



Osteopathic Practice Committee
13 October 2015
Witness guidance

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| Classification | Public |
| Purpose | For discussion |
| Issue | This paper invites members of the OPC to consider draft guidance for witnesses. This guidance has been developed as part of a range of support tools the GOsC is planning to put in place to ensure witnesses are properly assisted and are enabled to give best evidence. |
| Recommendation | To consider the approach outlined in this paper. |
| Financial and resourcing implications | Contained with existing communication and regulation budgets. |
| Equality and diversity implications | None identified. |
| Communications implications | Feedback from Victim Support has been incorporated within the current draft of the guidance. Wider involvement of the Patient Partnership Group and witnesses who have attended GOsC fitness to practise hearings will also be sought before the guidance is finalised. |
| Annex | Draft Witness Guidance |
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Background

1. In a paper that Council considered in November 2014, on the common classification of complaints by the GOsC, insurers and the professional association, concerns were discussed about whether we are seeing an increase in complaints and concerns raised involving breaches of sexual boundaries by registrants. Whilst at present we do not have sufficient data that would identify a trend in this area it is relevant to note that, between October 2015 – January 2016 alone, six cases have been scheduled for final hearing which involve allegations of registrants breaching sexual boundaries.
2. Additionally, the Business Plan for 2015-16 identified sexual boundary issues as an area where we need to continue to make efforts in relation to both education and practice. This taken together with a learning points letter issued to the GOsC by the Professional Standards Authority (PSA), serves to highlight the importance of recognising that all patients are vulnerable in relation to a health professional and require on going consistent support and guidance.
3. The GOsC relies on patients and members of the public to bring concerns about registered osteopaths to our attention and providing excellent support to all witnesses lies at the heart of our fitness to practise processes. Individualised customer service and support is an area where we continue to perform well and where we strive to act proactively in identifying and embedding best practice in our processes. However, in reviewing how we manage our fitness to practise cases we have identified that the information we provide to witnesses about our processes generally could be more public facing and accessible.
4. Appropriate outward facing guidance made available to members of the public and potential complainants would impact positively not only on the quality of a witness's evidence but also on the perception of the public generally and should assist in instilling greater trust and confidence that the GOsC will manage and consider concerns about an osteopath fairly.

Discussion

5. Being a witness of fact at a hearing can be daunting with the hearing process seeming to be legalistic and hard to follow. The draft witness guidance document at the Annex has been designed as part of a range of support tools to ensure witnesses are enabled to give their best evidence before Committees at a hearing.
6. In tandem with the development of the witness guidance we are in the process of constructing an online resource whereby witnesses will be able to view a virtual tour/video clip of the hearing room and witness rooms on the GOsC website. This will give witnesses an idea of what to expect when they arrive to give evidence.

7. Detailed feedback from Victim Support has been received and incorporated in the composition of the current draft. Their view is that the document language is "straightforward and succinct enough, providing the necessary information". Victim Support has also suggested that the guidance should include details of who will be attending the hearing and a breakdown of who witnesses will encounter in the hearing room. They have also suggested that the guidance includes a map with basic directions, nearest transport links/car parks, so that all the relevant information relating to the hearing day is together within one easy reference document.
8. Wider involvement of the Patient Partnership Group and witnesses who have attended GOsC fitness to practise hearings will also be sought before the guidance is finalised.
9. The draft witness guidance has not as yet been formatted. It is intended that it will have a contents page and glossary to make it more user friendly and it will include photographs and diagrams of the hearing room and GOsC reception. The guidance will also be leaflet sized as this will make it more tactile and easier to identify amongst other information provided to witnesses. Additionally, the guidance has been purposefully condensed so that it can be used as an accessible easy reference point for witnesses.

Recommendation: to consider the approach outlined in the draft Witness Guidance annexed to this paper.



General
Osteopathic
Council

**WITNESS
GUIDANCE
LEAFLET**

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About this leaflet

The General Osteopathic Council (GOsC) is the statutory regulator for the osteopathic profession in the United Kingdom.

Maintaining patient safety and public confidence in the osteopathic profession means that the GOsC must investigate and consider complaints about osteopaths' conduct, competence or health. To do this we rely on patients and members of the public to bring concerns about registered osteopaths to our attention. The role of witnesses is vital to this process.

The GOsC is committed to ensuring that witnesses are treated with respect and sensitivity. The aim of this guidance is to enable and facilitate witnesses to give their best evidence at a hearing.

This guidance is part of a range of support mechanisms the GOsC has put in place, both before during and after a witness has given evidence, to ensure they are properly assisted and know what to expect.

Introduction

It is likely that you will have provided a witness statement to us in relation to a complaint we have received about an osteopath. It is the responsibility of the GOsC to prove a case against the osteopath. To do this we must investigate and consider complaints about osteopaths appropriately. This might involve written witness statements, reports, patient notes, emails and other relevant information. You may be required to attend and give evidence at the hearing before either a Professional Conduct Committee (PCC) or a Health Committee (HC) in relation to the osteopath.

Arranging your attendance

When the decision has been made that you are required to give evidence, the GOsC caseworker will contact you regarding the dates when you can attend. Where possible, we will try to list hearings on dates most convenient to you. However, this might not always be possible for a variety of reasons including, for example, other witnesses' availability. Your caseworker will let you know the date of the hearing as soon as this has been confirmed. We will then make suitable travel arrangements and book overnight hotel accommodation and travel tickets for you where appropriate.

It is also important that you let us know of any accessibility or other additional needs that you require in advance of the hearing, for example, wheelchair access, a hearing loop system, or sign/language interpreter, so that we can make the necessary arrangements.

Before the Hearing

We understand that giving evidence can be stressful and intimidating. We hope that we can reduce any anxiety you may have by ensuring that the process is explained

to you. This can be achieved in a variety of ways, for example, through inviting you to visit the hearing venue in advance of the hearing day. If you have any questions about the process of giving evidence you can discuss this with the caseworker assigned to you. However, it is very important that you do not discuss your evidence with anyone else.

On the GOsC website there is a short video which will allow you to familiarise yourself with the hearing venue. This will give you a visual idea as to what to expect on the day of the hearing, see the GOsC building reception, the layout of hearing room and where you will sit to provide your evidence. This can be accessed on the following link:

[put in link]

[put in pictures/diagram of the hearing room]

[Put in here about witness support offered – to be confirmed]

Supporting you at the hearing

As well as any accessibility requirements you may have, it is also important to let us know if there are other factors that may make it difficult for you to give evidence, such as depression, anxiety or if you experience difficulty in social situations, so that we can make the necessary arrangements. For example, we can ensure the Committee are aware of this and ask for frequent breaks during your evidence.

In cases involving allegations of sexual impropriety or, for example, where a witness is elderly or has a disability, we are able to put in place special procedures that can enable a witness to give their evidence more effectively whilst aiming to reduce any anxiety they may have. These are often referred to as 'special measures' and can include giving evidence from behind a screen or via a video link so you would not have to be in the hearing room while giving your evidence.

Can you refuse to attend the hearing?

We hope that as you have agreed to provide a witness statement you will also be willing to attend the hearing. Occasionally, we may ask the Committee to issue a witness summons. What this means is that you could be compelled to attend a hearing to give evidence or produce documents at a hearing. This can occur for any number of reasons. For example, your employer may not be willing to give you time of work to attend the hearing. If you are summoned and then do not appear, you may be prosecuted for committing an offence under the Osteopaths Act.

Preparing to attend the hearing

Before you come to the hearing, do remember to:

- ensure you have thoroughly read your statement and any other relevant documents in advance.
- carefully check the details of your journey plans and give yourself plenty of time to reach the hearing venue in good time.
- bring your reading glasses if required.
- let us know if there is any additional assistance you might require.
- it is imperative that you do not discuss the case or your evidence with anyone other than your assigned case worker.

During the Hearing

On the day of the hearing when you arrive, you should go to the reception desk where you will be greeted by a member of our staff before being escorted to a waiting room. It is likely that you will have to wait before giving your evidence. Refreshments such as coffee, tea and water will be available while you wait.

The GOsC legal representative will meet with you on the morning of the hearing to answer any questions you have and to confirm that you are ready to give your evidence. If you feel you need more time or you wish to speak to the GOsC legal representative before this date, please inform the caseworker assigned to this case.

You are welcome to bring someone with you – perhaps a friend or relative – to the hearing to support. However, please do not bring children or pets with you. If it's not possible to leave your children with someone then please ensure you bring another adult to accompany you who will provide care whilst you give evidence.

Sometimes a case may be adjourned, for example, the Committee has run out of time. If this means you cannot complete your evidence on the designated day, you will be asked to return on a different day.. Your GOsC caseworker will discuss this with you.

GOsC hearings usually take place in public. This means that members of the press and public are able to attend and observe the hearing. However, hearings before the Health Committee usually take place in private.

Witnesses names are usually anonymised during hearings and are referred to as, for example, Patient A, Patient B.

The GOsC is usually informed if members of public or press are attending. If we are informed of this in advance, we will also make you aware of this.

Please ensure your mobile phone is switched off before you enter the hearing room. Please also be aware that cameras, tape recording equipment or any other device capable of capturing a permanent record is not permitted in the hearing room.

When it is your time to give evidence, a member of our staff will bring you to the hearing room and take you to the seat where you will give evidence. You will be asked to take an oath according to your religious belief or an affirmation. The Chair

of the Committee will then introduce you to the people in the hearing room including the committee members, the legal assessor and the GOSC legal representative together with the osteopath's legal representative.

It is part of the Chair's role to ensure that the overall management of the hearing is fair including that you are not asked inappropriate or hostile questions.

The Committee will have read your statement and any other relevant documents in this case. You may not be required to read out your statement, however if you are, the GOSC representative will discuss this with you in advance of you giving your evidence. The GOSC legal representative will ask you to confirm your signature on your statement and that the contents of your statement are true. They may also have additional questions to ask you.

The osteopath's legal representative will then have an opportunity to ask you questions. Afterwards, the GOSC legal representative will have another opportunity to ask you further questions if necessary. When both parties have finished asking you questions, the Committee will then have an opportunity to ask you questions.. During the course of your evidence you may be guided to documents sitting in a bundle on the witness desk and asked questions about the content of them. It is very important you read any documents you are referred to carefully before answering questions.

Remember:

- you should take your time and carefully listen to ensure you understand questions asked of you.
- provide your answers clearly and slowly.
- if you don't know the answer to a question or you don't understand the question, you should ask for clarification or explain your position. .
- don't be afraid to ask for a short break if you need one, you should let member of staff or the Chair know and they will ensure this takes place.
- if the Committee adjourns for any reason while you are giving evidence it is very important that you do not discuss your evidence with anyone, including the GOSC legal representative, during the break.

After the Hearing

The Chair will confirm to you when you have finished giving your evidence. You will then be able to either leave the hearing or stay if it is taking place in public. If you choose to remain, you will be shown where to sit by a member of staff.

Your caseworker will inform you of the outcome of the case. We also publish a copy of the decision on the GOSC website.

Your caseworker will deal with your expenses claim and any queries you may have. This involves any out of pocket expenses you have incurred in attending the hearing

such as lunch or travel. However, please note that we do not usually pay for loss of earnings.

The GOsC is committed to improving its hearings process. Your input in achieving this is a key component of this. To assist us with this, you will be invited to complete a witness feedback form.

We hope you find this guidance helpful. If you have any queries please do not hesitate to contact your case worker or alternatively the Regulation Department.

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