



Policy on referring registrants with convictions or cautions for drink or drug related offences for a health assessment

Agreed by Council on 13 December 2012

This policy will take effect from 14 December 2012

1. Where the Council is notified that a registrant has been convicted of a criminal offence, it will refer an allegation under section 20(1)(c) of the Osteopaths Act 1993 (the Act) to the Investigating Committee (IC). Where the Council is notified that a registrant has been cautioned for a criminal offence it may refer an allegation of unacceptable professional conduct in relation to the caution under section 20(1)(a) of the Act to the IC. Such cases are brought by the Registrar, in the absence of a complainant.
2. The Act also provides that the IC is required to investigate any allegation that a registrant's ability to practise as an osteopath is seriously impaired because of his physical or mental condition¹, and the GOsC (Investigation of Complaints) (Procedure) Rules 1999 (the IC Procedure Rules) give the IC broad powers to obtain medical evidence in the investigation of a health complaint. Under Rule 13 of the IC Procedure Rules, the IC may 'cause such enquiries to be made in relation to the matter as it thinks fit'.
3. In accordance with the policy now agreed by the Council, in any case where alcohol or drugs were involved in the commission of the offence which led to the conviction or caution, there will be a presumption that the Council will refer an allegation to the IC under section 20(1)(d) of the Act, as well as under section 20(1)(a) or (c). The presumption that there will also be a health case may be rebutted where two or more of the factors set out at paragraph 6 below are present.
4. The Screener will be asked, in the usual way, to consider the allegations with a view to establishing whether, in his opinion, power is given by the Act to deal with them if they prove to be well founded. Also in accordance with our usual procedure, a decision by a Screener not to refer an allegation to the IC will be reviewed by the Chair of the IC.

¹ Section 20(1)(d) Osteopaths Act 1993

5. After that, the Regulation department, acting on behalf of the IC, will obtain such information as it thinks fit, in accordance with Rule 13 of the IC Procedure Rules. The Council has also agreed that in such circumstances, that information should include a health assessment, to be carried out by an independent medical or other healthcare practitioner, the cost of which will be borne by the Council. Failure by the registrant to submit to such an assessment may be treated as unacceptable professional conduct and the Registrar may make a complaint in relation to such failure under section 20(1)(a) of the Act.
6. The presumption described in paragraph 3 above may be rebutted where two or more of the following factors are present:
 - a) Where, according to the documentation available from the police or courts, the level of alcohol found to be present in the registrant does not exceed:
 - 42 micrograms of alcohol in 100 millilitres of breath; or
 - 96 milligrams of alcohol per 100 millilitres of blood; or
 - 128 milligrams of alcohol per 100 millilitres of urine².
 - b) The criminal offence in question is the first involving alcohol or prescription drugs since the registrant was first registered, or the first in the ten year period preceding the offence now notified.
 - c) There are exceptional mitigating circumstances (for example, the registrant drove a car when over the limit in a medical emergency).
7. Even where these circumstances apply, it remains open to the Registrar to bring a complaint under section 20(1)(a) and (c) of the Act if, taking all information into account, he considers that it would be in the interests of patient safety or of maintaining confidence in the profession to do so.

² These figures are 20% over the legal limits for driving offences