



General Osteopathic Council

Draft Professional Conduct Committee Practice Note:

Consensual Disposal: Rule 8

Effective:

Introduction

1. This practice note covers the limited categories of cases in which the Professional Conduct Committee (PCC) of the General Osteopathic Council (GOsC) may decide to dispose of proceedings against a registrant without holding a hearing.
2. The procedure governing these categories of case is set out in Rule 8 of the General Osteopathic Council (Professional Conduct Committee) (Procedure) Rules 2000¹ ('the PCC Rules').
3. In this Practice Note, the procedure shall be referred to as the Rule 8 Procedure.
4. Within the framework established by legislation, the GOsC seeks to address concerns about the fitness to practise of its registrants in a fair and proportionate manner. In doing so, it has regard to the need to:
 - protect patients and the public
 - maintain public confidence in the osteopathy profession
 - declare and uphold proper standards of conduct and competence amongst osteopathic professionals.
5. In achieving these objectives, this Practice Note has been designed to provide a framework for decision making by Fitness to Practise Committees but it does not impact upon how Committees reach independent decisions.
6. The GOsC considers that decisions made by the PCC under the Rule 8 Procedure, are a cost-effective and proportionate way of achieving this aim.

Equality and Diversity Statement

7. The GOsC is committed to ensuring that processes of 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 of the Committee should be consistent and impartial, and comply with the aims of the public sector equality duty.

¹ Scheduled to S.I. 2000/241

The circumstances in which the Rule 8 Procedure applies

8. The Rule 8 Procedure only applies to an allegation that a registrant:
 - a. is guilty of unacceptable professional conduct
 - b. is guilty of professional incompetence or
 - c. has been convicted in the UK of a criminal offence which has a material relevance to the registrant's fitness to practise osteopathy.
9. In order for the Rule 8 Procedure to apply, the case against the registrant must have previously been considered by the Investigating Committee (IC); a case to answer must have been found by that Committee; and the case then referred to the PCC.
10. The Rule 8 Procedure will only apply to those cases which a PCC Panel Chair considers appropriate. The criteria for identifying cases that may be appropriate for disposal under the Rule 8 Procedure are set out in this Practice Note.
11. The Rule 8 Procedure will only apply where the registrant is prepared to admit the facts set out in the complaint or allegation; and to admit that such facts amount to the relevant allegation (either unacceptable professional conduct, professional incompetence, or a conviction in the UK for a criminal offence which has a material relevance to the registrant's fitness to practise osteopathy).
12. The registrant must also agree to dispense with the requirement to hold a hearing before the PCC and to accept the sanction of an admonishment.

Identification of cases for consideration under the Rule 8 Procedure

13. Cases for consideration under the Rule 8 Procedure shall normally be identified before the registrant is served with a Notice of Hearing under Rule 7 of the PCC Rules. This is because once the Notice has been served, the GOsC will have already incurred costs and made arrangements for the hearing.
14. Where a Notice of Hearing has already been served, the PCC shall only consider a case under the Rule 8 Procedure in exceptional circumstances.
15. Cases for consideration under the Rule 8 Procedure may be identified by the Regulation Department of the GOsC, or by the Registrant (or the Registrant's representative). However, there is no compulsion on the GOsC or its case workers to negotiate about the use of the Rule 8 Procedure or to agree to seek disposal of a case in accordance with this Practice Note.
16. The registrant will be informed of the Rule 8 Procedure and provided with guidance (Appendix A).
17. The Registrant has a right to have the allegations against him or her determined at a hearing. The Rule 8 Procedure can only be followed where the Registrant provides written confirmation to the Regulation Department of the GOsC that he or she agrees to waive this right, and intends to admit the facts and the allegations made against him or her

Action following identification of case

18. Where the Regulation Department or the Registrant considers that the case is appropriate for disposal under the Rule 8 Procedure, the Regulation Department and the Registrant should agree a bundle of documents to be sent to a Panel Chair of the PCC.
19. The Committee has delegated the function of deciding whether the case is appropriate to be disposed of under the Rule 8 Procedure to a Panel Chair of the PCC. When determining whether the Rule 8 Procedure is appropriate, the Panel Chair shall have regard to all the circumstances of the case including the factors set out within paragraphs 31 and 32 of this Practice Note and should provide written reasons for every decision made.
20. Where the allegation has been made by a complainant, the complainant shall be notified of the intention to place the matter before a PCC Panel Chair for consideration under the Rule 8 Procedure. The complainant shall be invited to make observations.
21. The bundle of documents sent to the PCC Panel Chair will include:
 - a. the papers considered by the Investigating Committee
 - b. any additional documents submitted by the Registrant (which may include testimonials and character references)
 - c. the observations from the complainant (if any).

Consideration by PCC Panel Chair

22. Before deciding whether or not to use the Rule 8 Procedure, the PCC Panel Chair shall consider:
 - a. the observations of the complainant (if any)
 - b. the evidence assembled and any additional material submitted by the Registrant
 - c. the PCC's Indicative Sanctions Guidance
 - d. the guidance set out in this Practice Note.

Action where the Rule 8 Procedure is not considered appropriate

23. Where the PCC Panel Chair does not consider the case is appropriate for the Rule 8 Procedure (including because it considers that the sanction of admonishment is not appropriate in the circumstances), the Panel Chair shall give reasons for that decision.
24. The decision and reasons shall normally be sent to the registrant within seven working days.
25. The case shall then be listed for a substantive hearing in the usual way. The PCC Panel Chair who considered the Rule 8 Procedure shall not form part of the PCC panel at the substantive hearing.

Action where the Rule 8 Procedure is considered appropriate

26. Where the PCC Panel Chair considers the case is appropriate to be disposed of under Rule 8, the Registrant shall be served with:
 - a. a Notice of Intention to use the Rule 8 Procedure (Appendix B); and
 - b. a Rule 8 Statement (Appendix C).
27. The admissions made by the Registrant; the Registrant's agreement to waive the right to a hearing; and the acceptance of the sanction of admonishment by the registrant, shall be recorded on a Rule 8 Statement.
28. The Rule 8 Statement must be signed and dated by the Registrant, and must be returned by the date stated in the Notice of Intention to use the Rule 8 Procedure.
29. The PCC will consider the case at a meeting. The PCC shall consider:
 - a. the documents considered the PCC Panel Chair
 - b. the Notice of Intention signed by the PCC Panel Chair
 - c. the Rule 8 Statement signed by the Registrant
 - d. any additional documents from the GOsC or Registrant.
30. The PCC shall consider the case and give reasons for its decision (Appendix D).
31. The findings and sanction shall form part of the registrant's fitness to practise record held by the GOsC, and shall be published and disclosed in accordance with the GOsC's Fitness to Practise Publication Policy. This shall include publication on the GOsC's website.

Cases which are unlikely to be appropriate for disposal under the Rule 8 Procedure

32. Cases which are **unlikely** be appropriate for the Rule 8 Procedure include, but are not limited to, complaints and allegations involving:
 - a. violence
 - b. sexualised behaviour as defined in *Clear sexual boundaries between healthcare professionals and patients: responsibilities of healthcare professionals* published by the Professional Standards Authority (formerly the CHRE) in January 2008
 - c. sexual and physical abuse of minors and children (including child pornography and neglect)
 - d. vulnerable persons: to be regarded as persons under 18, or adults who are to be regarded as vulnerable within the meaning of section 59 of the *Safeguarding Vulnerable Groups Act 2006*
 - e. dishonesty, deception or fraudulent behaviour

- f. criminal convictions resulting in the imposition of a sentence of imprisonment (or suspended imprisonment)
- g. significant failings in the examination and/or treatment of one or more patients.

Cases which may not be appropriate for disposal under the Rule 8 Procedure

33. Cases which **may not** be appropriate for the Rule 8 Procedure include, but are not limited to, complaints and allegations involving actions or omissions which:
- demonstrate a failure to protect patients, colleagues or the wider public from the risk of harm
 - undermine public confidence in the osteopathic profession
 - demonstrate a significant failure to uphold the standards and competence among osteopathic professionals.
34. In deciding whether the case is appropriate for disposal under the Rule 8 Procedure, the PCC will consider the Registrant's previous fitness to practise history and the GOsC's Indicative Sanctions Guidance and in particular consider the following, non-exhaustive list:
- a. there is evidence to suggest that the Registrant poses any danger to patients or the public
 - b. the Registrant has shown insight into their failings
 - c. the behaviour was an isolated incident
 - d. there has been any repetition of the behaviour complained about
 - e. the Registrant acted under duress
 - f. the Registrant has genuinely expressed remorse
 - g. there is evidence that the Registrant has taken rehabilitative/corrective steps; or
 - h. the Registrant has previous good history.

Items a) and d) are factors that indicate that the Rule 8 Procedure may not be appropriate.

35. In any particular case, the PCC will exercise its discretion as to whether the complaint or allegation should be disposed of using the Rule 8 Procedure.
36. The Rule 8 Procedure Flowchart can be found at Appendix E.

For further information about the PCC's procedures and guidance, please see the GOsC's website: www.osteopathy.org.uk

Guidance for Registrants (to be included in the letter sent to the Registrant following an Investigating Committee referral to the Professional Conduct Committee).

You may wish to consider whether you believe that your case is appropriate to be considered under Rule 8 of the General Osteopathic Council (Professional Conduct Committee) (Procedure) Rules 2000 ('the PCC Rules'). We have enclosed a copy of those Rules and the Professional Conduct Committee Practice Note; Consensual Disposal: Rule 8.

A case will be considered by a PCC Chair under Rule 8 if:

- the case does not fall within the criteria listed in the Practice Note
- you admit the allegations and facts
- you accept that the those facts amount to [unacceptable professional conduct/professional incompetence/you have been convicted of a criminal offence in the UK which has a material relevance to your fitness to practise osteopathy – **Delete as appropriate**]
- you accept that the PCC will impose an admonishment
- you accept that you are entitled to have a hearing before the PCC but that you do not want to have a hearing.

If you consider Rule 8 to be appropriate in your case, please inform your case worker. The case worker will then contact you to see if you have any documents you wish to be considered by a PCC Chair. This may include character references or testimonials. The case worker will send you a bundle of documents which will be considered by a PCC Chair. Once you have agreed this bundle, the case will be considered by a PCC Chair.

The PCC Chair will decide whether it is appropriate for your case to be considered under Rule 8. You will be informed of the Chair's decision within 7 working days. If the Chair decides that the case is not appropriate for Rule 8, the case will be listed for a hearing before the PCC. If the Chair decides that your case is appropriate to be considered under Rule 8, the Chair will sign a Notice of Intention to use Rule 8 which will be sent to you with a Rule 8 Statement for you to sign.

Once you have signed and returned the Rule 8 statement, your case will be considered by the PCC at a meeting. You will not be able to attend this meeting. If the PCC decide that the case cannot be dealt with under Rule 8, the case will be listed for a hearing before the PCC. If the PCC decide that the case can be dealt with under Rule 8, they will provide their decision and reasons in writing and you will be issued with an admonishment.

This admonishment will form part of your fitness to practise history. The decision of the PCC will appear on the GOsC website in accordance with the GOsC's Publication Policy, a copy of which is enclosed.

We recommend that you seek advice from your legal representative, professional association, professional indemnity and liability insurers or defence organisation before making a decision.

Notice of Intention to use the Rule 8 Procedure

To [insert name of registrant]

Having considered the evidence available (including any material submitted by you), the PCC chair considers the complaint/allegations against you is appropriate to be disposed of under the procedure set out in Rule 8 of the General Osteopathic Council (Professional Conduct Committee) (Procedure) Rules 2000 ('the PCC Rules'), a copy of which is attached.

I therefore invite you to indicate on the enclosed Rule 8 Statement, whether you accept the facts set out in the complaint/allegation made against you; and if so, whether you accept that those facts amount to [unacceptable professional conduct/professional incompetence/you have been convicted of a criminal offence in the UK which has a material relevance to your fitness to practise osteopathy – **Delete as appropriate**].

If you indicate your acceptance by signing and returning the Rule 8 Statement, the PCC will then proceed to consider whether to dispose of the matter without a hearing, and by issuing an admonishment to you.

However, if you do not indicate your acceptance, you have the right to a hearing before the PCC to argue your case and to be legally represented at such a hearing.

Any admissions that you make on the Rule 8 Statement will form part of the evidence against you. Therefore, before deciding whether or not to indicate your acceptance, you are strongly advised to read the GOsC PCC Practice Note; Consensual Disposal : Rule 8, and to seek advice from your legal representative, professional association, professional indemnity and liability insurers or defence organisation.

In the event that you do wish this matter to be dealt with under the Rule 8 Procedure, and only if you do wish to indicate your acceptance, please sign and return the enclosed Rule 8 Statement to the Regulation Department of the GOsC by **[Insert date]**

.....
Signed
Chair of the PCC

.....
Dated

Rule 8 Statement

1. I, [INSERT NAME AND REGISTRATION NUMBER OF REGISTRANT], am registered with the General Osteopathic Council (GOsC).
2. On [INSERT DATE], an allegation against me was referred by the Investigating Committee (IC) to the Professional Conduct Committee (PCC) of the GOsC.
3. I now make this Statement for the purpose of the proceedings before the PCC, in accordance with Rule 8 of the General Osteopathic Council (Professional Conduct Committee) (Procedure) Rules 2000.

ALLEGATIONS AND FACTS

4. [INSERT ALLEGATIONS AND FACTS]
5. I confirm that, having had the opportunity to seek advice about this matter, I accept the allegations and facts stated above, constitute an allegation for the purposes of section 20 of the *Osteopaths Act 1993*.
6. I fully admit that the allegations and facts stated above are correct.
7. I fully admit that by reason of the facts and allegations stated above [I am guilty of unacceptable professional conduct/professional incompetence/I have been convicted in the UK of a criminal offence which is materially relevant to the practise of osteopathy]

AGREEMENT TO PROCEED WITHOUT HEARING

8. I am aware that I have the right to a hearing before the PCC. However, in light of the above admissions, I confirm that I do not wish the matter to proceed to a hearing before the PCC.

ACCEPTANCE OF SANCTION

9. I confirm that, having had the opportunity to seek advice about this matter, I accept the sanction of admonishment which may be imposed by the PCC on the basis of the admissions made by me in this statement.
10. I understand that this sanction will now form part of the fitness to practise record about me which is held by the GOsC.

PUBLICATION AND DISCLOSURE

11. I understand that this document, the written determination issued by the PCC and the sanction imposed on me:
 - a. will be published by the GOsC in accordance with its Fitness to Practise Publication Policy (including by publication on the GOsC's website); and
 - b. may be disclosed to third parties, together with other information about my fitness to practise history, should the GOsC consider it to be in the public interest to do so.

SIGNATURE

[INSERT NAME OF REGISTRANT]

DATE

GENERAL OSTEOPATHIC COUNCIL

DECISION OF THE PROFESSIONAL CONDUCT COMMITTEE

In the case of:

[INSERT NAME OF REGISTRANT]

Registration Number: [INSERT REGISTRATION NO.]

[INSERT DATE]

The Panel: [INSERT NAME OF CHAIR AND PANEL MEMBERS]

This case has been considered by the Professional Conduct Committee without a hearing, under the procedure set out in Rule 8 of the General Osteopathic Council (Professional Conduct Committee) (Procedure) Rules 2000.

ALLEGATION:

[INSERT ALLEGATIONS AND FACTS]

DECISION:

The registrant has admitted both the allegation and the facts in support of the allegation. Accordingly, the allegation is found proved. The registrant accepts that s/he **[is guilty of unacceptable professional conduct/professional incompetence/has received a conviction in the UK for a criminal offence which has a material relevance to his/her fitness to practise osteopathy.]**

SANCTION:

Having regard to the Professional Conduct Committee's published Indicative Sanctions Guidance; the registrant's admissions set out in the Rule 8 Statement [and any other material submitted by the registrant], the Committee is satisfied that a sanction of admonishment is appropriate in this case.

The Committee's reasons for imposing an admonishment are as follows [].

Section 22(13) of the *Osteopaths Act 1993* requires this Committee to publish a report that sets out the names of those osteopaths who have had allegations found against them. The Registrant's name will be included in this report together with details of the allegations we have found proved and the sanction that that we have applied today.

Rule 8 Procedure Flowchart

