committee (ERSC) and in late November the IC Chair wrote to the ERSC Chair, saying:

"The Investigating Committee is aware that the General Osteopathic Council continues to highlight this issue in 'The Osteopath' magazine, and in the Fitness to Practise e-news letter which is sent to all registrants. We are also aware that the issue of professional and sexual boundaries features in the presentations on professionalism that members of staff give to students at the Osteopathic Education Institutions.

However, given the rise in numbers of complaints (accepting that the absolute numbers are small) and the increasing public concern about the abuse of boundaries, both in the healthcare professions and more widely, the Committee wonders whether more could be done especially at the formative stage of an osteopath's educational and professional development. This might prevent problems occurring later on, in practice.

In particular, the Committee wonders whether the Osteopathic Educational Institutions could be encouraged to review their approach to the teaching of the importance of maintaining patient dignity and respect; obtaining consent; and maintaining clear professional and sexual boundaries, and indeed, the emphasis that is given to these important themes throughout the curriculum and teaching timetables.

The Committee also wonders whether, given the importance of these issues, there is an argument that they might be elevated to a key requirement within the GOsC's continuing professional development requirements."

3. However, we are also aware of both the number and impact of 'boundaries' concerns from our own discussions with patients and stakeholders. For example, the recent National Council for Osteopathic research report (2014) provides that almost 27% of concerns reported to the regulator and to insurers related to breaches of boundaries (this figure includes complaints classified as 'conducting a personal relationship with patients, sexual impropriety, failure to protect the patient's dignity and modesty and no chaperone offered/provided.)

Category	Number of concerns recorded in 2013 (total of 112 conduct-related issues)	Percentage of conduct concerns recorded in 2013 (55% of the total)	Percentage of the total number of concerns recorded in 2013 (203)
Conducting a personal relationship with a patient	5	5%	2.5%
Sexual impropriety	12	11%	10%
Failure to protect the patient's dignity/modesty	10	9%	5%
No chaperone offered/provided	3	3%	1.5%

4. This paper seeks to provide background information about boundaries issues. It also provides information about the activities that we are currently undertaking to increase awareness of professional and sexual boundary transgressions and their impact on patients. The paper seeks the advice of members about further activities that we should undertake to ensure patient safety.
5. The matters referred to in the letter from the Chair of the Investigating Committee fall into the remits of both the Education and Registration Standards Committee and also the Osteopathic Practice Committee. Therefore this paper has been tabled for both meetings.

Discussion

What is the impact of breaches of boundaries for patients?

6. The Council for Healthcare Regulatory Excellence (CHRE and now the Professional Standards Authority) published a series of research-informed papers about boundaries transgressions and much of the content in this paper is based on that research. The suite of papers is available at: <http://www.professionalstandards.org.uk/library/document-detail?id=35f0ef3a-e42d-49e0-8be0-07f340d5f51b>. Unless indicated otherwise, references to the 'CHRE report' in this paper are to the report *Learning about sexual boundaries between healthcare professionals and patients: a report on education and training*, 2008 also attached at the Annex for ease of reference.
7. The CHRE report explains that the literature review showed that patients can suffer 'significant and enduring harm' as a result of sexualised behaviour being displayed towards them. These harms can include:

- 'post traumatic stress disorder and distress
 - major depressive disorder
 - suicidal tendencies and emotional distrust
 - high levels of dependency on the offending
 - professional, confusion and dissociation
 - failure to access health services when needed
 - relationship problems
 - disruption to employment and earnings
 - use and misuse of drugs and alcohol'
 - Breaches will often affect the professional's judgement thus impacting on patient care.
8. Thus, having the right guidance in place, and identifying appropriate education and training and support are vital for patient safety. Relationships with our stakeholders in this area are also important. Appropriate organisations both within the osteopathic environment and in the healthcare environment more broadly may also have a role to play to support patient safety.

What are professional boundaries?

9. Features of a professional healthcare relationship can begin to demarcate boundaries. For example:
- Patient vulnerability
 - Trust
 - Putting the patient first
 - Ethics
 - Integrity.
10. Behaviour which begins to compromise any of these areas can be a breach of professional boundaries. The CHRE report annex contains some interactive exercises to support defining professional boundaries in a given context.

What are sexual boundaries?

11. The CHRE report describes sexual boundaries as follows:

'A breach of sexual boundaries occurs when a healthcare professional displays sexualised behaviour towards a patient or carer. Sexualised behaviour is defined as acts, words or behaviour designed or intended to arouse or gratify sexual impulses or desires.'

12. Examples of actions which may breach sexual boundaries are as follows:

- 'asking for or accepting a date
- sexual humour during consultations or examinations
- inappropriate sexual or demeaning comments, or asking clinically irrelevant questions, for example about their body or underwear, sexual performance or sexual orientation
- requesting details of sexual orientation, history or preferences that are not necessary or relevant
- internal examination without gloves
- asking for, or accepting an offer of, sex
- watching a patient undress (unless a justified part of an examination)
- unnecessary exposure of the patient's body
- accessing a patient's or family member's records to find out personal information not clinically required for their treatment
- unplanned home visits with sexual intent
- taking or keeping photographs of the patient or their family that are not clinically necessary
- telling patients about their own sexual problems, preferences or fantasies, or disclosing other intimate personal details.
- clinically unjustified physical examinations
- intimate examinations carried out without the patient's explicit consent
- continuing with examination or treatment when consent has been refused or withdrawn
- any sexual act induced by the healthcare professional for their own sexual gratification
- the exchange of drugs or services for sexual favours
- exposure of parts of the healthcare professional's body to the patient

- sexual assault.'

The development of sexual feelings within a therapeutic relationship

13. Breaches of sexual boundaries are always the responsibility of the health professional and never the responsibility of the patient.
14. However, the nature of the therapeutic relationship can sometimes mean that sexual feelings may develop both by practitioners and by patients. The CHRE report provides that 'All health professionals are likely, in the course of their career, to encounter patients or carers who are unable or unwilling to recognise the limits of sexual boundaries essential for an effective professional relationship. When this happens, the patient may misconstrue professional care and compassion, for something else.'
15. For practitioners, behaviours indicating the possibility of such feelings beginning to arise include:
 - 'revealing intimate details to a patient during a professional consultation
 - giving or accepting social invitations
 - visiting a patient's home unannounced and without a prior appointment
 - seeing patients outside of normal practice, for example when other staff are not there, appointments at unusual hours, not following normal patient appointment booking procedures or preferring a certain patient to have the last appointment of the day other than for clinical reasons
 - clinically unnecessary communications.'
16. In addition, for patients, practitioners may begin to observe behaviours such as:
 - 'finding reasons for repeat visits,
 - language or style of dress has become sexually provocative.'
17. It is important to ensure that such issues are taught, discussed and managed appropriately to ensure patient safety. The CHRE report provides that 'Because the thought of deliberately abusing patients is abhorrent to the majority of healthcare professionals, when students and professionals do experience sexual feelings towards patients, feelings of embarrassment, guilt, shame and fear may deter them from seeking the help and support they need to resolve the situation. It is imperative that students learn, in a conducive and supportive way, that most healthcare professionals, at some time or other, experience sexual or other intense feelings towards patients and that they learn to recognise and differentiate sexual feelings from displaying sexualised behaviour.'
18. The report goes on to describe practical approaches and actions to take to ensure that patient safety and patient care remain the highest priority. The

approaches include the importance of seeking advice from a professional colleague or association and examples of practical ways to try to re-establish the professional relationship with the patient or to end the professional relationship and referring the patient (with appropriate handover) in a way that does not make the patient feel as if they have done anything wrong.

19. The CHRE report (Responsibilities of Health Professionals) (see <http://www.professionalstandards.org.uk/docs/default-source/psa-library/responsibilities-of-healthcare-professionals---clear-sexual-boundaries.pdf?sfvrsn=0>) also describes relationships between patients and practitioners after the professional relationship has ended. It states: 'Sexual relationships with any former patient, or the carer of a former patient, will often be inappropriate however long ago the professional relationship ended. This is because the sexual relationship may be influenced by the previous professional relationship, which will often have involved an imbalance of power The possibility of a sexual relationship with a former patient may arise, for example through social contact. If a healthcare professional thinks that a relationship with a former patient might develop, he or she must seriously consider the possible future harm that could be caused and the potential impact on their own professional status.'
20. The report goes on to list factors that should be taken into consideration by the health professional when exercising their professional judgement about whether or not a relationship with a former patient is abusing their professional position includes:
 - 'when the professional relationship ended
 - how long it lasted
 - the nature of the previous professional relationship and
 - whether it involved a significant imbalance of power
 - whether the former patient was particularly vulnerable at the time of the professional relationship, and whether they might still be considered vulnerable whether they would be exploiting any power imbalance,
 - knowledge or influence obtained while they were the patient's healthcare professional to develop or progress the relationship whether they are, or in future are likely to be,
 - treating other members of the former patient's family.'
 - Finally, the report highlights that, 'however consensual a relationship appears to be, if a complaint is made the onus will always be on the healthcare professional to show that they have acted professionally by giving serious consideration to the points above in relation to the circumstances in question, and by seeking appropriate advice.'

21. So in considering 'boundaries', there are a number of areas arising:

- The impact on patients when boundaries are breached.
- The broad range of issues that are potential breaches of professional and sexual boundaries for particular patients in particular contexts.
- The appropriate warning signs of sexual feelings arising on the part of the practitioner or the patient in a therapeutic relationship and the importance of seeking advice to discuss appropriate actions.
- Understanding the factors to be taken into account when considering whether it is ever appropriate to have a relationship with a formal patient.

22. Taking into account the areas above, we have set out below relevant activity in relation to osteopathic education, osteopaths and patients. We have also posed questions for consideration by the Committee. In considering any other actions that we should take, we have also attached the CHRE Report about education and training at the Annex which outlines the advantages and disadvantages of particular actions.

Current activity – osteopathic education

23. We are undertaking the following activity to highlight awareness of boundaries issues to OEIs (please note that all materials are available on request from Fiona Browne – fbrowne@osteopathy.org.uk):

- a. Ongoing collection (and dissemination) of data about views about lapses in professionalism from students, faculty and patients and dissemination to OEIs to promote discussion. (Professionalism in Osteopathy research with Sue Roff).
- b. Presentation to students at OEIs incorporating teaching about boundaries. (drawing on both the Professionalism in Osteopathy research and the CHRE report).
- c. Presentation to faculty members at OEIs incorporating teaching about boundaries. (drawing on both the Professionalism in Osteopathy research and the CHRE report).
- d. Presentation to OEI principals highlighting impact and awareness of breaches of boundaries (drawing on both the Professionalism in Osteopathy research and the CHRE report).
- e. Seminars facilitated by OEIs about lessons learned from cases of breaches of boundaries.
- f. Seminar with Isabelle Bell, a psychodynamic counsellor and course lead for the counselling course at the North East Surrey College of Technology for

OEI principals to explore how issues about boundaries are taught, supported and managed in undergraduate counselling education.

- g. In addition the work of the undergraduate professionalism group is now underway, with the first meeting of the group taking place on 11 March 2015. One of the areas of Guidance that this group will be looking at is Guidance about Student and Tutor Boundaries which is referred to in the Guidance for Osteopathic Pre-Registration Education.

Current activity – osteopaths

24. We are undertaking the following activity to highlight awareness of boundaries issues to osteopaths (please note that all materials are available on request from Fiona Browne – fbrowne@osteopathy.org.uk):

- Pilot professionalism presentations for registrants (drawing on both the Professionalism in Osteopathy research and the CHRE report).
- Fitness to practise e-bulletins issued three times per year focussing on a variety of issues – and including cases about breaches of boundaries, analysis and lessons learned.
- Articles about breaches of boundaries in *the osteopath* magazine. The most recent article was in the October/November 2014 edition of the osteopath and it reflected on the whole patient journey before, during and after the appointment providing specific advice and guidance for osteopaths to be alert to boundaries issues at each stage. The learning points include:
 - 'Review the information you provide to patients before their first appointment, including practice leaflets and your website.
 - Be aware of timings of appointments and whether or not other staff are on the premises
 - Think about the facilities in your treatment room.
 - Always remember to explain what you are doing, and why.
 - Do not adjust the patient's clothing while providing treatment.
 - Cover parts of the patient's body you are not treating.
 - Ensure that any conversation you have with a patient in the treatment room remains professional, and is appropriate to the clinical setting.
 - Be aware of your positioning in relation to the patient.
 - Be alert to signs of anxiety, discomfort or distress from a patient.'

- The current proposals for CPD require CPD in each of the themes of the *Osteopathic Practice Standards* and this includes the area of professionalism. They also require CPD in the area of communication and consent – although CPD refreshers in the areas of boundaries are not explicitly specified. We have noted that a few CPD providers offer CPD or information in the area of boundaries for osteopaths, but this does not appear to be widespread at the present time. Our own pilot professionalism seminar potentially provides a resource in this area. The CPD proposals are currently out for consultation and we will feed the suggestion from the fitness to practise Committees about prescription in the area of boundaries into that consultation.
25. In relation to both students and osteopaths, the *Osteopathic Practice Standards* (D17) provides: 'Do not abuse your professional standing.'
26. The associated guidance provides that:
1. Abuse of your professional standing can take many forms. The most serious is likely to be the failure to establish and maintain appropriate boundaries, whether sexual or otherwise.
 2. The failure to establish and maintain sexual boundaries may, in particular, have a profoundly damaging effect on patients, could lead to your removal from the GOsC Register and is likely to bring the profession into disrepute.
 3. When establishing and maintaining sexual boundaries, you should bear in mind the following:
 - 3.1. Words and behaviour, as well as more overt acts, may be sexualised, or taken as such by patients.
 - 3.2. You should avoid any behaviour which may be construed by a patient as inviting a sexual relationship.
 - 3.3. Physical contact for which valid consent has not been given can amount to an assault leading to criminal liability.
 - 3.4. It is your responsibility not to act on feelings of sexual attraction to or from patients.
 - 3.5. If you are sexually attracted to a patient, you should seek advice on the most suitable course of action from, for example, a colleague. If you believe that you cannot remain objective and professional, you should refer your patient to another healthcare practitioner.
 - 3.6. You should not take advantage of your professional standing to initiate a relationship with a patient. This applies even when they are no longer in your care.
 4. Osteopaths who practise in small communities may find themselves treating friends or family. In such cases, establishing and maintaining clear

professional boundaries will help you ensure that your clinical judgement is objective and that you can provide the treatment your patients need.

Current activity – patients

27. In relation to patients, we have undertaken the following activities:

- A 'I'm registered, we're registered campaign' which publicises registration with the General Osteopathic Council and highlights the role of the General Osteopathic Council to patients.
- Publication of a leaflet – *What to expect from your osteopath*. This leaflet highlights the following principles of care: 'Patients consulting an osteopath are entitled to a high standard of care. As a patient, you should expect your osteopath to:
 - Make your care their priority
 - Treat you with dignity and respect
 - Involve you in decisions about your care
 - Respond promptly to your concerns
 - Respect and protect your private information'
 - The leaflet also highlights the GOsC as an organisation which can provide advice and guidance and investigate complaints against osteopaths.
- During 2014 and 2015, patient perceptions research has been undertaken and has involved focus groups around the UK and an online survey of 1,043 members of the UK public and 523 osteopathic patients. Responses have touched on issues around expectations of care and recognition of the vulnerability of patients in relation to seeing an osteopath, particularly for the first time. The Report on the research findings will be presented to Council in May 2015. It is intended that the research findings will feed into the development of information for patients/public and guidance for the profession.
- The CHRE also published a specific leaflet for patients available at <http://www.professionalstandards.org.uk/docs/default-source/psa-library/guidance-for-patients---clear-sexual-boundaries-with-health-professionals.pdf?sfvrsn=0> which provides advice to patients about privacy, chaperones, their own feelings towards a health professional, relationships between former patients and health professionals and information about complaints.

Questions for consideration:

1. What further actions might we take – either ourselves – or in partnership with others to protect patients? (Actions may include the production of guidance or revision of existing guidance, but also mechanisms for implementation of that guidance or other teaching mechanisms etc)

2. How will we know whether any action that we take has been effective in achieving our goal? (For example, is a decrease in fitness to practise cases reported a success or a failure in this area?)

Next steps

28. In determining future action in this area, we will need to inform our thinking by further more detailed research with our stakeholders and to explore in more detail the prevalence of such complaints and actions taken in other regulators and health bodies as well as the educational context more broadly. We may also need to commission expert advice to support us in this critical area.

29. The views of the Committee will be taken into account as we further develop this work over the course of the next business year.

Recommendation: to consider our regulatory approach to the patient safety issues highlighted by complaints about breaches of professional and/or sexual boundaries.