Contents

Investigating complaints ................................................................................................................................................. 3
   Hearings ........................................................................................................................................................................... 3
   Sanctions .......................................................................................................................................................................... 3
   Appeals ............................................................................................................................................................................. 4

The complaints process ..................................................................................................................................................... 4

What are the threshold criteria? ....................................................................................................................................... 5

Investigations and hearings 2014-15 ..................................................................................................................................... 6
   Investigating Committee .................................................................................................................................................. 6
   Professional Conduct Committee ..................................................................................................................................... 6
   Health Committee .............................................................................................................................................................. 7
   Number of meetings and hearings ..................................................................................................................................... 7
   Interim suspension order hearings .................................................................................................................................... 7
   Who makes complaints? .................................................................................................................................................... 8
   How quickly do we process complaints? .......................................................................................................................... 8

Professional Conduct Committee decisions 2014-15 ....................................................................................................... 9
   Substantive hearings .......................................................................................................................................................... 9
   Review hearings .................................................................................................................................................................. 15
Investigating complaints

Maintaining patient safety and public confidence in the osteopathic profession means that we must investigate and consider complaints about osteopaths appropriately. Here is an outline of the process followed when a complaint is received.

Anyone with a concern about an osteopath’s fitness to practise can bring this to the attention of the General Osteopathic Council (GOsC).

We receive a wide range of complaints, on topics ranging from commercial disputes to serious sexual abuse and dishonesty. Complaints that we can investigate relate to:

- Unacceptable Professional Conduct
- professional incompetence
- convictions for relevant criminal offences
- health matters that may seriously impair the osteopath’s ability to practise.

Every formal complaint we receive is considered by a ‘Screener’ – an osteopath member of our Investigating Committee – who decides whether it falls into one or more of those categories.

Where the Screener considers that a complaint does fall under the GOsC’s jurisdiction, the case is referred to the Investigating Committee, whose task is to decide whether the osteopath being complained about has a case to answer. If there is a case to answer, the Investigating Committee will refer the complaint to a hearing before the Professional Conduct Committee (PCC) and/or the Health Committee.

In a case involving serious allegations, the Investigating Committee may immediately order the Registrar to suspend an osteopath’s registration pending the hearing, if it thinks this necessary to protect the public. This ‘interim suspension order’ is likely to remain in place for the duration of the investigation, unless there is a change in circumstances in the case (because, for example, the complainant has withdrawn the serious allegation).

Hearings

The PCC considers cases where there is an allegation against the osteopath’s conduct or competence, or a conviction for a criminal offence. Its role is to decide whether the allegation is well-founded.

PCC hearings take place in public unless there is a good reason for the allegations to be heard in private. The osteopath and the GOsC both attend the hearing and present their cases.

The Health Committee considers cases where an osteopath’s physical or mental health may be seriously affecting their ability to practise. These hearings are held in private.

Sanctions

If the PCC finds that a complaint against an osteopath is well-founded, it can impose one of four sanctions on the osteopath:

- admonishment
- imposition of conditions on the osteopath’s practice
- suspension from the Register
- removal from the Register.

The Health Committee can impose only conditions of practise or a suspension order; it cannot remove an osteopath from the Register.

Sanctions must be applied appropriately, proportionately and in line with case law and guidance. When deciding what sanction to impose, the PCC takes into account:

- any aggravating and mitigating features of the case
- the osteopath’s previous character and fitness to practise history
- the osteopath’s insight into the issues that have led to the finding
- testimonials produced by the osteopath.

The PCC and the Health Committee also consider the public interest, which includes the need to protect the public; to declare and uphold proper standards of professional conduct; and to maintain public confidence in the regulation of osteopathy.

If either committee imposes a ‘conditions of practice’ order or a suspension order, it must review the case before the order expires. A review hearing allows the committee to monitor the osteopath’s compliance with the order and to decide whether it should be revoked, allowed to expire, extended or varied.
## Appeals

An osteopath may appeal against a decision made against them by the Professional Conduct Committee or the Health Committee. Additionally, the Professional Standards Authority may appeal against a decision if it considers that the decision was incorrect or that the sanction applied was inappropriate (too harsh or too lenient).

### The complaints process

- **A complaint is made to the GOsC**

- **A Screener considers the complaint**

  *Does the complaint come under the GOsC’s jurisdiction?*

<table>
<thead>
<tr>
<th>Y</th>
<th>N</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Investigating Committee investigates and considers the complaint</td>
<td>No further action</td>
</tr>
</tbody>
</table>

  *Is there a case to answer?*

<table>
<thead>
<tr>
<th>Y</th>
<th>N</th>
</tr>
</thead>
<tbody>
<tr>
<td>The case is referred to the Professional Conduct Committee or the Health Committee for a hearing</td>
<td>No further action</td>
</tr>
</tbody>
</table>

  *Is the complaint proved at a hearing?*

<table>
<thead>
<tr>
<th>Y</th>
<th>N</th>
</tr>
</thead>
<tbody>
<tr>
<td>An appropriate sanction is applied: admonishment, conditions of practice order, suspension or removal</td>
<td>No further action</td>
</tr>
</tbody>
</table>

  **The osteopath or the Professional Standards Authority can appeal against the decision**
What are the threshold criteria?

During 2014-15, we consulted on new ‘threshold criteria’ to help both Screeners and the Investigating Committee decide whether there is a realistic prospect that an allegation may constitute Unacceptable Professional Conduct.

The criteria, which are not intended to be exhaustive, specify a range of types of complaint that do not normally amount to Unacceptable Professional Conduct and therefore should not generally be referred to the Professional Conduct Committee. These include:

- complaints about note-taking and record-keeping alone, in the absence of:
  i. incompetence or negligence of a high degree, or
  ii. evidence of a failure to comply with relevant information governance legislation

- vexatious complaints, including where the complainant:
  i. repeatedly fails to identify the precise issues that he or she wishes to complain about,
  ii. frequently changes the substance of the complaint or seeks to raise new issues, or
  iii. appears to have brought the complaint solely for the purpose of causing the registrant annoyance or disruption

- complaints that have been made anonymously and that cannot be otherwise verified

- complaints that amount to a difference of professional opinion, provided that:
  i. the opinion is accepted as proper and responsible by a responsible body of osteopaths who are skilled in that particular area of practice and who are acting responsibly, and
  ii. the opinion is reasonably held, and is capable of withstanding logical analysis

- complaints which have no public protection implications but which are made simply on the basis that the complainant is aware that the other party to a dispute is a registrant (e.g. boundary disputes between neighbours).

The other threshold criteria cover subjects including employment disputes, contractual disputes, business disputes, and disputes between registrants and patients about fees. You can read the criteria in full at: [http://bit.ly/gosc-threshold-criteria](http://bit.ly/gosc-threshold-criteria)

The threshold criteria will be reviewed in light of operational experience and developments in the wider regulatory landscape.
Investigations and hearings 2014-15

Investigating Committee

During the 12 months from 1 April 2014 to 31 March 2015, the Investigating Committee of the General Osteopathic Council (GOsC) met nine times and considered 43 cases.

It concluded that 22 of those cases should be referred to the Professional Conduct Committee or the Health Committee: in the other 21 cases, it concluded that there was no case to answer.

The chart below shows the types of allegation considered, and the conclusions reached, by the committee.

*It is not uncommon for more than one allegation to feature in a case.

In two cases, the complaints were sufficiently serious for the Investigating Committee to impose interim suspension orders pending hearings.

Professional Conduct Committee

From April 2014 to March 2015, the Professional Conduct Committee heard 19 new cases relating to Unacceptable Professional Conduct. The chart below shows the decisions it reached.
Health Committee

Over the same period, the Health Committee heard four cases, imposing conditions of practice on three osteopaths.

Number of meetings and hearings

The chart below shows a comparison from last year to this year of the number of Investigating Committee meetings, Professional Conduct Committee hearings and Health Committee hearings held.

Interim suspension order hearings

The Investigating Committee, Professional Conduct Committee and Health Committee can impose a suspension order on a registrant for interim period if there is a real risk to members of the public.

The table below shows how many interim suspension order (ISO) hearings took place, and the number of ISOs imposed between April 2014 and March 2015.

<table>
<thead>
<tr>
<th>Committee</th>
<th>Number of ISOs applied for</th>
<th>Number of ISOs imposed</th>
<th>Number of undertakings†</th>
</tr>
</thead>
<tbody>
<tr>
<td>Investigating Committee</td>
<td>14*</td>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td>Professional Conduct Committee/</td>
<td>7</td>
<td>6</td>
<td>0</td>
</tr>
<tr>
<td>Health Committee</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*One case was adjourned as the registrant was unwell.

Who makes complaints?

The chart below shows a comparison from last year to this year for sources of formal complaints received.

*This may occur where we become aware of concerns about a registrant through the media, for example, or where we receive notification that a registrant has received a police caution or conviction.

How quickly do we process complaints?

The table below shows the time taken for cases to be heard, from 1 April 2014 to 31 March 2015.

<table>
<thead>
<tr>
<th>Committee</th>
<th>Median time from receipt to decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Investigating Committee</td>
<td>11 weeks* (target = 16 weeks)</td>
</tr>
<tr>
<td>Professional Conduct Committee</td>
<td>51 weeks* (target = 52 weeks)</td>
</tr>
</tbody>
</table>

*Median figure across all cases considered by the respective committee this year.
Professional Conduct Committee decisions 2014-15

This report of the General Osteopathic Council’s Professional Conduct Committee (PCC) covers the period 1 April 2014 to 31 March 2015 and is produced in accordance with the Osteopaths Act 1993, section 22(13) and (14).

Issues involving osteopaths’ fitness to practise are an integral part of the General Osteopathic Council’s (GOsC) duty to regulate the profession and thereby protect the public and the profession’s reputation. The information contained in this report provides a valuable resource to osteopaths on the high standards of conduct and proficiency required to maintain registration as an osteopath.

Substantive hearings

<table>
<thead>
<tr>
<th>Name, registration number and date of PCC decision</th>
<th>Source of complaint</th>
<th>Summary of allegations found proved</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>James Kemp 682 May 2014 (Two cases considered at a single hearing)</td>
<td>Registrar and colleague</td>
<td>Mr Kemp was convicted of a criminal offence contrary to section 20(1)(c) of the Osteopaths Act 1993. Mr Kemp: ● pleaded guilty to using threatening, abusive, or insulting words or behaviour with intent to cause Ms A harassment, alarm or distress ● in respect of this offence was fined £300, made subject to a restraining order not to contact Ms A for one year, and ordered to pay a victim surcharge of £30. In relation to a separate complaint, Mr Kemp: ● dismissed B from his practice, and acted in an aggressive and unprofessional way during subsequent spoken and written communications with B ● failed to ensure that patient treatment records were securely protected against improper disclosure.</td>
<td>Finding of Unacceptable Professional Conduct leading to an admonishment Note: no oral hearing was held for these cases; proceedings were disposed of using the procedure set out in rule 8 of the General Osteopathic Council Professional Conduct Committee (Procedure) Rules 2000</td>
</tr>
<tr>
<td>Name, registration number and date of PCC decision</td>
<td>Source of complaint</td>
<td>Summary of allegations found proved</td>
<td>Outcome</td>
</tr>
<tr>
<td>---------------------------------------------------</td>
<td>--------------------</td>
<td>------------------------------------</td>
<td>---------</td>
</tr>
</tbody>
</table>
| Nillie Teymouri 6156 June 2014                      | Patient            | Between January 2012 and March 2012, Ms Teymouri held a number of consultations with Patient A. Ms Teymouri:  
- failed to provide receipts for payments made to her by Patient A on 24 February and 23 March 2012  
- failed to refund £170 to Patient A following overpayment for a medical report, thus bringing the profession into disrepute  
- behaved inappropriately towards Patient A in that she became aggressive during a telephone call to arrange an alternative time to collect an MRI report, and subsequently became aggressive and refused to talk to Patient A, thus failing to communicate effectively and maintain a professional manner with Patient A. | Finding of Unacceptable Professional Conduct leading to an admonishment |
| Mark Robson 5208 July 2014                         | Registrar          | Mr Robson accepted a police caution that he had indecently assaulted a 16-year-old female patient (Miss A). As a consequent of accepting the police caution, he was required to sign the sex offenders’ register.  
Additionally, while Mr Robson was a member of the teaching staff at the North East Surrey College of Technology (NESCOT), he:  
- transgressed professional and sexual boundaries on a number of occasions between November 2011 and August 2012 with a patient and student, Miss B, by engaging in a personal and sexual relationship with her  
- crossed professional boundaries and used sexualised behaviour on a number of occasions between December 2011 and September 2012 with a student, Miss C. | Finding of Unacceptable Professional Conduct leading to an order to remove the osteopath’s name from the Register of Osteopaths |
<table>
<thead>
<tr>
<th>Name, registration number and date of PCC decision</th>
<th>Source of complaint</th>
<th>Summary of allegations found proved</th>
<th>Outcome</th>
</tr>
</thead>
</table>
| Jonathan Cohen 5217 September 2014               | Patient            | Mr Cohen provided treatment to Patient A in a gazebo/tent at a festival. During his treatment sessions with patient A, he failed to provide an adequate standard of care in that he:  
  ● did not obtain a full case history from patient A  
  ● did not formulate a clinically reasoned differential diagnosis  
  ● did not conduct a sufficient examination  
  ● did not formulate an adequate treatment plan  
  ● did not explain what the treatment he intended to provide to Patient A involved and/or the associated risks, in particular relating to neck manipulation  
  ● did not obtain valid consent, in particular to neck manipulation  
  ● did not keep an adequate record of the appointments with patient A. | Finding of Unacceptable Professional Conduct leading to a suspension order for a period of nine months |
| Mark Piper 1022 September 2014                   | Patient            | From October 2001 until around December 2012, Mr Piper provided osteopathic treatment to Patient A and:  
  ● had an improper personal relationship with patient A  
  ● conducted an intermittent sexual relationship with Patient A  
  ● had sexual intercourse with Patient A at his place of work  
  ● failed to act in the best interests of patient A, in that he failed to refer her to another osteopath after the sexual relationship had begun  
  ● treated patient A for pain in her temporomandibular joint (TMJ) and on one or more occasions failed to adequately record the nature of treatment for TMJ he provided  
  ● on one or more occasions during the treatment of Patient A’s TMJ, failed to record whether Patient A consented to using an intra-oral technique and failed to offer a chaperone for this treatment. | Finding of Unacceptable Professional Conduct leading to a suspension order for a period of four months |
<table>
<thead>
<tr>
<th>Name, registration number and date of PCC decision</th>
<th>Source of complaint</th>
<th>Summary of allegations found proved</th>
<th>Outcome</th>
</tr>
</thead>
</table>
| Peter Martin 3191 November 2014 | Patient | Mr Martin:  
- failed to protect Patient A’s dignity and modesty by failing to provide her with a cover or towel for her use during treatment  
- failed to obtain Patient A’s valid consent before rubbing her tummy  
- failed to communicate effectively with Patient A by not explaining to her why it was necessary to rub her tummy on one occasion  
- failed to obtain consent from Patient A before placing his fingers inside the top of her underwear  
- failed to communicate effectively with Patient A by not explaining to her why it was necessary to adjust her underwear or to position his fingers inside her underwear. | Finding of Unacceptable Professional Conduct leading to a conditions of practice order for a period of nine months |
| Malcolm Mayer 1977 November 2014 | Patient | Patient A had a variety of health complaints and attended over 100 consultations with Mr Mayer. Between 18 August 2010 and 16 October 2013, during consultations Mr Mayer initially breached patient/practitioner boundaries and then behaved in an inappropriate and sexually motivated manner towards Patient A. Among other things, he sexually touched Patient A, which included touching her vagina on approximately five occasions and massaging her breasts and pressing his groin against her during treatment. This treatment was not clinically justified and was sexually motivated, and was an abuse of Mr Mayer’s professional position.  
In addition, Mr Mayer failed to obtain valid consent for providing lymphatic massage, and failed to maintain an adequate standard of record-keeping. | Finding of Unacceptable Professional Conduct leading to an order to remove the osteopath’s name from the Register of Osteopaths |
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<thead>
<tr>
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<th>Source of complaint</th>
<th>Summary of allegations found proved</th>
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</tr>
</thead>
</table>
| David Rodway 1116 December 2014 | Registrar | Between September 2012 and July 2013, Mr Rodway practised as an osteopath without obtaining insurance as required by the General Osteopathic Council (Professional Indemnity Insurance) Rules 1998, and failed to notify the GOsC that his insurance had ceased. Between 30 July 2013 and 28 April 2014, Mr Rodway failed to respond to correspondence from the GOsC in a timely manner or at all. Between 17 February 2014 and 10 June 2014, Mr Rodway failed to take timely steps to obtain retrospective insurance for the period between 1 September 2012 and 18 July 2013. By Mr Rodway’s action he:  
  ● failed to act in accordance with the law  
  ● acted to the detriment of patients during the period in which he did not have insurance cover and placed such patients at risk  
  ● failed to uphold the reputation of the profession. | Finding of Unacceptable Professional Conduct leading to an admonishment |
| Matthew Stevens 4242 January 2015 | Clinic director | Mr Stevens was undertaking (but had not completed) a course at Nottingham University, namely 'B940020 Contemporary Practices in Injection Therapy'; he had insurance cover for injections performed as part of the course but did not have insurance cover for injections performed outside the course. On 3 December 2013, Mr Stevens provided treatments to Patient A and Patient B. He administered a corticosteroid injection to Patient A and conducted joint aspiration on Patient B, draining approximately 20 ml of fluid from her left knee. He was not fully qualified to carry out these procedures. Mr Stevens failed to act in accordance with the standards of conduct and practice in that he:  
  ● failed to recognise and work within the limits of his competence  
  ● did not have adequate insurance for the procedures he carried out on Patient A and Patient B. | Finding of Unacceptable Professional Conduct leading to an admonishment |
<table>
<thead>
<tr>
<th>Name, registration number and date of PCC decision</th>
<th>Source of complaint</th>
<th>Summary of allegations found proved</th>
<th>Outcome</th>
</tr>
</thead>
</table>
| Quentin Shaw 2212 January 2015 | Patient | Between January 2013 and February 2013, Mr Shaw failed at one or more appointments to respect Patient A’s dignity and modesty by observing her while she undressed. At one or more appointments, Mr Shaw was abrupt, brusque and, on occasion, rude to Patient A and failed to communicate effectively with her. He said, among other things:  
  - “Relax, girl, relax,” or words to that effect  
  - “Just walk, woman, walk,” or words to that effect  
  - “What is your job? A teacher ... well, you should have enough intelligence to remember what to do,” or words to that effect.  
  At an appointment with Patient A on 14 February 2013, Mr Shaw said to her: “Just cry or do whatever you have to do,” or words to that effect. | Finding of Unacceptable Professional Conduct leading to an admonishment |
| Jonathan Cove 2125 February 2015 (Two cases considered at a single hearing) | Employee and Registrar | Mr Cove engaged in serious, deliberate and persistent dishonesty over a period of three-and-a-half years between 2009 and 2012. This included, among other matters:  
  - completing patient reports in the names of other healthcare practitioners  
  - failing to honour his professional financial obligations  
  - treating patients himself, even though they had been referred specifically for physiotherapy  
  - falsely representing to insurance companies that a qualified physiotherapist had treated those patients, in order to receive payments to which he was not entitled.  
  Mr Cove also encouraged an associate in his practice to arrange treatments that were not clinically justified for patients, and failed to pay money that he owed to other associates, even going so far as to stop the payment of cheques. | Finding of Unacceptable Professional Conduct leading to an order to remove the osteopath’s name from the Register of Osteopaths |
Review hearings

When the PCC decides to impose conditions on an osteopath’s practice (a conditions of practice order) or suspends an osteopath’s registration (a suspension order), it will review that order at a hearing before the order expires. The following cases were reviewed by the PCC during the period of this report.

<table>
<thead>
<tr>
<th>Name, registration number and date of review hearing</th>
<th>Summary of order requiring review</th>
<th>Outcome of review hearing</th>
</tr>
</thead>
</table>
| Jason Oshinowo 4794 September 2014 | Finding of Unacceptable Professional Conduct leading to a conditions of practice order in October 2013, which was reviewed in March 2014. At the March 2014 review hearing, the following conditions were imposed on Mr Oshinowo’s practice:  
- To place himself under the supervision of an osteopath approved by the GOsC.  
- To undertake an appropriate programme of training and/or developmental activity approved by his supervisor.  
- To pass a test of competence. | The PCC decided to revoke the conditions of practice order |
| Paul Kyte 3700 October 2014 | Finding of Unacceptable Professional Conduct leading to a conditions of practice order in January 2014. The following conditions were imposed on Mr Kyte’s practice:  
- To notify the GOsC within 14 days of any post he accepted or practice he established for which registration with the GOsC is required, and to provide the GOsC with contact details of the employer/practice.  
- To inform the GOsC of any patient complaints or other disciplinary proceedings taken against him.  
- To inform the GOsC if he applied for osteopathic employment or established a practice as an osteopath outside the UK.  
- To undertake a programme of retraining provided by a Recognised Qualification osteopathic education institution in the UK, which must also verify successful completion.  
- Not to invite or require any patient to remove underwear for the conduct of any examination, treatment or other procedure. | The PCC decided to revoke the conditions of practice order |
| Ben Quigley 6222 August and November 2014 | Finding of Unacceptable Professional Conduct leading to a conditions of practice order in March 2014. Mr Quigley had two review hearings in this period. At the first review in August 2014, the PCC extended and varied the Order for a further three months. The following conditions were imposed on Mr Quigley’s practice:  
- To undergo a period of retraining.  
- To provide the GOsC with a reflective note of the learning achieved.  
- To provide the review hearing with a sample of his guidance notes, consent forms and 10 sets of records of patients seen since 1 August 2014. | At the November 2014 hearing, the PCC decided to revoke the conditions of practice order |