



General
Osteopathic
Council

Guidance on the arrangements and procedure for restoration hearings

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Contents

- Introduction** 3
- Equality and diversity statement**..... 3
- Relevant legislation**..... 3
- Procedure before the hearing** 4
 - Communication with the complainant 4
- Procedure at the hearing** 5
- The approach to be taken by the Professional Conduct Committee** 6
 - The public interest..... 6
 - Good character 6
 - Fit and proper person..... 7
- Recording of proceedings** 7
- Professional Standards Authority for Health and Social Care** 7

Introduction

An osteopath who is removed from the General Osteopathic Council (GOsC) Register for fitness to practise reasons may apply to the Registrar for readmission to the Register after a period of ten months has elapsed. In such cases, the application for registration must be referred by the Registrar to the Professional Conduct Committee (PCC).

This guidance sets out the arrangements for and procedure at a hearing where an application for restoration is made after the removal of an osteopath (the applicant) from the Register following a fitness to practise hearing before the PCC.

The guidance is addressed primarily at the PCC and is designed to guide the PCC through the appropriate procedure to follow at a restoration hearing. Guidance for applicants will be developed separately.

The guidance is aligned with the Good Character Assessment Framework which is used to inform the GOsC registration application process.

Equality and diversity statement

The GOsC is committed to ensuring that processes for dealing with concerns about osteopaths are just and fair. All those involved in our processes are required to be aware of, and observe, equality and human rights legislation. Decision-making by the PCC should be consistent and impartial and comply with the aims of the public sector equality duty.

Relevant legislation

Section 8 of the Osteopaths Act 1993 provides as follows:

‘Restoration to the register of osteopaths who have been struck off

- (1) Where a person who has had his entry as a fully registered osteopath removed from the register as the result of an order under section 22(4)(d) wishes to have his entry restored to the register he shall make an application for registration to the Registrar.
- (2) No such application may be made before the end of the period of ten months beginning with the date on which the order under section 22(4)(d) was made.
- (3) Any application for registration in the circumstances mentioned in subsection (1) (an "application for restoration") shall be referred by the Registrar to the Professional Conduct Committee for determination by that Committee.
- (4) For the purposes of determining an application for restoration—
 - (a) the Committee shall exercise the Registrar's functions under section 3; and
 - (b) subsection (2) of that section shall have effect as if paragraph (d) were omitted.

- (5) 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.
- (6) On granting an application for restoration, the Committee–
 - (a) shall direct the Registrar to register the applicant as a fully registered osteopath; and
 - (b) may make a conditions of practice order with respect to him.
- (7) (7) The provisions of section 22 shall have effect in relation to a conditions of practice order made by virtue of subsection (6) as they have effect in relation to one made by virtue of subsection (4)(b) of that section....'

Procedure before the hearing

1. A notice of hearing will be sent to the applicant at least 28 days before the restoration hearing (the hearing). The notice of hearing will specify the date, time and venue for the hearing. Along with the notice, the applicant will be served with any documentation that the GOsC intends to present at the hearing. This will include the previous decision of the PCC and may also include the transcript of the substantive fitness to practise hearing and other relevant documentation.
2. The notice will also inform the applicant of their right to attend the hearing and be represented, and that they are able to present evidence and call witnesses at the hearing.
3. The applicant must notify the GOsC within 14 days of the date of the notice as to whether or not they wish to attend the hearing. If they choose not to attend, then they may PCC. These written representations should be received by the GOsC at least 7 days before the date of the hearing.

Communication with the complainant

4. Not all fitness to practise hearings involve complainants. However, where the applicant's substantive fitness to practise hearing involved a complainant, the GOsC will ensure all reasonable and proportionate steps are undertaken to liaise with the complainant to ensure they are provided with information and support in advance of, and following, the applicant's restoration hearing.

Procedure at the hearing

5. The Chair shall open the hearing by confirming that it is a meeting of the PCC of the GOsC to consider an application for restoration to the Register by the applicant. The Chair shall introduce the other PCC members together with the names of the legal assessor, applicant and legal representatives.
6. If the applicant is not present or represented, the PCC shall first determine whether or not to proceed in their absence. The PCC may proceed in the absence of the applicant if it is satisfied that all reasonable steps have been taken to serve the notice of the hearing on the applicant.
7. If the applicant is present, the Chair will invite him or her to confirm their name and the registration number they held at the time of their removal from the Register. If the applicant is not present, the presenting officer for the GOsC will be asked to confirm the name and registration number of the applicant.
8. The PCC will consider any preliminary legal arguments.
9. The hearing shall be held in public unless the PCC decides that it is in the interests of any person giving evidence to hold the hearing, or any part of it, in private and, in such a case, all persons who are not concerned with the hearing shall withdraw.
10. The presenting officer will then address the PCC as to the background of the case and the circumstances which led to the applicant's name being removed from the Register. In the course of doing so, the presenting officer may direct the attention of the PCC to relevant evidence, including the transcript of the substantive fitness to practise hearing, and may call witnesses.
11. The applicant will then have the opportunity to address the PCC, cite evidence and call witnesses relevant to their application for restoration.
12. The PCC will then invite submissions from the GOsC presenting officer and the applicant as to whether or not it should grant or refuse the application, with the applicant being provided with the opportunity to have the last word.
13. At the conclusion of the evidence and submissions, the PCC shall invite the legal assessor to provide advice to the PCC before it goes into private session to decide whether to refuse or grant the application (with or without conditions). The PCC shall give reasons for that decision.

The approach to be taken by the PCC

14. There is a persuasive burden on the applicant to satisfy the PCC that they should be restored to the Register. This means that the applicant (or their representative) must satisfy the PCC that they:¹
- a. are of good character
 - b. are in good health, both physically and mentally
 - c. have a recognised qualification (where relevant)
 - d. are a fit and proper person to practise the profession of osteopathy.

The public interest

15. Central to the consideration of the above requirements set out at paragraph 14 of this guidance, is the need for the PCC to have proper regard to the overarching objective of protecting the public, as set out within section 1(3A) of the Osteopaths Act 1993. This requires the PCC to stand back and consider not only whether or not the registrant continues to present a risk to members of the public, but also the need to maintain public confidence in the profession of osteopathy and to promote and maintain proper professional standards and conduct.

Good character

16. For the purpose of a restoration application the GOsC defines 'good character' as:²
- 'the absence of evidence that a person has committed conduct or behaviour that is inconsistent with the Osteopathic Practice Standards published by the GOsC, or the exercise of the profession of osteopathy; and that he or she has any disposition to commit such conduct or behaviour'.
17. As part of this assessment, the PCC should inquire whether the applicant in the past acted, or if there is reason to believe that the applicant may be liable in the future to act:
- in such a way that puts at risk the health, safety or well-being of a patient or member of the public
 - in such a way that his or her registration would undermine public confidence in the profession
 - in such a way that indicates an unwillingness to act in accordance with the standards of the profession
 - in a dishonest manner.

¹ Section 3(2) of the Osteopaths Act 1993 (as amended)

² This definition and approach is consistent with the Good Character Assessment Framework utilised by the GOsC when determining applications for registration

Fit and proper person

18. When considering whether the applicant is a fit and proper person to practise the profession of osteopathy the PCC will have regard, in particular, to the circumstances which led to the making of the order. In addition, it should also consider a number of factors including:
 - a. the reasons of the PCC at the substantive hearing to direct removal
 - b. whether the applicant has any insight or remorse into the matters that led to removal
 - c. what the applicant has done since his or her name was removed from the Register
 - d. the steps taken by the applicant to keep their professional knowledge and skills up to date
 - e. the passage of time and evidence of remediation.
19. An application for restoration is not to be regarded as an appeal against the decision to strike off. The PCC is bound by the findings and previous decision to remove the applicant made by the PCC at the substantive fitness to practise hearing.
20. The PCC should have regard to the particular facts and circumstances of the case and should consider any remediation against the backdrop of the reasons leading to the applicant's removal.
21. The PCC shall announce its decision at the end of the hearing and shall ensure that a written record of this is sent to the parties in reasonable time after the hearing.³

Recording of proceedings

The hearing will be recorded and transcripts made available on request and on payment of a reasonable fee.

Professional Standards Authority for Health and Social Care

The GOsC is required to notify the Professional Standards Authority for Health and Social Care (PSA) of certain decisions, including those to restore an osteopath to the Register under section 8 of the Osteopaths Act 1993. Under section 29 of the NHS and Healthcare Professions Act 2002, the PSA may refer the case to the High Court if they consider that a decision to restore an osteopath's name should not have been made. Further information about the PSA is available on their website at professionalstandards.org.uk.

³ The PCC should take into account the guidance for the Professional Conduct Committee on Drafting Determinations, February 2017