



Policy and Education Committee
14 October 2020
External inquiries, reviews and reports

Classification	Public
Purpose	For noting
Issue	A paper to highlight and signpost potential relevant matters in the external environment to inform our thinking.
Recommendation	To note the themes from external inquiries, reviews and reports.
Financial and resourcing implications	None from this paper.
Equality and diversity implications	<p>A number of the themes outlined in this paper would potentially benefit from further thought around equality, diversity and inclusion matters particularly in relation to communication and patient partnership, decision making and implementation and evaluation of policy.</p> <p>We undertake equality impact assessments for major policy developments but we could consider further how we better integrate equality, diversity and inclusion as we identify and pursue our strategy, desired outcomes, policy options and business planning, particularly in our current coronavirus context.</p> <p>We are thinking about this further as part of our equality, diversity and inclusion audit. We also need to ensure that we retain a fully UK focus and that our thinking is informed by issues specific to all four countries of the UK.</p>
Communications implications	None
Annex	None
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Background

1. As a statutory regulator, it is important for us to monitor and consider the implications of external inquiries, reviews and other relevant reports which are relevant to wider health and social care and which may have relevance to the way in which we carry out our role.
2. This paper aims to highlight relevant inquiries, reviews and reports external to the osteopathic sector, which may have relevance to our statutory duties and objectives and how we identify our work and seek to develop or implement policy. It is presented as a reading room paper to inform our thinking as we move into the next business year. The Committee is invited to respond to the paper by email to Fiona Browne at fbrowne@osteopathy.org.uk.

Discussion

Paterson Inquiry

3. The Paterson Inquiry report was published on 4 February 2020. The main report is available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/863211/issues-raised-by-paterson-independent-inquiry-report-web-accessible.pdf
4. Ian Paterson was appointed as a breast surgeon and was convicted of wounding with intent and sentenced to 15 years in prison in April 2017 for unnecessary breast surgery. The report provides powerful reading of the impact of the events that took place on hundreds of patients.
5. The inquiry was notable, because of the findings in relation to the wider regulatory system and its impact on protecting patients, the way that regulators communicated with and treated patients and finally, the importance of a culture focussed on speaking up and taking action.
6. Themes of possible relevance for the GOsC in relation to the Inquiry include:
 - **Information to patients:** Patients told the inquiry that much of the information that they received about Paterson was 'unreliable and the result of hearsay and an inflated reputation. Patients had no means of independently testing or verifying the information that they had received'. The inquiry recommended that there 'should be a 'single repository of the whole practice of consultants across England, setting out their practising privileges and other critical consultant performance data, for example, how many times a consultant has performed a particular procedure and how recently. This should be accessible and understandable.' The GMC has been undertaking a project to develop the taxonomy for describing what consultants do. Are these issues relevant to osteopathic patients?

- **Information provided about care and treatment:** patients complained about information to given to patients being different to that provided to their GPs. Also, patients complained that they were not provided with information about the different arrangements in the private sector and the NHS. The inquiry recommended that the differences in how care is provided should be explained to patients and indemnity arrangements should be clear too, along with information about emergency arrangements. There is potential for us to reflect further with patients and osteopaths about how information is provided to patients about the provision of care and information about indemnity insurance arrangements (and also complaints arrangements – see below).
- **Consent:** The Inquiry heard that ‘patients often felt under pressure to decide to go ahead with surgery. Their options for treatment, including the risks associated with any procedure, were not explained clearly to them before they gave consent for surgery. This was out of line with existing guidance, which sets out that patient consent must be voluntary, informed, and that the patient must have the mental capacity to understand what they are consenting to.’ The GMC have taken this recommendation into account in the context of their recent published guidance on Decision making and consent available at: <https://www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/consent> helping clinicians and patients to make decisions together. We have undertaken a lot of work on shared decision making, but it may be helpful for us to look at our own guidance around consent to see if it needs updating in the context of this recommendation and indeed the very recent GMC guidance.
- **Complaints:** The Inquiry found that patients were not clear about the range of complaints mechanisms available to them and that they should have the right to independent resolution of their complaint. There may be an opportunity to explore the issues raised and our own position with regards to complaints and implementation of the guidance in the OPS in relation to this to ensure that patients are clear about mechanisms open to them to resolve issues that arise for them in a way that meets their needs. See also communication with patients.
- **Communication with patients:** The Inquiry found that ‘patients felt that they did not receive any meaningful apology from the hospitals. ... apologising was conflated with admitting legal liability. Despite the historical guidance on being open and saying sorry and, more recently, the statutory Duty of Candour, we were provided with no evidence to show how boards accept and implement accountability for apologising.’ The Inquiry recommended that ‘boards should apologise at the earliest stage of investigation and not hold back from doing so for fear of the consequences in relation to their liability.’ Just on this, a key part of NHS Resolution is about the importance of saying sorry. (See, for example: <https://resolution.nhs.uk/wp-content/uploads/2017/07/NHS-Resolution-Saying-Sorry-Final.pdf>) Yet is it too easy, when a complaint is raised in any context to get into a formal dialogue and conflict without really hearing the patient. James Titcombe wrote a very

powerful blog about a recent meeting with a midwife who was involved in the care of his deceased son. It took place after all the formal inquiries and fitness to practise processes not beforehand. He said 'I left that meeting with a sense of healing but also profound sadness. Sadness that we weren't able to meet much earlier and sadness that on the long journey since Joshua died – somehow humanity and compassion were sucked out of the process – at the very time when kindness was needed the most.' See: https://patientsafetyfirst.wordpress.com/2020/09/24/trust-after-harm/amp/?_twitter_impression=true. It may be worth exploring if there is a need and if there is, how we can work with osteopaths and others to support good, kind, supportive, learning focussed dialogue in local and other complaints processes.

- **Indemnity cover:** Some patients were not covered by indemnity insurance. All osteopaths must have indemnity insurance and we have undertaken considerable work to ensure that this is the case. But it has been recommended that the Government should reform the current system of indemnity products for health professionals to ensure that they are covered 'introducing a national safety net to ensure that patients are not disadvantaged'.
- **Regulatory system:** The Inquiry found that the specific health regulators involved in the Paterson case did not 'not come together effectively to keep patients safe. We also heard that [the regulatory system] is not accessible or understood by patients. We do not believe that the creation of additional regulatory bodies is the answer to this. We recommend that the Government should ensure that the current system of regulation and the collaboration of the regulators serves patient safety as the top priority, given the ineffectiveness of the system identified in this Inquiry.' Elsewhere in the report it is stated that this 'could happen again'.

The foreword states 'There is no process, procedure or regulation which can prevent malpractice on its own. This report is primarily about poor behaviour and a culture of avoidance and denial. These are not necessarily improved by additional regulation. number of regulatory bodies and the complexity of their areas of responsibility meant that Paterson's patients thought the system unfocused and scarcely possible to navigate, while many clinicians seemed to feel the same, and so avoided engagement with it.'

This is an important recommendation and reminds us that as a regulator we do not exist in a vacuum but we are part of a system. Also that matters of culture, speaking up, doing the right thing, are critical to patient safety and patient care. Further work about how the regulatory system encourages rather than inhibits these behaviours is critical for patient's safety and high quality patient care and to ensure that patients get the information they need. In this respect, we are beginning to think about these issues as part of our response to Gerry McGivern's report – see Item 9. We are also working much more closely with other regulators but there is always more to do.

First Do No Harm The report of the Independent Medicines and Medical Devices Safety Review (Cumberlege)

7. The Cumberlege review was published on 8 July 2020 and is available at: <https://www.immdsreview.org.uk/Report.html>. Helen Haskell has produced a very helpful article distilling the key themes in the BMJ at: <https://www.bmj.com/content/370/bmj.m3099>. Whilst the issues in this review relate to harm from medicines and medical devices which on one level might be argued to not be relevant to osteopathy, what is striking is that the themes identified in the report about regulation are sadly familiar.
- The need to strengthen the patient voice in the health and regulatory system
 - The need for an appointment of a statutory Patient Safety Commissioner with responsibility for listening to patients and promoting user perspectives in the context of medicines and medical devices
 - An independent 'Redress Agency will administer decisions using a non-adversarial process with determinations based on avoidable harm looking at systemic failings, rather than blaming individuals' – focussing on resolution of complaints rather than an adversarial approach.
 - 'Transparency of payments made to clinicians needs to improve. The register of the General Medical Council (GMC) should be expanded to include a list of financial and non-pecuniary interests for all doctors, as well as doctors' particular clinical interests and their recognised and accredited specialisms. In addition, there should be mandatory reporting for pharmaceutical and medical device industries of payments made to teaching hospitals, research institutions and individual clinicians.'

Pandemic Patient Experience – Report by the Patients Association

8. The Patients Association published a report about the Pandemic Patient Experience on 21 September 2020 based on a survey of patients which ran from 6 May 2020 to 17 August 2020. This report is available at: <https://www.patients-association.org.uk/blog/pandemic-patient-experience>
9. The Patients Association said 'Over the summer of 2020, patients told us about their experiences during the first wave of the COVID-19 pandemic. The testimony we received from patients is a rich mix of stories, covering care quality of all shades. Some themes emerge strongly, however. The results paint a bleak picture of the massive toll on all patients of the coronavirus pandemic and the emergency measures taken in response to it. Despite the large scale celebration of the NHS over the spring and early summer, the emergency measures came at a huge cost to patients. In particular, access to services became very difficult, and many patients were left feeling unsupported, anxious and lonely. People told us of their frustrations in being cut off from the support that had previously been

essential to their daily lives. The relationship between patients and the NHS has been profoundly disrupted.'

10. Key principles recommended from the report include:

- Recognise from the outset that the impact of the crisis will fall hardest on those who already face discrimination and inequality, including Black, Asian and other minority ethnic groups, disabled people, carers, women and gender minority populations and those living in areas of high deprivation, and that these inequalities will affect some people in combination
- Maintain the principles and values of patient choice, shared decision making and voice, so that services are shaped by patients, disabled people and others who most need them
- Ensure there are fully resourced services available to help people maintain people's mental wellbeing, to treat mental ill health, and to ensure that no one is left isolated
- Ensure carers get the support they need, including emotional support, to continue to care for their loved ones
- Provide clear, concise and timely communication, updated regularly, about the impact of the crisis on support and services, what is available in the interim, and when and how services may begin to restart
- Ensure access needs are respected and met, including providing materials in different formats and languages, including signing, descriptions, captioning and transcription for all official visual content, and that people are able to access support offline if they do not have access to the internet
- Maintain compassionate end-of-life and bereavement support services, with clear communication between staff, patients and others, and the opportunity to be with friends and family members unless totally impossible.

11. Key themes arising from the report included:

- importance of holistic care
- importance of clinical decision making for the benefit of patients to have a clear place in decision making (not blanket policies)
- importance of shared decision making not paternalistic care
- health inequalities
- The importance of incorporating issues of equality, diversity and inclusion in patient care

12. One might argue that whilst the report is mostly focussed in experiences of the NHS during the pandemic, that these experiences may not be relevant to 'osteopathic patients'. However, if that were to be the view, we may need to test

that assumption. Patient experience of healthcare will be very different this year. How does this impact on expectations of osteopaths, osteopathic care, and how osteopaths engage with others in the health sector to support patients already struggling to engage. This changing context may require a set of changing knowledge and skills and approaches to provide holistic care and the implications for our sector may need further development and discussion.

What we need now - National Voices

13. In October 2020, National Voices published a report and associated resources called What We Need Now: What matters to people for health and care, during COVID-19 and beyond available at:

<https://www.nationalvoices.org.uk/what%20we%20need%20now> . The report contains a number of 'I statements' derived from patient stories and experience during the pandemic as follows:

- 'I am listened to and what I say is acted upon' – There are also helpful recommendations for those designing and delivering services including:
 - 'Always involve those using services in decisions about service changes. That means not just asking people but thinking through what they have said when designing a service. Often leaving patients out of the design of the service leads to a waste of resources.
 - Always explicitly ask people what they think they need now – in the current context of ongoing change. Have their needs changed? What is most important now? How does what I am being told change how I deliver these services?
 - Explicitly address concerns, even if you cannot always resolve them. Sometimes resources don't allow you to design what you see people need – be honest about that.
 - Make it clear how you are addressing their wishes, even if you cannot always meet all of them.
 - Be honest about what you are able to deliver.'
- 'I make decisions that are respected and I have rights that are protected'
- 'I am given information that is relevant to me in a way I understand'
- 'I am supported to understand risks and uncertainties in my life'
- 'I know how to talk to the person or team in charge of my care when I need to'
- 'I know what to expect and that I am safe when I have treatment and care'

- 'I am supported and kept informed while I wait for treatment and care'
- 'I am not forgotten'

14. Again, whilst these statements are in the context of the experience of the erasure of the patient voice in the redesign and delivery of patient services during COVID, the context is important. There are two key points, one is that patients needs are not always being met by the NHS which means that patients coming to osteopaths may have different needs and expectations. Two that the call from key patient organisations to centralise and hear the patient is mirrored as a theme from those of major inquiries. Thus, it is critical that we take account of this and think critically about the implications and impact for the delivery of osteopathic care and osteopathic education, standards and CPD.

Professional Standards Authority research

Review of research into health and care professional regulation

15. On 26 July 2020, the Professional Standards Authority published a review of research into health and care professional regulation. This is available at: <https://www.professionalstandards.org.uk/publications/detail/review-of-research-into-health-and-care-professional-regulation>. Whilst a key theme is that research about regulation and its evaluation and impact, in particular, is limited, it also noted a focus on fitness to practise above other areas. Interestingly, the themes coming from the inquiries above would suggest that more focus on impact and implementation including culture, speaking up, dialogue with patients would perhaps be a better focus.

Patient and public perspectives on future fitness to practise processes

16. This research was published on 26 August 2020. It is available at: <https://www.professionalstandards.org.uk/publications/detail/patient-and-public-perspectives-on-future-fitness-to-practise-processes>. It aimed 'to explore with patients and the public their perspective on future fitness to practise processes where hearings are not held'. Patients were generally 'supportive of moves to reduce the number of public hearings and use a more consensual model. Participants did, however, feel there were risks in reducing the number of hearings since this would mean less external scrutiny of decisions. There was, therefore, a general view that independent oversight should be retained and the whole regulatory system leading to final decisions on fitness to practise would need to be robust.'

Touch

17. An interesting piece of work about touch undertaken by the Wellcome Collection and Radio Four has recently been published. This was originally highlighted to us by the National Council of Osteopathic Research in January 2020. See:

<https://www.bbc.co.uk/programmes/articles/58WGxwkrmrLcIT4tcDYX4PB/nine-things-we-learned-from-the-world-s-largest-study-of-touch>. Findings included:

- 'The three most common words used to describe touch are: "comforting", "warm" and "love" People from 112 different countries took part in the Touch Test and it's striking that "comforting" and "warm" were among the three most common words that people used in every region of the world.'
- 'People who like interpersonal touch tend to have higher levels of well-being and lower levels of loneliness. The Touch Test took a snapshot in time, so we can't say which came first – the touch or the higher well-being, but this fits with the findings of many previous studies which have demonstrated that consensual touch is good for us physiologically and psychologically.'

18. The survey ran until a week into lockdown at the end of March 2020. Since then, might thoughts and feelings about touch have changed? It is interesting because one of the findings from our literature review about Communication and Miscommunication in the context of touch by Dr Michael Concannon and Sam Lidgely (see <https://www.osteopathy.org.uk/news-and-resources/news/how-touch-is-communicated-in-the-context-of-manual-therapy-new/>) Key findings of the literature review included:

- Touch is multi-faceted and a complex phenomenon to research without clear language to communicate understanding.
- There are positive aspects of touch and relationship to wellbeing, as well as negative implications of miscommunication and breaches of boundaries for patients.
- There is a need for further research about touch in the context of osteopathic and chiropractic care
- Further consideration is needed as to how regulators and others in the sector might support patients and practitioners in this critical area.
- Also it noted that language around touch is limited.

19. Further work was planned to develop next steps from the literature review this year. However, following the pandemic, it was felt that we needed to pause this work so that we could understand a bit more about how osteopathy would be practised in the context of the coronavirus. It may be helpful for us to revisit the concept of touch in the context of the coronavirus pandemic in the next business year, to understand how touch has changed in the therapeutic context.

Conclusions

20. This paper does not seek to be a comprehensive literature review to the external environment of relevance to us. However, it has sought to highlight some key

inquiries, reports and reviews that may help to inform our thinking as we develop our direction and business planning for the next period in this new context.

21. Key themes for us include:

- Key pre-coronavirus messages from Inquiries about the need to listen to patients, the regulatory system as a whole to work together for the benefit of patients, the need to focus on changes to culture to support dialogue, trust empathy and care
- A pandemic which immediately erased the patient voice as evidenced by patient organisations
- Changing patient experiences of healthcare more broadly and implications for osteopathic care, knowledge, skills, education, standards and CPD and how osteopaths engage with other health professionals for the benefit of patients
- Changing expectations and understanding of touch in the context of the coronavirus pandemic and the changing delivery of osteopathic care, personal, protective equipment etc

22. We welcome the response of the Committee to this paper and welcome the Committee's views about other reports that we should be explicitly referencing as we develop our thinking in the current context. Please send any responses or thoughts to Fiona Browne at fbrowne@osteopathy.org.uk

Recommendation: To note the themes from external inquiries, reviews and reports.