

performance review 2019/20

GENERAL OSTEOPATHIC COUNCIL





ABOUT THE PERFORMANCE REVIEW PROCESS

We aim to protect the public by improving the regulation of people who work in health and care. This includes our oversight of 10 organisations that regulate health and care professionals in the UK. As described in our legislation, we have a statutory duty to report annually to Parliament on the performance of each of these 10 regulators.

Our performance reviews look at the regulators' performance against our [Standards of Good Regulation](#), which describe the outcomes we expect regulators to achieve. They cover the key areas of the regulators' work, together with the more general expectations about the way in which we would expect the regulators to act.

In carrying out our reviews, we aim to take a proportionate approach based on the information that is available about the regulator. In doing so, we look at concerns and information available to us from other stakeholders and members of the public. The process is overseen by a panel of the Authority's senior staff. We initially assess the information that we have and which is publicly available about the regulator. We then identify matters on which we might require further information in order to determine whether a Standard is met. This further review might involve an audit of cases considered by the regulator or its processes for carrying out any of its activities. Once we have gathered this further information, we decide whether the individual Standards are met and set out any concerns or areas for improvement. [These decisions are published in a report on our website.](#)

Further information about our review process can be found in a [short guide, available on our website.](#)

The regulators we oversee are:

General Chiropractic Council • General Dental Council •
General Medical Council • General Optical Council • General
Osteopathic Council • General Pharmaceutical Council • Health
and Care Professions Council • Nursing and Midwifery Council •
Pharmaceutical Society of Northern Ireland • Social Work England



Find out more about our work
www.professionalstandards.org.uk

General Osteopathic Council

performance review report 2019/20

At the heart
of everything
we do is
one simple
purpose:
protection
of the public
from harm

Contents

01	At a glance - key facts and statistics about how the General Osteopathic Council is meeting the Standards for 2019/20
02	Executive summary
05	How the General Osteopathic Council has performed against the Standards of Good Regulation
05	General Standards Five Standards
12	Guidance and Standards Two Standards
13	Education and Training Two Standards
15	Registration Four Standards
20	Fitness to Practise Five Standards
28	Glossary/useful links



The General Osteopathic Council

key facts & stats

The General Osteopathic Council (GOsC) regulates osteopathy in the United Kingdom.

As at 31 December 2019:

5,457
professionals
on its register

£320 annual fee for registration
in the first year; **£430** for the
second year; & **£570** for each
subsequent year

The GOsC's work includes:

- ▶ Setting and maintaining standards of practice and conduct
- ▶ Maintaining a register of qualified professionals
- ▶ Assuring the quality of osteopathic education and training
- ▶ Requiring osteopaths to keep their skills up to date through continuing professional development
- ▶ Taking action to restrict or remove from practice professionals on its register (registrants) who are not considered to be fit to practise.

Standards of Good Regulation met for 2019/20 performance review

	General Standards	5/5
	Guidance and Standards	2/2
	Education and Training	2/2
	Registration	4/4
	Fitness to Practise	5/5

Meeting, or not meeting, a Standard is not the full story about how a regulator is performing. You can find out more in the full report.

The General Osteopathic Council

Executive summary

How the GOsC is protecting the public and meeting the Standards of Good Regulation



This report arises from our annual performance review of the General Osteopathic Council (GOsC) and covers the period from 1 January 2019 to 31 December 2019. The GOsC is one of the 10 health and care professional regulatory organisations in the UK which we oversee. We assessed the GOsC's performance against the **Standards of Good Regulation** which describe the outcomes we expect regulators to achieve in each of their four core functions. We revised our Standards in 2019; this is the first performance review of the GOsC under the new Standards.

To carry out this review, we collated and analysed evidence from the GOsC and other interested parties, including Council papers, performance reports and updates, committee reports and meeting minutes, policy, guidance and consultation documents, our statistical performance dataset and third-party feedback. We also utilised information available through our review of final fitness to practise decisions under the Section 29 process¹ and conducted a check of the accuracy of the GOsC's register. We used this information to decide the type of performance review we should undertake. Further information about our review process can be found in our **Performance Review Process guide**, which is available on our website.

The GOsC's performance during 2019/20

None of the information we collated indicated any concerns about the GOsC's performance that we wished to explore in more detail and we did not identify any significant changes to the GOsC's practices, processes or policies during the performance review period. We therefore determined that no further review of the GOsC's performance was required this year and we concluded that the GOsC demonstrated that it met all the Standards of Good Regulation.

General Standards

When we revised the Standards, we introduced a new set of General Standards. There are five Standards covering a range of areas including: providing accurate, accessible information; clarity of purpose; equality, diversity and inclusion; reporting on performance and addressing organisational concerns; and consultation and engagement with stakeholders to manage risk.

We found that the GOsC was clear about its purpose and provided useful information about its statutory duties, policies and processes which were clear and accessible. The

¹ Each regulator we oversee has a 'fitness to practise' process for handling complaints about health and care professionals. The most serious cases are referred to formal hearings in front of fitness to practise panels. We review every final decision made by the regulators' fitness to practise panels. If we consider that a decision is insufficient to protect the public properly we can refer them to Court to be considered by a judge. Our power to do this comes from Section 29 of the [NHS Reform and Health Care Professions Act 2002 \(as amended\)](#).

GOsC understands the diversity of its registrants and service users and is aware of the fact that as a small regulator, it is unable to collect a large amount of data in this area. However, we saw evidence that it utilises the data that it does collect and were satisfied that it ensures that its processes do not impose inappropriate barriers to people with protected characteristics.

We saw evidence that the GOsC carefully considered the Williams review into gross negligence manslaughter in healthcare and noted its concerns about the quality of expert evidence and the role of the expert witnesses. In response, the GOsC held a workshop for registrants and key stakeholders to discuss the scope and nature of expert evidence in fitness to practise cases.

The GOsC regularly consults and works with all relevant stakeholders to identify risks to the public in respect of its registrants and we noted the work it is conducting on developing specialist guidance for osteopaths on issues arising from the application of the Osteopathic Practice Standards (OPS) to adjunctive therapies. We understand that the Authority's Accredited Registers programme,² patients, registrants and Fitness to Practice Panel members are to be included in the development of this guidance.

Other key developments

The GOsC is undertaking a significant amount of work to address areas of risk and to provide registrants, stakeholders and patients with guidance and support in areas such as standards, guidance, fitness to practise decision making and witness support.

Updated OPS came into effect

During this review period, the updated OPS came into effect. The updated OPS merge the Standards of Proficiency and the Code of Practice for osteopaths and provide further information to osteopaths on areas including boundaries, communication and consent, and the duty of candour. We saw evidence of the GOsC promoting the updated OPS through mail and media campaigns and impressing the importance of the OPS to its registrants.

Guidance on insurance requirements

It is a requirement of registration with the GOsC to hold adequate insurance and the GOsC has recognised the need for guidance on insurance requirements for osteopaths following an increase in the number of fitness to practise cases alleging a failure to maintain adequate professional indemnity insurance. In response to this gap in guidance, the GOsC published information in its The Osteopath magazine about the importance of holding insurance to raise awareness of the requirement.

Review of Guidance for Osteopathic Pre-Registration Education

We have seen evidence that the GOsC will be reviewing its Guidance for Osteopathic Pre-Registration Education. The GOsC is proposing to replace the guidance with a single, definitive set of standards for osteopathic education which would provide greater clarity for current and prospective students, institutions, patients and other healthcare professionals. This approach, if adopted, will be broadly consistent with the approach adopted by most of the other health and care regulators overseen by the Authority.

² For more information see www.professionalstandards.org.uk/what-we-do/accredited-registers

Independent audit of the initial stages of its fitness to practise process

During this review period, the GOsC commissioned an independent audit of the initial stages of its fitness to practise process, including decisions made by Screeners. The GOsC reported that the audit findings did not give rise to concerns about public protection and the decisions made by Screeners appeared appropriate. However, we understand that the audit identified that the adequacy of reasons provided in written decisions made by Screeners under the Initial Closure Procedure could be improved. In response, the GOsC reported that specialist training on drafting decisions was delivered to its Investigating Committee (IC)³ in February 2020 and it was developing a consolidated 'Guidance for Screeners'. We understand that the public consultation on the guidance is scheduled for later in 2020.

Supporting witnesses and registrants involved in fitness to practise proceedings

The GOsC has entered into a contract with Victim Support to provide services to witnesses and registrants involved in and/or subject to fitness to practise proceedings. The GOsC and Victim Support have established a dedicated telephone number which is operated by Victim Support volunteers and is available 24 hours a day, 365 days a year. The GOsC is doing considerable work to improve the experience of participants in the fitness to practise process.

³ All Screeners are members of the Investigating Committee.

How the General Osteopathic Council has performed against the Standards of Good Regulation

General Standards

Standard 1: The regulator provides accurate, fully accessible information about its registrants, regulatory requirement, guidance, processes and decisions.

- 1.1 The GOsC's website⁴ clearly states that the GOsC works with the public and the osteopathic profession to promote patient safety. The information about the GOsC's statutory objectives⁵ and core functions⁶ are clearly set out. Detailed information on the work which the GOsC carries out to support its core functions and deliver on its objectives is available through links which download the documents automatically.
- 1.2 The GOsC's 'Check the Register' function features prominently on the website's home page and this allows users to search for a registered osteopath by postcode, town, county or country, surname and registration number.
- 1.3 Full information is provided on the website about what an applicant must do in order to join the register. The Registrar can refuse entry onto the register if the applicant cannot satisfy all the conditions for registration. If the Registrar refuses registration, applicants can appeal⁷ the decision. Information on how to appeal a registration decision is not available in the Registration section of the site. In our view, displaying information about the process alongside guidance documents relating to registration appeals would improve the accessibility of this information. However, we recognise that the GOsC receives a small number of registration appeals each year and information about the appeals process is given to the applicant when the application to join the register is refused.
- 1.4 The 'Standards' section of the website provides information and downloadable guidance documents about the GOsC's regulatory functions. Similarly, the GOsC publishes information and guidance documents about its fitness to practise process, including information about hearings. Decisions made by the Professional Conduct Committee (PCC) and the Health Committee are published as required by its processes and are easy to locate. Information about the GOsC's Council, Committee and Governance structure is set out on the website, which contains clear links to the GOsC's legislation, code of conduct and information on how to make a complaint about the organisation and members of its Council.

⁴ www.osteopathy.org.uk/home/

⁵ These are to: protect, promote and maintain the health, safety and wellbeing of the public; promote and maintain public confidence in the profession of osteopathy; and promote and maintain proper professional standards and conduct for osteopaths.

⁶ These are to: assure the quality of osteopathic education and training; maintain a register of qualified professionals and ensure that they remain fit to practise; set and promote high standards of osteopathic practice and conduct; and take action to restrict or remove from practice individuals on its register who are not fit to practise.

⁷ Section 29 of the Osteopaths Act 1993 sets out the provision under which applicants are able to appeal against a decision to refuse entry onto the register. Registration appeals are referred to the Registration Appeals Committee.

- 1.5 The GOsC's website includes an 'Accessibility' link which provides information on how to navigate the website. The website is also available in Welsh in accordance with the Welsh Language Scheme.
- 1.6 The evidence we have seen indicates that the GOsC provides information about its registrants, regulatory requirements, guidance, processes and decisions in a manner which appears to be accurate and accessible. We are therefore satisfied that this Standard is met.

Standard 2: The regulator is clear about its purpose and ensures that its policies are applied appropriately across all its functions and that relevant learning from one area is applied to others.

- 2.1 The GOsC's purpose, objectives and principal functions are set out in Section 1 of the Osteopaths Act 1993⁸ (the Act). The GOsC's overarching objectives are to:
- protect, promote and maintain the health, safety and wellbeing of the public;
 - promote and maintain public confidence in the profession of osteopathy; and
 - promote and maintain proper professional standards and conduct for members of that profession.
- 2.2 Section 1(2) of the Act states, 'it is the duty of the General Council to develop...and regulate the profession of osteopathy.' During our assessment we considered whether the word 'develop' was consistent with the GOsC being the statutory regulator of osteopaths. We noted that the GOsC has interpreted 'develop' to mean 'supporting professionalism and capacity building within the profession' and we considered that this approach is consistent with the GOsC's overarching objectives. We did not see anything in the GOsC's activities which was inconsistent with this interpretation.
- 2.3 The legislation⁹ requires the GOsC to maintain and publish a declaration and register of the private interests of members of its Council and senior management team. During this review period, the GOsC published its *Register of Interests for Council and Committee Members and the Senior Management Team*. The GOsC also publishes a *Conflicts of Interest policy* which applies to members of its Council, the senior management team, committees, working groups, legal and medical assessors and any other office holder. We have seen evidence that the GOsC adheres to this policy.
- 2.4 The GOsC provided information on how the amended Osteopathic Practice Standards (OPS) were embedded into processes and policies across the organisation and within relevant functions during this performance review period. The information we reviewed shows that the GOsC has mechanisms in place to ensure that policies are applied consistently across all of its functions. The GOsC told us that external independent audits are commissioned to provide independent oversight and assurance that policies are applied consistently across the organisation. We note that during this review period, the GOsC commissioned an

⁸ The GOsC's legislation is available at www.osteopathy.org.uk/news-and-resources/document-library/legislation/osteopaths-act-1993-as-amended/

⁹ Part 1, Section 1C (2) of the Osteopaths Act 1993 sets out the GOsC's requirements to hold a register of its members' private interests.

independent external audit of the initial stages of its fitness to practise process and on its Information Technology security policy.

- 2.5 The GOsC also provided detailed information on how learning from the fitness to practise department was used to inform policy development. The information the GOsC provided to us demonstrated that there is a system in place to share learning and ensure that new policies, procedures and guidance take account of any lessons learned.
- 2.6 We have seen evidence that the GOsC is clear about its purpose, undertakes activity which is in accordance with its statutory functions and is open and transparent about any potential conflicts of interest. The GOsC uses internal and external quality assurance processes to ensure that policies are consistently applied across all functions.
- 2.7 We are satisfied that this Standard is met.

Standard 3: The regulator understands the diversity of its registrants and their patients and service users and of others who interact with the regulator and ensures that its processes do not impose inappropriate barriers or otherwise disadvantage people with protected characteristics.

- 3.1 The GOsC has a dedicated webpage on equality and diversity¹⁰ which outlines its commitment to ensuring that all of its activities as a regulator, service provider and an employer provide equality of opportunity.
- 3.2 The GOsC has an equality and diversity policy (the policy) in place and we have seen evidence that the GOsC adheres to the principles laid out in the policy. The policy sets out the GOsC's equality and diversity objectives which are to:
- ensure the GOsC's regulatory framework is fair and free from discrimination
 - promote professional values to protect a diverse public
 - promote equality of opportunity and access to the osteopathy profession
 - ensure a system of governance for the GOsC that supports equality and diversity and ensures high standards in the recruitment and employment of staff.
- 3.3 The policy states that the GOsC will conduct and publish Equality Impact Assessments (EIAs) on all major projects undertaken. The GOsC provided information on the EIAs completed in the period under review which are undertaken where appropriate and in accordance with its policy.
- 3.4 The GOsC collects equality and diversity data from a number of different sources including from registrants at the point of registration, stakeholders responding to consultations and surveys, parties involved in fitness to practise proceedings, event attendees and data about its Council and committee members and staff. This data is used in a number of ways, including:
- reporting statistics in its annual reports

¹⁰ For more information see www.osteopathy.org.uk/about-us/our-work/equality-and-diversity/

- to ensure that the recruitment process does not disadvantage applicants with protected characteristics
- to ensure compliance with the Equality Act 2010
- to ensure that appropriate reasonable adjustments can be made for staff with protected characteristics
- to assess whether responses to consultations and research are representative of the population
- to ensure that appropriate reasonable adjustments can be made for parties engaged in the fitness to practise process
- to assess whether registrants with protected characteristics are being over-reported to and/or overrepresented in its fitness to practise process.

3.5 The GOsC provided information on how it monitors and evaluates the equality and diversity data collected in order to enhance and improve the services provided to stakeholders. A particular example related to the development of learning resources and materials to support the implementation of the new scheme for Continuing Professional Development (CPD), which incorporated best practice in the use of typefaces, fonts and colours to enhance accessibility. The materials were provided in a number of different ways such as visual representation to assist individuals who may have dyslexia and other needs.

3.6 The GOsC evaluated its CPD scheme and the work confirmed that the scheme did not disadvantage those with protected characteristics. The GOsC has said that it will continue to organise telephone surveys and focus groups with specific groups to ensure that its CPD scheme remains accessible for all.

3.7 We are aware that decisions in some areas of regulator's work could be susceptible to discrimination (unconscious or conscious), particularly in areas such as fitness to practise. The GOsC is committed to ensuring that its panel members and staff are representative of the wider population and do not discriminate in their work completed on behalf of the organisation. To this end, the GOsC requires its panel and staff members to undertake regular training on bias and equality and diversity.

3.8 The GOsC publishes guidance documents to support students and applicants with disabilities or health conditions. We observed that the guidance documents only apply to students and applicants and that the GOsC does not publish guidance specifically tailored for registrants with disabilities or health conditions. However, the GOsC told us that its staff are well trained and can accommodate the needs of all registrants.

3.9 The GOsC's *Witness Guidance* (the guidance) states that the GOsC can:

- make reasonable adjustments for witnesses who may have accessibility needs
- implement specific arrangements during fitness to practise hearings for those who have health related needs¹¹ to assist them with giving evidence.

¹¹ Special measures include giving evidence behind a screen or via video link.

- 3.10 The GOsC also publishes *Hearings Guidance for Osteopaths* which states that specific arrangements can be put in place for osteopaths attending fitness to practise hearings who may have accessibility needs.
- 3.11 There is also a process in place for members of the public to raise concerns about osteopaths. These complaints can be lodged by telephoning the fitness to practise department or by completing and emailing the online complaint form. We have no concerns about this process and are satisfied that it enables people to raise concerns about osteopaths.
- 3.12 We recognise that, as a small regulator, the GOsC does not have access to a large sample of data, which may limit its ability to draw robust conclusions about the impact its policies and processes may have on its registrants, staff and stakeholders. However, we have seen evidence that the GOsC undertakes work to assist its understanding of equality, diversity and inclusion and the information we reviewed suggests that the GOsC analyses and uses the equality, diversity and inclusion data that it collects to make changes to its policies and documents to ensure that these are inclusive.
- 3.13 The processes which the GOsC has in place do not appear to impose inappropriate barriers to individuals with protected characteristics. The GOsC has told us that it will commission an independent audit of its compliance with the equality and diversity policy later in 2020, and we will report on the outcome of this audit in our next performance review. Based upon the evidence outlined above, we are satisfied that this Standard is met.

Standard 4: The regulator reports on its performance and addresses concerns identified about it and considers the implications for it of findings of public enquiries and other relevant reports about healthcare regulatory issues.

- 4.1 We have seen evidence that the GOsC routinely reports on its performance across all of its regulatory functions in its *Annual Report and Accounts*¹² (annual report) which is laid before Parliament on a yearly basis. The annual report is available on the GOsC's website and is accessible to the public. Similarly, organisational performance reports are published on the GOsC's website, as part of relevant Council meeting agendas.¹³ The documents considered by its Council include finance reports, executive reports, fitness to practise data and the GOsC's performance against its business plan.
- 4.2 The GOsC has three methods by which staff, registrants, the public, its Council and others who engage in work with the GOsC can raise concerns about its process. These are through the:
- Whistleblowing policy
 - Corporate Complaints procedure
 - Complaints about Council Members procedure.

¹² Annual reports are published on the GOsC's website at www.osteopathy.org.uk/news-and-resources/publications/annual-reports/

¹³ For more information see www.osteopathy.org.uk/about-us/the-organisation/meetings/council-past-papers/

- 4.3 The GOsC receives a small number of corporate complaints each year. Complaints received through the three mechanisms outlined above are reported to the GOsC's Audit Committee¹⁴ through a standing report on each Committee meeting agenda. The number of complaints received through these routes are also reported in the GOsC's Annual Report and Accounts. During this performance review period, the GOsC received four corporate complaints. There were no whistleblowing complaints or complaints against GOsC Council members. Information about making complaints is available on the GOsC's website¹⁵ and includes guidance documents and a complaints form, which can be downloaded.
- 4.4 The GOsC told us that the two complaints that were received from osteopathic education providers contributed to the development on an information and risk sharing protocol. It is good that the GOsC uses feedback received through the corporate complaints process to develop and improve its policies and procedures.
- 4.5 During this review period, the GOsC joined a forum facilitated by Nockolds Resolution.¹⁶ The forum consists primarily of healthcare regulators and its purpose is to share learning arising from corporate complaints and to identify best practice and enhancements to existing systems. We welcome the development of mechanisms to share learning between regulators.
- 4.6 The GOsC considered the Williams review into gross negligence manslaughter in healthcare¹⁷ (the Williams review) and noted its concerns about the quality of expert evidence and the role of the expert witnesses. In response, the GOsC held a workshop for registrants and key stakeholders to discuss the scope and nature of expert evidence in fitness to practise cases. The GOsC will be doing further work about expert evidence in fitness to practise cases and we will monitor this.
- 4.7 We have not seen any evidence that the GOsC is failing to report on its own performance and we have observed that organisational performance is discussed and scrutinised in public Council meetings.
- 4.8 While the GOsC does not have documented processes to ensure that learning from complaints is disseminated to staff, it receives a low number of complaints and, given the small size of the organisation, a documented process is not essential as informal mechanisms are likely to be sufficient. We understand that the senior management team is responsible for disseminating information to staff as appropriate.
- 4.9 The GOsC appears to have clear and comprehensive guidance on raising corporate complaints and complaints about GOsC Council members and Committee members. The information we have reviewed indicates that the GOsC considered and acted appropriately on concerns received about its work. We have also seen that the GOsC takes account of public inquiries and other relevant reports about healthcare regulatory issues. We are therefore satisfied that this Standard is met.

¹⁴ The GOsC's Audit Committee comprises of two independent members, one registrant Council member and one lay Council member.

¹⁵ For more information see: www.osteopathy.org.uk/about-us/our-work/our-performance/

¹⁶ For further information on Nockolds Resolution see www.nockolds.co.uk/services/nockolds-resolution-adr/

¹⁷ www.gov.uk/government/publications/williams-review-into-gross-negligence-manslaughter-in-healthcare

Standard 5: The regulator consults and works with all relevant stakeholders across all its functions to identify and manage risks to the public in respect of its registrants.

- 5.1 During this review period, the GOsC conducted three public consultations on changes to its CPD system, the OPS and other policy and guidance documents and we have seen evidence that the GOsC worked with and engaged stakeholders on these consultations.
- 5.2 The GOsC told us that its approach to managing consultations is to follow the best practice principles laid down by the Cabinet Office.¹⁸ However, the GOsC does not currently have a written policy detailing its approach to conducting consultations. The GOsC has said that it will develop and implement one later in 2020. We welcome this and have seen evidence that, in any case its approach is consistent and in line with good practice.
- 5.3 We looked at how the GOsC considers the wider implications of its work and risks to the public arising from osteopathic practice and works with its stakeholders to manage these risks. In June 2019, and in response to the Williams review, the GOsC, along with eight healthcare regulators, co-signed a joint statement on the *Benefits of becoming a reflective practitioner*,¹⁹ which outlines the process and advantages of being a good reflective practitioner for individuals and teams. The statement notes that reflection plays an important role in healthcare work, and brings benefits to patients by:
- fostering improvements in practices and services
 - assuring the public that health and care professionals are continuously learning and seeking to improve
 - supporting individual professionals in multi-disciplinary teamwork.
- 5.4 In addition to this, the GOsC is developing its work in the area of adjunctive therapies as it recognises that many of its registrants offer and undertake therapies which are in addition to the main or clinical treatment which patients are receiving. The GOsC told us that it is developing specialist guidance for osteopaths on issues arising from the application of the OPS to adjunctive therapies. We understand that the Authority's Accredited Registers programme,²⁰ patients, registrants and Fitness to Practise Panel members are to be included in the development of this guidance. We welcome this work and will monitor and report on it in future performance reviews.
- 5.5 The GOsC continues to have Memoranda of Understanding in place with a number of organisations, such as the Osteopathy Board of Australia and Health Education England, to enable efficient exchange of information for the purpose of public protection. The GOsC also shares fitness to practise concerns and registration information in relevant cases with healthcare regulators, professional regulators, overseas competent authorities and healthcare providers.

¹⁸ www.gov.uk/government/publications/consultation-principles-guidance

¹⁹ www.osteopathy.org.uk/news-and-resources/document-library/practice-guidance/benefits-of-becoming-a-reflective-practitioner/

²⁰ For more information see www.professionalstandards.org.uk/what-we-do/accredited-registers

- 5.6 During this performance review period, the GOsC entered into an information-sharing agreement with ACRO Criminal Records Office.²¹ This agreement formalises arrangements for GOsC protection of title prosecutions to be recorded as offences on the Police National Computer. The GOsC is also actively considering becoming a signatory to the Emerging Concerns Protocol.²²
- 5.7 We have seen evidence that the GOsC actively engages and seeks the views of patient and service user groups as part of its consultation activities and workshops. During this review period, the GOsC advertised recruitment to its Patient and Public Partnership group in its *The Osteopath* magazine publication and on its website.
- 5.8 Given the overall picture of active engagement with a wide range of stakeholders, we are satisfied that this Standard is met.

Guidance and Standards

Standard 6: The regulator maintains up-to-date standards for registrants which are kept under review and prioritise patient and service user centred care and safety.

- 6.1 The GOsC met all of the Standards of Good Regulation in relation to Guidance and Standards last year. We reported then on its work to publicise and promote the updated OPS which were to take effect on 1 September 2019. The updated OPS merge the Standards of Proficiency²³ and the Code of Practice for osteopaths²⁴ and are arranged into four main themes:
- Communication and patient partnership
 - Knowledge, skills and performance
 - Safety and quality in practice
 - Professionalism.
- 6.2 The OPS also provide further information to osteopaths on areas of osteopathic practice, including boundaries, communication and consent, and the duty of candour. This year, the GOsC plans to evaluate the impact of the OPS and will develop a central system to record key issues arising out of the implementation of the standards. We will continue to monitor the GOsC's evaluation of the OPS.
- 6.3 The GOsC has said it will to consult on and update the OPS every five years²⁵ to take account of developments in health regulation, research, best practice and changes in the law. We welcome this commitment.
- 6.4 The OPS appear to prioritise patient and service user centred care and we are unaware of any concerns about gaps in these areas. We are therefore satisfied that this Standard is met.

²¹ For further information about the work of ACRO see www.acro.police.uk/.

²² For further information see www.cqc.org.uk/news/stories/joint-statement-emerging-concerns-protocol

²³ The Standards of Proficiency set out what is required for the competent and safe practice of osteopathy.

²⁴ The Code of Practice for osteopaths lays down the standards of conduct and practice expected of osteopaths.

²⁵ www.standards.osteopathy.org.uk/about/

Standard 7: The regulator provides guidance to help registrants apply the standards and ensures this guidance is up to date, addresses emerging areas of risk, and prioritises patient and service user centred care and safety.

- 7.1 The GOsC did not publish any new additional guidance in the period under review and did not amend any of its existing guidance.
- 7.2 This year, the GOsC recognised the need for guidance on insurance requirements for osteopaths following an increase in the number of fitness to practise cases which allege a failure to maintain adequate professional indemnity insurance. It is a requirement of registration with the GOsC to hold adequate insurance and this is clearly set out in the OPS under the themes of 'Professionalism' and 'Safety and quality in practice'. The GOsC launched its public consultation on this draft guidance in January 2020 and so we anticipate that the final guidance will be introduced in the next performance review period.
- 7.3 In May 2019, the GOsC published information in its *The Osteopath* magazine about the importance of holding insurance to raise awareness of the requirement and to publish feedback provided by the Authority on the seriousness in which a failure to hold professional indemnity insurance and/or public liability insurance ought to be viewed. We welcome the GOsC's development of this guidance and we will monitor and report on its implementation next year.
- 7.4 The guidance documents published by the GOsC appear to provide registrants with appropriate supplementary guidance in key areas of practice. The development of new guidance on insurance requirements indicates that the GOsC continues to address areas of risk. We are therefore satisfied that this Standard is met.

Education and Training

Standard 8: The regulator maintains up-to-date standards for education and training which are kept under review and prioritise patient and service user centred care and safety.

- 8.1 The GOsC continues to publish its *Guidance for Osteopathic Pre-Registration Education* (the guidance) which describes the professional aspect of osteopathic pre-registration education, and the outcomes that students are expected to demonstrate before graduation to show that they practise in accordance with the OPS.
- 8.2 The guidance provides that osteopathic educational providers must deliver a curriculum that ensures that the outcomes set out in the guidance and OPS are met. The guidance also states that the educational providers must comply with the Quality Assurance Agency (QAA) UK Quality Code for Higher Education.²⁶
- 8.3 This year, the GOsC reported that it will commence a review of the guidance as a significant number of developments have taken place, including the introduction of

²⁶ www.qaa.ac.uk/quality-code

the revised OPS and guidance on the duty of candour and professional boundaries, together with changes to the quality assurance process for recognised qualifications. The GOsC proposes to replace the guidance with a single, definitive set of standards for osteopathic education which would provide greater clarity for current and prospective students, institutions, patients and other healthcare professionals. We are satisfied that the guidance, in its current format, prioritises patient and service user care and safety and we will monitor the development of the education standards.

- 8.4 Last year we reported that the GOsC would use the findings of its thematic review on maintaining appropriate boundaries in osteopathic practice to inform its work on the standards for education and training. This year, together with the General Chiropractic Council (GCC), it commissioned and published a literature review titled *How is touch communicated in the context of manual therapy*.²⁷
- 8.5 The review identified relevant issues for education and training in communication, especially about the importance of understanding and communicating what patients want from treatment. It highlighted the need for further research into the opinions and experiences of patients being touched by their healthcare practitioner needs in order to understand the implications of touch in manual therapies. We note that the business plan for 2019/20²⁸ commits the GOsC to developing the 'next steps to support a reduction in concerns in communication, consent and boundaries.' We will continue to monitor the GOsC's work in this area.
- 8.6 We welcome the GOsC's commitment to reviewing its guidance for pre-registration education and its consideration of introducing an explicit set of standards for education. We note that if this approach is adopted, the GOsC's work in this area will be broadly consistent with the approach adopted by most of the other health and care regulators overseen by the Authority. We are satisfied that this Standard is met.

Standard 9: The regulator has a proportionate and transparent mechanism for assuring itself that the educational providers and programmes it oversees are delivering students and trainees that meet the regulator's requirements for registration, and takes action where its assurance activities identify concerns either about training or wider patient safety concerns.

- 9.1 Last year, we reported that the GOsC had implemented proposals to remove the expiry dates for recognised qualifications (RQs) and to publish any conditions placed on education institutions after a quality assurance visit.²⁹ This means that where no concerns about an RQ have been identified, approval of the RQ will be given for an indefinite period of time.
- 9.2 During this performance review period, the GOsC started to remove expiry dates on eligible qualifications in accordance with its quality assurance process. It has

²⁷ Available at: www.osteopathy.org.uk/news-and-resources/document-library/publications/an-executive-summary-of-the-literature-review/

²⁸ www.osteopathy.org.uk/news-and-resources/document-library/about-the-gosc/council-february-2019-item-7a-annex-a-draft-business-plan-2019/

²⁹ Recognised qualifications are awarded following a quality assurance process undertaken on behalf of the GOsC by the Quality Assurance Agency. The GOsC, supported by the QAA, undertake major reviews of osteopathic education courses every three to five years.

imposed conditions of institutions where concerns about training have been identified and we have seen that conditions and action plans are monitored by the Education Committee.

- 9.3 Last year, we reported that the GOsC said that it will continue to develop its proposals for a risk-based approach to its quality assurance of osteopathic education. We have not seen any further development in this area during this review period. However, in March 2020 the Policy Advisory Committee considered the GOsC's approach for developing the Quality Assurance Risk profile of Osteopathic Education Institutions. The GOsC presented further proposals including risk levels to determine the level of monitoring to be applied to Osteopathic Education Institutions and the development of risk profiles. We will monitor the development of this risk-based approach.
- 9.4 This year, the GOsC developed a procedure to manage concerns about osteopathic education raised outside of the quality assurance procedure. The procedure is set out in the QAA Handbook for course providers and visitors which was updated in April 2019. The policy states that the GOsC will consider information from stakeholders which relates to and has the potential to affect the delivery of the OPS. The GOsC anticipates that complaints received under this process will feed into the quality assurance process overseen by the Education Committee. From our review of the documents the GOsC has published about this new procedure, the process for dealing with complaints about educational providers appears to be fair, proportionate and focused on public protection.
- 9.5 The evidence we have seen indicates that the GOsC has a proportionate and transparent process for assuring itself that educational providers and the programmes which they deliver are producing students and trainees that meet the requirement for registration. We are therefore satisfied that this Standard is met.

Registration

Standard 10: The regulator maintains and publishes an accurate register of those who meet its requirements including any restrictions on practice.

- 10.1 During this performance review period, there have been no changes to the way in which the GOsC register is published and how it can be accessed. It remains clear and readily accessible.
- 10.2 We conducted a check of the GOsC's register to see whether restrictions on registrants' practice were displayed accurately. We identified one register entry which failed to display the restriction imposed. We reported this to the GOsC, and the register was corrected immediately. The GOsC investigated the reasons for the error and established that an administrative oversight had resulted in the failure to update the register. The GOsC told us about a series of additional checks introduced to further assure the accuracy of the register. We are satisfied that the GOsC took appropriate action after we identified the error in the register and that the changes made to its process will minimise the chances of the error recurring.

- 10.3 We have not seen any evidence to suggest that the GOsC has added to its register anyone who has not met its requirements for registration. Consequently, we are satisfied that this Standard is met.

Standard 11: The process for registration, including appeals, operates proportionately, fairly and efficiently, with decisions clearly explained.

- 11.1 Last year, we reported that the median processing times for UK applicants remained static at two working days and that there had been some variation in processing times for applications from those who obtained their qualifications from elsewhere (EU/EAA and international). We reported that this variation was not significant, especially in view of the small numbers of applications received by the GOsC which can make the median data appear volatile due to the disproportionate impact the circumstances in a small number of applications can have on the dataset. We also noted that all applications were processed within the GOsC's target timeframes which are:

- five working days for applicants with qualifications obtained in the UK
- 90 working days for applicants with qualifications obtained in the EU/EAA
- 90 working days for applicants with qualifications obtained from elsewhere

- 11.2 For this performance review period,³⁰ the median processing times, in working days, for each category of applicant are provided below:

Number of new applications received from:	Q1 18/19	Q2 18/19	Q3 18/19	Q4 18/19	Q1 19/20	Q2 19/20	Q3 19/20
UK graduate	43	158	34	24	37	211	30
EU/EAA graduate	2	1	0	1	0	1	0
Non-EU/EAA graduate	1	1	0	0	0	0	1
Median processing times for registration applications from:							
UK	2	2	2	2	2	2	2
EU/EEA	2	2	N/A ³¹	2	N/A	2	N/A
International	2	2	N/A	N/A	N/A	N/A	2

- 11.3 The table shows that the processing times have broadly remained static and within the GOsC's target timeframes.
- 11.4 During this performance review period, the GOsC has not received or processed any registration appeals.

³⁰ The 2019/20 performance review period is January-December 2019, which comprises data from Quarter 4 of 2018/19 and Quarters 1, 2 and 3 of 2019/20.

³¹ The GOsC did not receive any applications in these quarters for these categories.

Guidance for Restoration to the Register

- 11.5 Section 8 of the Osteopaths Act 1993 makes provision for the restoration of an osteopath who has been removed from the GOsC register by the Professional Conduct Committee (PCC). Applicants may apply for readmission to the register after a period of 10 months.³² Last year, we reported that the GOsC decided to produce and publish guidance on the arrangements for, and the procedure to be used at, a hearing where an application for restoration to the register is made after an osteopath has been removed from the register.
- 11.6 The GOsC consulted on the guidance during this performance review period. We responded to the consultation and were broadly supportive of the guidance but expressed a concern that the test to be applied by the PCC placed insufficient emphasis on the GOsC's over-arching and statutory objectives.³³
- 11.7 The fact that an application for restoration can be made after only 10 months is an anomaly compared with the requirements of the other health and care regulators that we oversee as they generally require a period of at least five years to have lapsed before an application can be made to re-join the register. Consequently, we considered that it was extremely important for the PCC to consider the impact on public protection. The GOsC invited feedback on the concept of a non-statutory 'exceptional circumstances' test to inform its view in this area. We were of the view that the test would limit the Panel's discretion.
- 11.8 The guidance came into effect in December 2019, and we note that the GOsC did not proceed with the proposal to introduce an 'exceptional circumstances test' and that the importance of public interest was given greater prominence in the guidance. We will monitor the impact of the guidance in future performance reviews.

Assessment of Clinical Performance guidelines for assessors and applicants

- 11.9 Applicants to the register with a UK qualification have had their qualification quality assured by the GOsC to ensure that only students meeting the OPS are awarded a recognised qualification. However, as the GOsC does not quality assure qualifications obtained from outside the UK and EU/EAA, a practical, clinic-based assessment is used to assess whether applicants who obtained their qualifications from outside the UK meet the OPS. The GOsC decided to review the assessment process and documentation in the light of the new OPS.
- 11.10 This year, the GOsC consulted on the revised process and documentation for assessing these applications. As with the previous assessment of clinical performance, the GOsC proposed that not all of the OPS would be assessed through the practical assessment, but that applicants should be required to sign a declaration confirming that they had read and understood the OPS in their entirety and had considered their practice against the requirements set out in the OPS.

³² Section 8(5) of the Act states, 'The Committee shall not grant an application for restoration unless it is satisfied that the applicant not only satisfies the requirements of section 3 (as modified) but, having regard in particular to the circumstances which led to the making of the order under section 22(4)(d), is also a fit and proper person to practise the profession of osteopathy'.

³³ See footnote 2 above.

- 11.11 In our response to the consultation, we said that the process appeared clear and the guidance and documentation was clearly laid out and easily understood. We were concerned about some of the OPS which the GOsC identified as remaining outside of the assessment process and expressed the view that some of the OPS may have relevance for internationally qualified applicants as they may be interpreted differently within the cultural norms of the country of qualification. We suggested that if the GOsC chose not to cover certain aspects of the OPS in the assessment then consideration should be given to alternative mechanisms that mitigate risks such as through CPD, training or additional information for internationally qualified applicants.
- 11.12 Following consideration of the consultation responses, the GOsC decided to proceed on the basis of the self-certification rather than altering the assessment process and it has taken steps to enhance the support provided to applicants to prepare for the assessment process. The GOsC reported that it will consider whether there is any need for incorporating our suggestions set out above. We note that the GOsC recently reported that there is currently no evidence from its fitness to practise data that registrants who obtained their qualification from outside the UK and EU/EAA pose more of a risk in the areas of the OPS which are not assessed than registrants who obtained their qualification in the UK. We also note that the numbers of internationally qualified applicants are very small.
- 11.13 We are satisfied that the GOsC's process for registration, including appeals, is proportionate, fair and efficient and do not consider that the matters that we have raised are of such seriousness as to cause a risk to the public. We are therefore satisfied that this Standard is met.

Standard 12: Risk of harm and of damage to public confidence related to non-registrants using a protected title or undertaking a protected act is managed in a proportionate and risk-based manner.

- 12.1 Section 32(1) of the Osteopaths Act 1993 makes it a criminal offence for a person who is not registered with the GOsC to describe themselves, either expressly or by implication, as any kind of osteopath. Section 32(1) applies to the United Kingdom and it lists the following protected titles:
- Osteopath
 - Osteopathic practitioner
 - Osteopathist
 - Osteo-therapist.
- 12.2 Offences under section 32(1) of the Act are a matter of general criminal law and the GOsC does not have exclusive control of the investigation and prosecution of such offences.
- 12.3 The GOsC has a dedicated [‘Protecting the title ‘osteopath’](#) page on its website and continues to publish its *Protecting the Osteopathic title GOsC Enforcement Policy* effective from November 2014.

- 12.4 The GOsC reports on its protection of title prosecutions in its annual report. In its latest report (2018/19), the GOsC recorded that 45 'cease and desist' letters were issued, and 49 cases were resolved. During this performance review period, the GOsC reported that it was preparing two cases for prosecution because the individuals concerned failed to respond to the cease and desist letters issued. This action is in accordance with the GOsC's policy, and we understand that these prosecutions are due to be heard later in 2020.
- 12.5 As noted previously, this year the GOsC entered into an information-sharing agreement with ACRO Criminal Records Office, this agreement allows for the GOsC's protection of title prosecutions to be recorded as an offence on Police National Computer records.
- 12.6 We are satisfied that the GOsC investigates and takes action when concerns about protection of title offences are brought to its attention. The data available to us also indicates that the GOsC continues to progress protection of title cases and takes appropriate action where necessary. We are satisfied that this Standard is met.

Standard 13: The regulator has proportionate requirements to satisfy itself that registrants continue to be fit to practise.

- 13.1 We have previously reported on the GOsC's work to consult on and implement its new scheme for CPD which is how it assures itself that registrants continue to be fit to practise. The scheme requires registrants to complete at least 90 hours of CPD over a three-year period. On 1 October 2018, the new CPD scheme was launched and as of 1 October 2019, all osteopaths had transferred onto the scheme. This scheme requires registrants to evidence learning in line with the four themes of the OPS.
- 13.2 During the review period, the GOsC conducted an evaluation survey which looked at registrants' experience of the new CPD scheme. The GOsC reported that the feedback received was positive, however it noted that the CPD scheme was perceived as time-consuming because it appears complicated to some. In response to this feedback, the GOsC produced a flow chart which consolidated the key aspects of the scheme. We understand that the GOsC will conduct telephone surveys and focus groups with registrants to research how key aspects of the programme can be better supported. The GOsC continues to facilitate workshops and webinars on peer discussions to help registrants develop skills in providing and responding to feedback, a key aspect of the CPD scheme.
- 13.3 In November 2019, the GOsC started to audit a sample of CPD submissions as part of its assurance programme. The audit considers the quality of CPD and compliance with CPD requirements. We welcome the GOsC's decision to begin auditing a sample of the CPD submissions received one year into the introduction of the CPD scheme.
- 13.4 The evidence we have reviewed suggests that the GOsC has a proportionate process to satisfy itself that its registrants continue to be fit to practise, including auditing some submissions to ensure compliance with CPD. We are satisfied that this Standard is met.

Fitness to Practise

Standard 14: The regulator enables anyone to raise a concern about a registrant.

- 14.1 The GOsC's website gives instructions about how to raise concerns about registered osteopaths. A complaint form is available, and complainants can discuss their concerns with the GOsC by telephone. An enquiry form also enables members of the public to contact the GOsC if they have a concern or enquiry about an osteopath or treatment but are unsure if they want to make a complaint. The website explains the GOsC's fitness to practise process.
- 14.2 When a concern is received, an independent osteopath (a Screener) will decide whether the concern is something which can be dealt with by the GOsC. The Screener is assisted in this decision-making process by the GOsC's *Guidance for Screeners*. Such decisions obviously affect the ability of complainants to access the complaints system.
- 14.3 During this review period, the GOsC commissioned an independent audit of the initial stages of its fitness to practise process, including decisions made by Screeners, which reviewed 20 per cent of all cases closed at the different decision points within the initial stages³⁴ of the process. The GOsC reported that the audit findings did not give rise to concerns about public protection and the decisions made by Screeners appeared appropriate. However, we understand that the audit identified that the adequacy of written reasons provided in decisions made by Screeners under the initial closure procedure (ICP) could be improved. The GOsC reported that specialist training on drafting decisions was delivered to its Investigating Committee (IC)³⁵ in February 2020. The auditor also recommended that a comprehensive, consolidated *Guidance for Screeners* be produced. We understand that the GOsC has acted on this recommendation and that a first draft of the consolidated guidance was considered in February 2020.
- 14.4 The GOsC told us that the draft guidance states that written reasons must be provided for all decisions, including those closed under the ICP. The guidance states that these reasons must identify the key information considered by the Screener when making their decision. The GOsC also told us that it had developed a Screener report template to be used by the Screeners for all decisions made. The public consultation on the guidance is scheduled for later in 2020.
- 14.5 In 2017/18 we audited a number of closed fitness to practise cases and we had concerns over the suitability of some cases closed under the ICP. The ICP guidance stated that the closure procedure only applies to those cases that are assessed not to raise an issue of public and patient safety. In our audit, we saw cases which we considered did raise public and patient safety issues being closed under the ICP. In response to our audit findings, the GOsC told us its view is that an assessment of evidence is crucial when carrying out a risk assessment in respect of patient safety as both are intrinsically linked. In our 2017/18 performance review report, we reported that the ICP guidance did not clearly outline how the GOsC deals with cases which have insufficient evidence to progress to the next stage of

³⁴ These are: Triage, Screening (incorporating the ICP and threshold criteria) and the Investigating Committee.

³⁵ All Screeners are members of the Investigating Committee.

the fitness to practise process but potentially raise public protection issues. In our view the guidance should clearly state that the substance of the complaint as well as the evidence provided in support will be considered by the Screener. The GOsC advised us that it would consider including an explanatory note in the guidance to clarify that the substance of a complaint is considered alongside the evidence provided in support, and consequently matters that give rise to issues of public and patient safety will be assessed by Screeners. Last year, we noted that the GOsC had not yet updated this guidance but recognised that there had not been sufficient time for the GOsC to consider our suggestion to review the guidance due to the publication date of our 2017/18 report.

- 14.6 The GOsC told us that it had considered our suggestion to review this aspect of the guidance, which is in the pre-consultation stage. It told us that the review of the guidance had been delayed due to the KPI review and the initial stage audit. We are disappointed that the GOsC has not yet addressed the concerns we identified in the audit we completed in 2017/18. However, we note the work the GOsC is undertaking in consolidating its guidance and, in the absence of any further issues, we are not concerned that the delay in amending the guidance is presenting fitness to practise concerns from being raised and progressed with the GOsC.
- 14.7 We note the action the GOsC is taking to address the adequacy of the reasons provided in some screening decisions and we will assess the effectiveness of the training and consolidated guidance when we next review performance against this Standard. The evidence we have reviewed this year suggests that the GOsC enables anyone to raise a concern about a registrant. We are therefore satisfied that this Standard is met.

Standard 15: The regulator's process for examining and investigating cases is fair, proportionate, deals with cases as quickly as is consistent with a fair resolution of the case and ensures that appropriate evidence is available to support decision-makers to reach a fair decision that protects the public at each stage of the process.

- 15.1 We have previously reported on the GOsC's fitness to practise processes for examining and investigating cases, and last audited this in our performance review of 2017/18. These previous reviews have established that the GOsC's processes are, overall, fair and proportionate, and that, in general, the approach to investigations enables the gathering of appropriate evidence to allow for decisions to be made on the progression of cases. In last year's report we noted that the GOsC had taken steps to improve its processes for commissioning expert witnesses following feedback provided through our Section 29 review of cases.
- 15.2 Ensuring cases are dealt with as quickly as is consistent with a fair resolution is a key element of this Standard. The median timeliness data for the period under review is as follows:

Measure	2017/18	2018/19				2018/19	2019/20		
	Annual	Q1	Q2	Q3	Q4	Annual	Q1	Q2	Q3
Number of open cases older than:									
52 weeks	7	7	11	7	7	7	11	6	7
104 weeks	1	1	3	5	4	4	3	2	1
156 weeks	0	1	1	1	0	0	2	2	2
Median time from receipt of initial complaint to the final PCC determination	58	53	87	35	75	59	54	65	52
Median time taken from receipt of an initial complaint to a final decision by the IC	34	18	20	20	20	20	35	24	27
Median time taken from final IC decision to the final PCC determination	32	33	53	22	30	29	38	46	32

15.3 The quarterly data shows that the median time from receipt of a referral to final IC decision has increased in this performance review period. The time taken from a final IC decision to the final decision of the PCC increased from 30 weeks in quarter four of 2018/19, to 38 weeks in quarter one of 2019/20 and increased further to 46 weeks in quarter two of 2019/20. However, this then decreased to 32 weeks in quarter three of 2019/20. The small number of cases that progress through the GOsC's fitness to practise process means that there can be significant fluctuations in the median timeframes reported to us. Consequently, we are not at this time concerned about performance in this area but will continue to monitor the data provided by the GOsC.

15.4 Similarly, the quarterly data for this performance review period for the median time taken from receipt of initial complaint to the final PCC determination shows significant variation between quarters, as we might again expect of a small sample size. The annual data from 2017/18 to 2018/19 shows an increase of one week, from 58 to 59 weeks. We note that the annual median for 2018/19 was slightly over the GOsC's own Key Performance Indicator (KPI) of 58 weeks. We will continue to monitor the GOsC's performance against this data measure.

Key Performance Indicators Review

15.5 In 2018/19, the GOsC reported that it was undertaking a review of its fitness to practise processes and KPIs. As part of this review the GOsC explored options to allow it to improve the efficiency of its processes without the need to make changes to its legislation.

- 15.6 In November 2019 the GOsC agreed to change its KPIs for the fitness to practise function by reducing the time it considers that most cases should take to progress through the fitness to practise process from 58 weeks to 52 weeks. In order to achieve this reduction in time, the GOsC proposes to 'frontload' cases thought to be likely to proceed to the PCC so that all the key evidence is obtained before the case is considered by the IC. While this is likely to increase the time taken to progress these cases through the initial stages, it may reduce the time taken to progress the cases to a final hearing. We note that this approach is currently used by some of the other regulators overseen by the Authority.
- 15.7 The new process was implemented in January 2020, which is outside of the period for this review. We will monitor and report on the impact of this new approach in our next performance review.
- 15.8 The evidence we have seen suggests that the GOsC's processes for examining and investigating cases is fair, proportionate and ensures that appropriate evidence is obtained to support decision-makers in reaching a decision that is focused on public protection at each stage of the process. Although we have seen an increase in some of the median timeframes reported to us, these do not give rise to concerns about the GOsC's performance in this area and we recognise that the size and composition of the GOsC's caseload may mean that the circumstances in a small number of cases can impact the quarterly median timeframes. Based on the information we have reviewed we are satisfied that this Standard is met.

Standard 16: The regulator ensures that all decisions are made in accordance with its processes, are proportionate, consistent and fair, take account of the statutory objectives, the regulator's standards and the relevant case law and prioritise patient and service user safety.

- 16.1 Last year, we reported that the GOsC consulted on its process to cancel hearings under Rule 19 of the Procedure Rules 2000. Rule 19 provides for the GOsC or the registrant subject to fitness to practise proceedings to make an application for the PCC to conclude a case without a final hearing. Cases where these applications are likely to be accepted by the PCC include those where a complainant is unfit to provide evidence at a hearing or where evidence has emerged subsequent to the IC referral to the PCC which means that there is no longer a case to answer.
- 16.2 Following the consultation, the practice note came into effect in July 2019 and states that the Panel Chair will give written reasons for every decision made. During this performance review period, the PCC has not made any decisions under Rule 19. We will continue to monitor the impact of this practice note in future performance reviews.
- 16.3 In August 2018, during last year's performance review period, the GOsC amended its *Investigating Committee Decision-Making Guidance* (the guidance) in order to:
- provide clarity on its processes for decision-making;
 - improve the quality and consistency of decisions made by the IC; and
 - provide a framework for decision making without impacting on the IC's ability to make a decision independently.

- 16.4 The table below shows that the IC considered 38 cases during this performance review period; 23 were referred to the Professional Conduct Committee (PCC), 14 were closed with 'no further action' and one case was adjourned. We can see that the number of cases closed with no further action has remained relatively stable year on year. This suggests that the introduction of the guidance in August 2018 does not appear to have affected case outcomes. We will continue to monitor the impact of the guidance.

	2016/17 ³⁶ annual	2017/18 ³⁷ annual	2018/19 Q4	2018/19 annual	2019/20 Q1	2019/20 Q2	2019/20 Q3
No further action	15	19	4	15	3	2	5
Advice	0	1	0	1	0	0	0
Warning/caution (not published on the register)	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Warning/caution (published on the register)	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Referral to Fitness to Practise Committee	40	23	7	34	8	4	4
Undertakings	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Adjourned ³⁸	N/A	N/A	1	8	0	0	0

Decision Review Group

- 16.5 Last year, we reported that the GOsC's Decision Review Group³⁹ recommended that the GOsC should consider how clarity can be improved in the area of expert evidence to ensure that the experts it instructs have the knowledge and skills to properly comment on osteopathic techniques which may be the subject of fitness to practise concerns. Following this, the GOsC reported that it will update and develop its expert witness competences and eligible pool of expert witnesses. This year it held workshops with a wide group of stakeholders which considered the scope and nature of expert evidence in the context of fitness to practise. The GOsC will be carrying this work forward in 2020.

³⁶ The data for this year records the number of cases concluded by the IC and the outcomes. In April 2018, the Authority amended the dataset to ask regulators to provide information on the number of decisions made by the IC.

³⁷ See footnote 12 above.

³⁸ The Authority began collecting adjournment data in relation to IC decisions as part of its dataset from January 2018.

³⁹ The aim of the DRG is to provide quality assurance, advance learning and continuous improvement by monitoring the GOsC's fitness to practise decision-making process, and to review learning points issued by the Authority. Membership of the DRG comprises GOsC staff and at least one person from another healthcare regulator overseen by the Authority at each meeting.

16.6 The GOsC continues to engage with other regulators to share learning and development in respect of IC and PCC decisions.

Section 29 review

16.7 During this performance review period, the GOsC provided us with 21 final decisions, none of which we determined were insufficient to protect the public. Consequently, we did not refer any decisions to the High Court.

16.8 However, during this review period three registrants appealed the decisions of the PCC to the High Court. The outcomes of these appeals were that:

- one appeal was dismissed;
- one appeal was concluded by consent and the sanction of suspension originally imposed by the PCC was substituted with an admonishment;
- one appeal was partially upheld. In this case the High Court Judge was critical of the Panel's approach to questioning the registrant which, the judge deemed, was unfair and rendered the proceedings unfair. The Judge concluded that the decision of the PCC could not stand and must be set aside, along with the sanction imposed by the PCC.

16.9 In response to the judgment, the GOsC conducted training on the management and questioning of witnesses and reported that it will develop a practice note on questioning in hearings. We have reviewed the judgment and the action taken by the GOsC in response and we are satisfied that the GOsC has taken reasonable steps to mitigate the concerns raised.

16.10 The information we obtained through our review of cases using our Section 29 powers does not suggest that there is a failure on the part of the GOsC's final hearing Panels to produce well-reasoned decisions, nor is there evidence that those Panels' decisions are failing to protect the public or maintain public confidence in the profession. Consequently, we are satisfied that this Standard is met.

Standard 17: The regulator identifies and prioritises all cases which suggest a serious risk to the safety of patients or service users and seeks interim orders where appropriate.

17.1 In 2017/18, we conducted an audit of closed fitness to practise cases and identified some concerns about the GOsC's processes for, and the approach to, completing and recording risk assessments. In response to our findings, the GOsC reviewed its risk assessment form and identified areas where changes were required.

17.2 Following this review, the GOsC implemented an amended risk assessment form in October 2018. The amended form states that risk assessments should be completed:

- within two working days of the date on which the formal complaint was logged and allocated;
- on receipt of new information which may impact the risk status; and
- at least every two months.

- 17.3 Under the amended risk assessment, cases are assessed against a list of key factors that may indicate that a registrant poses a high risk to public safety.⁴⁰
- 17.4 The GOsC told us that changes to its approach and completion of risk assessment forms were piloted over a four-month period and completed in parallel to the existing risk assessment form. The GOsC reported that the pilot did not identify any discrepancies in the outcomes of the two models for the risk assessments completed in all cases. To provide assurance on the updated risk assessment form, cases which are determined as high risk are referred to and reviewed by a senior member of staff. Risk assessments are also subject to senior oversight every two months and weekly case reviews are completed in cases identified as high risk. The Director of Fitness to Practise is notified of all cases referred to the IC for interim order applications. We are satisfied that these arrangements provide sufficient assurance that the risk assessment process is working effectively and that high-risk cases are being monitored and managed appropriately.
- 17.5 During this performance review period, the GOsC has provided as part of its dataset the median time from receipt of a complaint to an interim order decision, and the median time from receipt of information indicating the need for an interim order and decision. The former is an indicator of how well the regulator's risk assessment process is working, whether it is risk assessing cases promptly on receipt, identifying potential risks and prioritising higher risk cases so that it can quickly obtain further information. The latter indicates whether the regulator is acting as quickly as possible once it identifies the need to apply for an interim order.
- 17.6 The quarterly and annual median data regarding the time taken to impose an interim order, as provided to us by the GOsC is set out in the table below:

	Median time to interim order committee decision from receipt of complaint	Median time to interim order committee decision from decision that there is information indicating the need for an order
Annual 2016/17	7	4
Annual 2017/18	3	3
Annual 2018/19	5	3
Q4 2018/19	N/A ⁴¹	N/A
Q1 2019/20	8	5
Q2 2019/20	N/A	N/A
Q3 2019/20	5	5

- 17.7 The median time to interim order committee decision from decision that there is information indicating the need for an order has increased by two weeks for the two quarters for which we have data, compared to the annual 2018/19 data. The median time to interim order decision from receipt of a complaint has fluctuated in 2019/20. We only have two quarters of data on which to base our assessment and fluctuations are to be expected where the caseload is as low as that of the GOsC.

⁴⁰ Examples of key factors include but are not limited to: under investigation/charged with a serious criminal offence, conviction for a serious criminal offence, custodial sentence for a serious criminal offence, sexually motivated conduct, violent conduct, actual or potential serious and/or long-term harm to patient and/or long-term harm, no current Professional Indemnity Insurance (PII) and/or practising without PII.

⁴¹ Where N/A is stated, no orders were imposed during that period.

We therefore do not have concerns with the GOsC's performance against this data measure based on the data available to us this year. We will continue to monitor the GOsC's performance in this area. We are satisfied that this Standard is met.

Standard 18: All parties to a complaint are supported to participate effectively in the process.

- 18.1 The audit we conducted on the GOsC's threshold criteria and the ICP in 2017/18⁴² identified concerns about how closure decisions were explained to complainants. The GOsC acknowledged that the explanations provided were not as clear as they could be and said it intended to amend the internal manual for staff to help improve the quality of closure decisions so that they could be easily understood. We commented in our report that there was a clear need for improvements in how the GOsC communicates with parties through the fitness to practise process and we said that we would monitor any changes.
- 18.2 Last year the GOsC introduced a new template letter to form the basis of the closure letter to complainants. We welcomed the GOsC's decision to use the template in all cases that are closed at the initial stage of its fitness to practise process.
- 18.3 During this performance review period, the GOsC further revised and updated the template. It told us that periodic file reviews are used to ensure that the template is being used consistently.
- 18.4 The GOsC continues to publish witness guidance on its website. In January 2020, the GOsC contracted Victim Support⁴³ to provide services to witnesses involved in its fitness to practise investigations. This service also extends to registrants who are subject to fitness to practise proceedings. As part of this contract, the GOsC and Victim Support have established a dedicated telephone number which is operated by Victim Support volunteers and is available 24 hours a day, 365 days a year.
- 18.5 The GOsC's published *Hearings Guidance for Osteopaths* provides signposting to professional bodies and the Bar Pro Bono Unit for legal representation.
- 18.6 Aside from the concerns set out in the High Court judgement,⁴⁴ discussed under Standard 16 and which are being addressed, we consider that the GOsC is doing considerable work to improve the experience of participants in these processes. We will monitor any developments in this area. We are satisfied that this Standard is met.

⁴² In 2017/18, we looked at a sample of closed fitness to practise cases and considered the GOsC's application of the threshold criteria, its application of the ICP and its risk assessment process.

⁴³ www.victimsupport.org.uk/

⁴⁴ The case of *Beard v the General Osteopathic Council* [2019] EHC 1561 (Admin).

Useful information

The nature of our work means that we often use acronyms and abbreviations. We also use technical language and terminology related to legislation or regulatory processes. We have compiled this glossary below, spelling out abbreviations, but also adding some explanations.

Below the glossary you will find some helpful links where you can find out more about our work with the 10 regulators.

Glossary

A

ACRO Criminal Records Office (ACRO)

A national police unit providing criminal records information services.

Adjunctive therapy

A therapy or treatment which is offered alongside another treatment, usually with the intention of improving the effectiveness of the main treatment.

Assessment

In our **performance reviews**, the assessment is the first stage, where we decide the scope of our review. You can find more information about our performance review process on our website.

B

Bar Pro Bono Unit

A charity which helps people find free legal assistance from volunteer barristers.

C

Case to answer

A professional has a case to answer about their **fitness to practise** if the regulator decides that there is a reasonable chance that a serious concern about the professional might be found proved at a hearing.

‘Cease and desist’ letter

A letter telling someone to stop doing something, because it is or may be illegal. Regulators sometimes send ‘cease and desist’ letters when they think someone who is not registered may be using a **protected title** or carrying out a **protected act**.

Consultation	A formal process by which an organisation invites comments on proposed changes to how it works.
Continuing Professional Development (CPD)	Learning activities professionals undertake to keep their knowledge and skills up to date.
Corporate complaint	A complaint to a regulator about something the regulator has done, for example a service it has provided.
Council	The GOsC's Council is responsible for ensuring that the GOsC fulfils its statutory objectives. It sets the strategic direction for the organisation and oversees the implementation of that strategy.

D

Decision Review Group (DRG)	The role of the GOsC's Decision Review Group is to provide quality assurance about its fitness to practise decision-making process and promote continuous improvement.
Duty of Candour (professional)	The duty of professionals to be open and honest when things go wrong.

E

Education Committee	The GOsC's Education Committee is responsible for promoting high standards of education and training in osteopathy and reviewing osteopathic education and training institutes.
Equality Act	The law that protects people from discrimination in the UK.
Equality Impact Assessment (EIA)	A process of considering the likely impact on different groups of people of a project or piece of work, intended to ensure that the work does not discriminate against anyone.

F

Fitness to Practise	Regulators have a duty to consider information, such as complaints, which indicates that a registrant may not be fit to practise. If a regulator decides that a registrant's fitness to practise is impaired, it may take action to protect the public, to maintain
----------------------------	---

G

The GOsC Professional Conduct Committee (Procedure) Rules 2000

The legal rules which set out how the GOsC's fitness to practise hearings work.

H

Health Committee

An independent committee of the GOsC which makes final decisions about whether a **registrant's fitness to practise** is impaired because of their health.

I

Initial Closure Procedure (ICP)

A procedure used by a **Screeners** to close a **fitness to practise** complaint which is not within the GOsC's remit to investigate.

Interim Order (IO)

A decision by a regulator to restrict the practice of a professional while the regulator investigates a concern about their **fitness to practise**. Interim Orders can only be imposed if they are necessary to address serious risks.

Investigating Committee (IC)

The GOsC's Investigating Committee considers **fitness to practise** complaints to decide whether a professional has a **case to answer**.

K

Key Performance Indicator (KPI)

Regulators measure and report on their own performance, including to their Council. A regulator may set and report on performance targets in areas of its work it considers particularly important. These are known as KPIs.

M

Median

The middle number in a set of data: for example, the median time it takes a regulator to process registration applications means that half the applications were processed within that time.

Memorandum of Understanding (MoU)

An agreement between two or more organisations about how they will work together.

O

Osteopathic Practice Standards (OPS)	The standards of conduct, competence and safe practice that registered osteopaths must follow.
Osteopaths Act 1993	The law that gives the GOsC its powers and responsibilities. You can find the Osteopaths Act at https://www.osteopathy.org.uk/about-us/legislation/
Over-arching objective	The over-arching objective of the regulators and the Authority is the protection of the public.

P

Performance Review	Our annual review of how well a regulator is performing. You can find more information about our performance review process on our website.
Policy Advisory Committee	Contributes to the development of Council on all matters of policy.
Professional Conduct Committee (PCC)	An independent committee of the GOsC which makes final decisions about whether a registrant's fitness to practise is impaired (except in cases about their health, which are considered by the Health Committee).
Professional indemnity insurance	Insurance that covers a professional for legal and associated costs if a concern is raised or claim is made about the service they provide.
Protected act	An activity which only a registered professional is allowed by law to carry out. For example, only registered dentists can legally carry out dentistry in the UK.
Protected characteristic	The Equality Act 2010 makes it illegal to discriminate against someone on the basis of any of the following: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation. These are known as protected characteristics.
Protected title	A title which only a registered professional is allowed by law to use. For example, only a registered osteopath can use the title osteopath in the UK.
Public Liability Insurance	Insurance that covers a professional for legal and associated costs if someone suffers an injury or damage to property as a result of their business activities.

Q

Quality Assurance Agency (QAA)

The QAA is the independent body that checks on standards and quality in UK higher education.

R

Recognised Qualifications (RQs)

Qualifications that meet the requirements of the quality assurance undertaken by the **QAA** on the GOsC's behalf are described as Recognised Qualifications.

Registrant

A professional on a register is known as a **registrant**.

Restoration register

The process by which someone who has left or been removed from a **register** can go back on it.

S

Screeners

An independent osteopath who considers whether **fitness to practise** complaints are within the GOsC's statutory remit to investigate.

Section 29

Each regulator we oversee has a **fitness to practise** process for handling complaints about health and care professionals. The most serious cases are referred to formal hearings in front of **fitness to practise panels**. We review every final decision made by the regulators' fitness to practise panels. If we consider that a decision is insufficient to protect the public properly we can refer them to Court to be considered by a judge. Our power to do this comes from Section 29 of the NHS Reform and Health Care Professions Act 2002 (as amended).

Stakeholder

A person or organisation who has an interest in a regulator's activities, for example a group that represents patients or professionals.

Statutory functions

The activities a regulator must carry out by law. The regulators we oversee are required to set standards for the professions they regulate, hold a **register** of professionals who meet those standards, assure the quality of training for entry to the **register**, and take action if a **registrant** may not be **fit to practise**. Some regulators have other statutory functions as well.

Statutory regulators

The regulators we look at in our **performance reviews** are statutory regulators. This means that their powers and responsibilities are set out in law.

T

Targeted review | Part of our **performance review** where we seek more information about how a regulator is performing. You can find more information about our performance review process on our website.

V

Victim Support | A national charity which supports people affected by crime and traumatic events.

W

Whistleblowing | Disclosing information about wrongdoing within an organisation.

Useful links

Find out more about:

- the 10 regulators we oversee
- the General Osteopathic Council
- the evidence framework we use as part of our performance review process
- the most recent performance review reports published
- our scrutiny of the regulators' fitness to practise processes, including latest appeals

Find out more about our work at:
www.professionalstandards.org.uk

Professional Standards Authority for Health and Social Care

157-197 Buckingham Palace Road
London SW1W 9SP

Telephone: **020 7389 8030**

Fax: **020 7389 8040**

Email: **info@professionalstandards.org.uk**

Web: **www.professionalstandards.org.uk**

© Professional Standards Authority
for Health and Social Care July 2020

