



General
Osteopathic
Council

Fitness to Practise Annual Report 2019-20

**Investigating
Committee**

**Professional
Conduct
Committee**

**Health
Committee**

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This publication is available from our website at: osteopathy.org.uk/fitness-to-practise-annual-report

1. Updates to fitness to practise procedures in 2019-2020

As part of the GOsC's programme to continually enhance its fitness to practise processes, this year we have made a number of updates, some of which involve adaptations in light of the COVID-19 pandemic. These updates are set out below.

Introduction of interim Remote Hearings Protocol in response to COVID-19

Following government advice on COVID-19 infection control and social distancing, on 26 March 2020, the GOsC postponed all final hearings that had not yet commenced, until after 3 July 2020. This decision to postpone hearings was in-line with the other healthcare regulators and was taken to help protect the health of osteopaths, witnesses, and all parties who were scheduled to attend our hearings at Osteopathy House in London.

Throughout the whole period of continuing restrictions imposed due to the pandemic, we have continued to manage urgent hearings remotely, including hearings of interim suspension orders, reviews and some part-heard cases. Over a short period of time, acting quickly, flexibly and responsibly, we have adapted to the significant challenges thrown up by the pandemic. We were mindful that indefinite postponement of substantive hearings and meetings is not in the public interest or the interests of justice, and the timely consideration of fitness to practise concerns remain vital to fulfilling our overarching duty of protecting the public. However, the health and safety of all hearing participants also remains of paramount importance. We therefore explored how we could progress cases given some form of social distancing measures may be in place for an extended period of time.

In May 2020 we began the process of individually reviewing all cases awaiting consideration by the Professional Conduct Committee (PCC), identifying those which could be heard remotely where all participants attend online. We then recommenced listing substantive hearings virtually. We have also been holding some cases as 'blended' (or 'hybrid') hearings (hearings in which some people attend virtually and others are present at Osteopathy House) to ensure that all those involved in fitness to practise hearings can participate safely and effectively.

Prior to substantive hearings restarting, we arranged virtual training for all PCC panelists in June 2020, on the interim practice note on questioning witnesses together with the interim Remote Hearings Protocol. This training was facilitated by one of our legal assessors who is a QC and an experienced regulatory specialist. As transparency remains of fundamental importance in promoting public confidence in our regulatory processes, we developed an interim Remote Hearings Protocol to support the work of our Fitness to Practise Committees at virtual hearings. The protocol sets out what to expect and how to participate in remote hearings covering the whole hearing process and addressing anticipated questions about joining and participating in remote hearings. The interim [Remote Hearings Protocol](#) was approved by Council in July 2020.



Restoration Hearing Guidance

The GOsC published guidance in December 2019, detailing the arrangements for, and procedure at, a hearing where an application for restoration to the Register is made by an osteopath who has previously been removed following a fitness to practise hearing. An osteopath who is removed from the GOsC's Register for fitness to practise reasons may apply for readmission after a period of 10 months. In such cases the application for restoration to the Register must be referred to the Professional Conduct Committee for decision rather than being considered by the Registrar.

Standard Case Directions

The GOsC published its Standard Case Directions practice note in January 2020. The purpose of the Standard Case Directions is to enable osteopaths and their legal representatives to engage with the fitness to practise process to ensure timely progression and conclusion of cases which benefits both the osteopath and the public interest. The Standard Case Directions set out the timetable for steps to prepare a case for a hearing following a referral from the PCC.

Victim Support Service

This year, the General Osteopathic Council (GOsC) teamed up with the independent charity, Victim Support, to set up a confidential support service for anyone involved with investigations or hearings to enable participants to fully engage with our fitness to practise processes.

Those involved in fitness to practise investigations can access the support service using a helpline which is available for free, 24 hours a day, 365 days a year.

Those who need emotional support can call the helpline at any time to talk with trained staff from Victim Support about their experience. Alternatively, they can request a call from Victim



Support via their GOsC caseworker. Victim Support offers follow-up appointments and tailored ongoing support to the individual after the initial contact and throughout the fitness to practise process.

The service is funded by the GOsC but is entirely independent and confidential. The details of those who have contacted the service are not shared with the GOsC.

Witnesses or osteopaths can access the service at any time by calling 0300 303 1964 or by asking their GOsC caseworker for a referral.



2. Stages of the fitness to practise process

The General Osteopathic Council (GOsC) has a duty under the Osteopaths Act 1993 to investigate concerns about osteopaths.

We receive concerns about osteopaths from a variety of sources, including:

- patients
- members of the public
- employers
- other osteopaths
- referrals from other regulators

Patient concerns continue to be the main source of complaints about osteopaths. Through our fitness to practise processes we have a duty to identify whether a concern about an osteopath is a legitimate matter that needs to be investigated. The fitness to practise procedures are designed to protect the public and are not intended to serve as a general complaints resolution process.

The GOsC has three statutory committees:

- The Investigating Committee carries out the initial scrutiny of complaints about osteopaths and decides whether the osteopath has a case to answer.
- The Professional Conduct Committee hears cases involving criminal convictions or allegations against an osteopath's conduct or competence. If the Committee finds the allegation is well founded, it imposes an appropriate and proportionate sanction on the osteopath.
- The Health Committee considers cases where an osteopath is alleged to be in poor physical or mental health. Appropriate action is taken in the interests of the public and the osteopath.

Each committee meeting or hearing is attended by a legal assessor – a legally qualified person who provides the committee with advice on matters of law and procedure.

Any of our fitness to practise committees can impose an interim suspension order on an osteopath, if they feel it is necessary to protect the public in a case involving serious allegations.

An interim suspension order suspends the osteopath's registration pending the investigation and outcome of the hearing.

Screeners

The Regulation Department reviews all the concerns received and conducts an initial risk assessment to ensure there is no immediate risk to public protection. We gather as much information as possible at this initial stage before referring the concern to a 'screener' (an osteopath member of the GOsC Investigating Committee). As part of our information gathering, we usually seek additional information or clarification from the person raising the concern. If the person raising the concern does not provide the further information within 42 days of the request, the concern will then be referred to a screener with a recommendation for closure on the basis that there is insufficient relevant and credible supporting material.

If we do receive the information, the case is passed to the screener who reviews the concern to determine whether it is capable of amounting to an allegation under the Osteopaths Act. In reaching a decision, the screener can refer to the ‘threshold criteria’ to help decide whether an activity complained about constitutes unacceptable professional conduct, which is ‘conduct which falls short of the standard required of an osteopath’.

If the screener decides that the GOsC has no power to investigate the concern, the matter is referred to a lay screener to review the documentation and the screener’s decision. If they both agree, the matter can be closed. If they disagree, then the matter is referred to the Investigating Committee.

Investigating Committee

The Investigating Committee, consisting of five members, meet in private to consider cases that have been referred to it by a screener. The Committee considers whether there is a case to answer against the osteopath in question and takes the threshold criteria into account when making its decision.

If the Investigating Committee decides there is no case to answer, the case will be closed.

The Committee may determine that it has insufficient information in order to fairly consider the matter and will adjourn consideration in order to obtain additional information.

If the Investigating Committee decides there is a case to answer, a hearing will be arranged before the GOsC’s Professional Conduct Committee or, if the matter concerns an osteopath’s health, a hearing will be arranged before the Health Committee.

Professional Conduct Committee

The Professional Conduct Committee (PCC) consists of three members where the Chair must be lay. A legal assessor is also present to assist the Committee on any legal matters that may arise during a hearing.

Hearings are usually held in public and members of the public can attend. However, depending on the nature of the case, there may be occasions when part or all of the hearing must be held in private for example where the hearing involves matters to do with the osteopath’s health or private life.

When considering a case, the Committee’s decision-making process is in three stages:

1. Findings of fact

The Committee will consider whether it finds the facts alleged against an osteopath proved. Some of the facts may be admitted by the osteopath and other facts may be in dispute. The Committee will consider the disputed facts and decide whether it is more likely than not that they happened. This is known as the ‘balance of probabilities’.

If the Committee does not find any of the facts proved, the case will be concluded. Where it finds some or all of the facts proved, the hearing will proceed to the next stage.

2. Finding on allegation

Once the findings of fact have been announced, both parties (the GOsC's case presenter and the osteopath) will be invited to make submissions on unacceptable professional conduct or professional incompetence or whether a criminal conviction is material (seen as relevant) to the practice of osteopathy. This is a matter for the PCC's judgement and is not a matter of proof.

The Committee will hear and consider the submissions and will retire in private to consider its findings. When a decision has been reached, the Chair will announce the Committee's decision.

3. Sanctions

If the Committee determines that the facts amount to unacceptable professional conduct or professional incompetence, or that a criminal conviction is material to the practice of osteopathy, it will then hear any additional submissions by both parties regarding the allegations. It will also take account of submissions made by each party on the sanction to impose.

The Committee will consider the evidence in private and decide which sanction to impose. If the Committee finds an allegation against an osteopath is well founded, it must impose one of the following four sanctions on the osteopath:

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

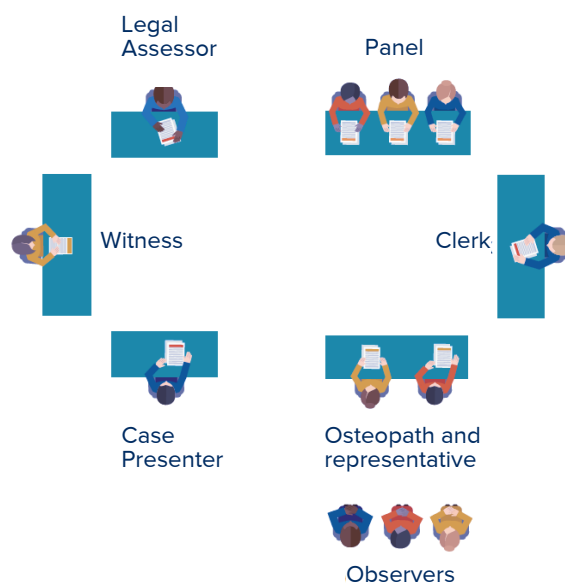
Health Committee

The Health Committee can only impose conditions of practice or a suspension in cases where it finds that the osteopath's fitness to practise is seriously impaired because of their physical or mental condition.

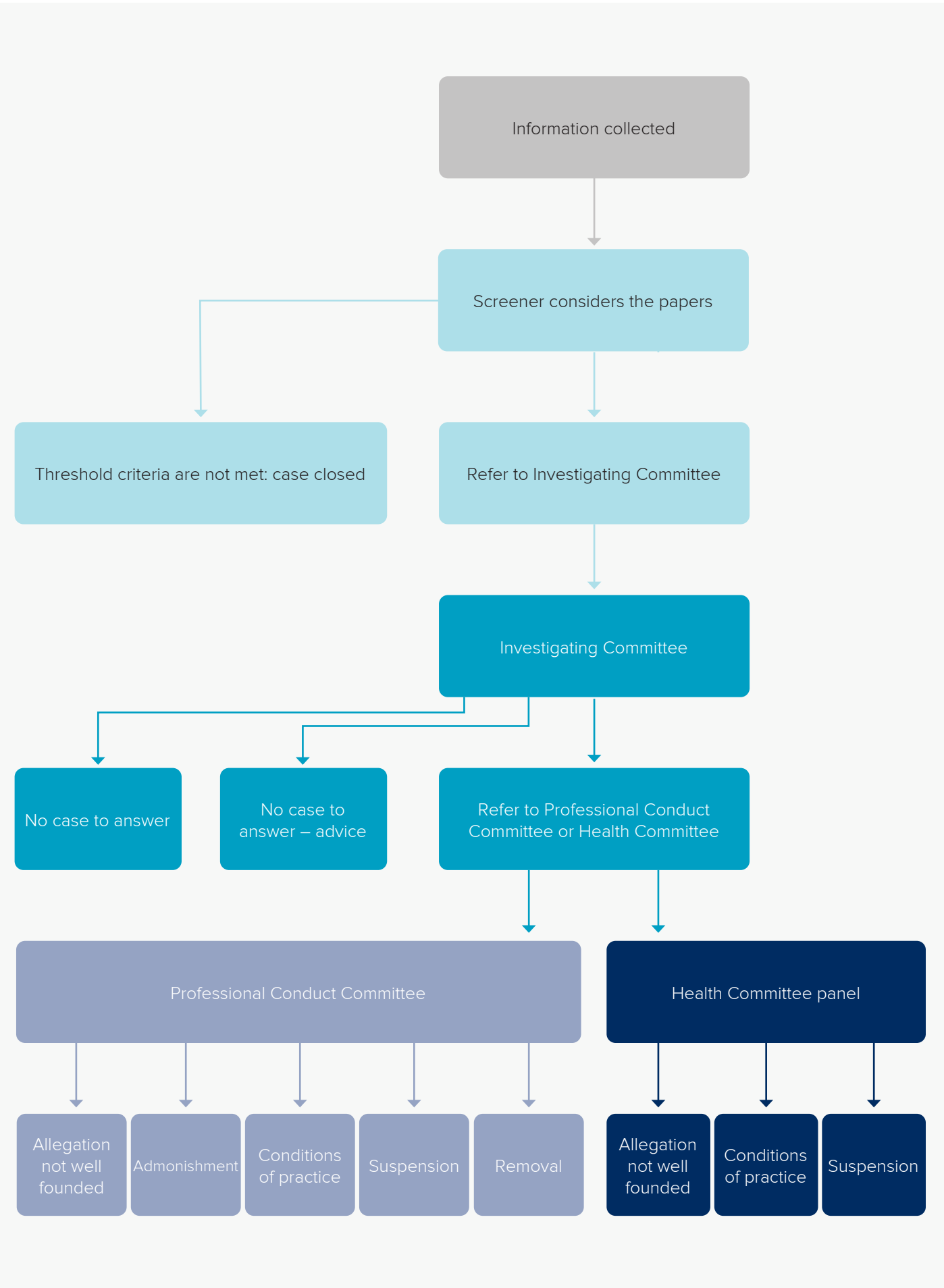
Committee hearings usually take place in private and consist of three members:

- lay Chair
- osteopath
- lay member

A legal assessor and a medical assessor are also present to assist the Committee on any legal and medical matters that may arise during a hearing.



Example of how a hearing room is set up



3. Investigations and hearings 2019-2020

Investigating Committee decisions

During the 12 months from 1 April 2019 to 31 March 2020, the Investigating Committee met 9 times and considered 40 cases. It concluded that 26 of those cases should be heard by the Professional Conduct Committee. In the remaining 14 cases it found no case to answer.

In 1 case, the complaint was sufficiently serious for the Committee to impose an interim suspension order pending a hearing. In a second case, the Committee did not impose an interim suspension order but accepted undertakings from the osteopath.

Health Committee decisions

There were 2 cases heard by the Health Committee from 1 April 2019 to 31 March 2020. In 1 case a suspension order was imposed and in the other the allegation was found not proved.

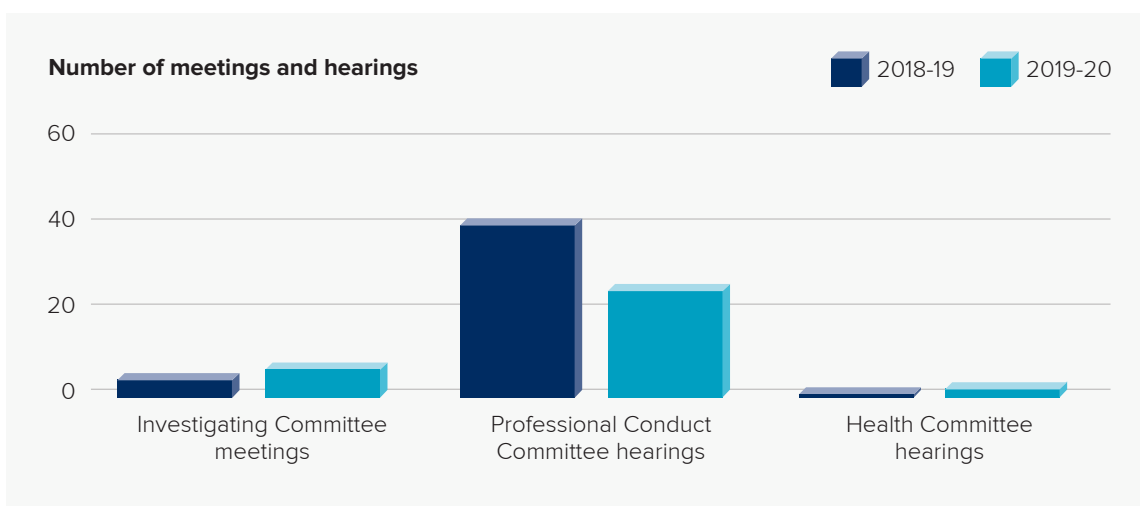
Professional Conduct Committee decisions

From 1 April 2019 to 31 March 2020 the Professional Conduct Committee made a final decision in 23 cases, of which 21 related to unacceptable professional conduct and 2 related to criminal convictions. 2 of the cases relating to unacceptable professional conduct related to the same osteopath and were heard jointly.

The Committee removed 1 osteopath from the Register. Another case against the same individual was stayed by the Committee following this removal decision.

During this period 7 osteopaths were suspended from practice. In 1 case the suspension was overturned and replaced with an admonishment following an appeal by the osteopath.

Conditions of practice were imposed on 1 osteopath and 3 osteopaths were admonished by the Committee. No findings were made against the osteopaths concerned in 9 cases and these were closed with no further action.



Interim suspension order hearings

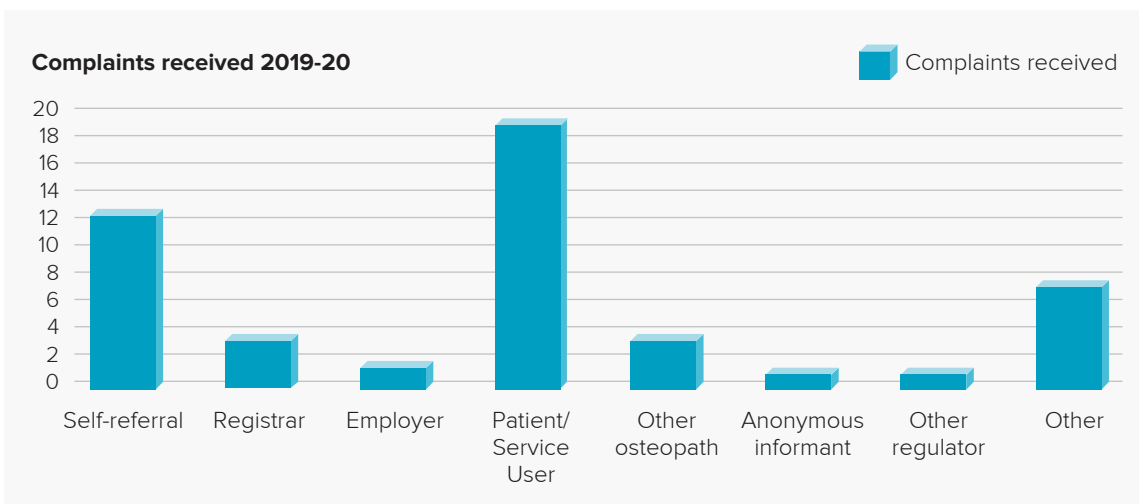
The Investigating Committee, Professional Conduct Committee and Health Committee can impose a suspension order on an osteopath for an interim period if there is a real risk to members of the public. The table below shows how many interim suspension order (ISO) hearings took place, and the number of ISOs imposed, and the number of undertakings[†] from 1 April 2019 to 31 March 2020.

Committee	Number of ISOs applied for	Number of ISOs imposed	Number of undertakings
Investigating Committee ISOs applied for	5	1	1
Professional Conduct Committee ISOs applied for	1	0	0
Health Committee ISOs applied for	0	0	0

[†] Undertakings are defined as solemn written promises which are made by the osteopath to the Fitness to Practise Committee considering allegations against him/her; and setting out the terms on which the osteopath will voluntarily restrict his/her practice until the final determination of the allegations.

Who makes complaints?

The GOsC receives concerns from a variety of sources. The highest number of concerns come from patients or those who have engaged the services of the osteopath. The GOsC also receives concerns from colleagues and employers. In some cases, concerns come to the attention of the GOsC without an identifiable complainant. In these circumstances, the GOsC's Registrar becomes the complainant.



How quickly do we process complaints?

The table below shows the time taken for cases to be heard, from April 2019 to March 2020.

Committee	Median time from receipt of formal complaint to decision
Investigating Committee	26 weeks (target = 26 weeks)
Professional Conduct Committee	65 weeks (target = 52 weeks)

4. Professional Conduct Committee decisions 2019-2020

The table below covers substantive hearings concluded by the Professional Conduct Committee during the period 1 April 2019 to 31 March 2020.

This report is produced in accordance with the Osteopaths Act 1993, Section 22(13) and (14), which requires the Committee to publish a report setting out the names of those osteopaths in respect of whom it has investigated allegations and found the allegations to be well founded. Issues involving osteopaths' fitness to practise

are an integral part of the GOsC's 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

Osteopath	Date of decision	Source of complaint	Outcome	Summary
Daniel Gerber (3698)	5 April 2019	Patient/service user	Suspension for a period of 4 months	<p>On one occasion Mr Gerber put his elbow into Patient A's back, applying his full weight. Patient A had attempted to stop Mr Gerber by shouting 'I'm in trouble' or words to that effect. Mr Gerber applied greater pressure to Patient A's back causing him pain.</p> <p>Mr Gerber did not adequately explain the planned treatment and associated risks to Patient A. He did not obtain valid consent for the treatment.</p> <p>Mr Gerber failed to make adequate clinical records of Patient A's appointments and failed to retain any clinical records for Patient A between 2005 and 2017.</p>
Andreas Alexander (322)	16 May 2019	Self-referral	Admonishment	<p>On 10 May 2016, Mr Alexander failed to obtain valid consent from Patient A for treatment and failed to offer her a chaperone.</p> <p>(Continued on next page)</p>

Osteopath	Date of decision	Source of complaint	Outcome	Summary
				Mr Alexander demonstrated a lack of integrity in that he failed to notify the GOsC as soon as reasonably practicable that he had been suspended by his employer and was subject to an interim order by the General Medical Council.
Michael Hammond (3790)	21 May 2019	Police	Removal	On 17 July 2017, Mr Hammond was convicted at Caernarfon Crown Court of recording a person doing a private act. Namely, a covert recording of a sexual act between Mr Hammond and an unknown female which occurred in the front treatment room of his clinic.
Tari MacDonald (2575)	30 August 2019	Non-osteopath colleague	Suspension for 18 months	<p>Mr MacDonald engaged in sexual activity with Patient A during appointments at his treatment room on 27 November and 5 December 2017.</p> <p>Mr MacDonald's actions as described above were:</p> <ul style="list-style-type: none"> • a transgression of professional and sexual boundaries; and/or • an abuse of his professional position; and/or • not in Patient A's best interests. <p>Mr Macdonald failed to maintain adequate patient records for Patient A.</p>
Paul Robinson (1514)	9 September 2019	Patient/service user	Conditions of Practice for a period of 12 months	<p>During treatment sessions in April and May 2018, Mr Robinson:</p> <ul style="list-style-type: none"> • made inappropriate statements to Patient A. Namely: • 'let's get naked' • 'were you not on my honeymoon?' [when Patient A stated 'you haven't done this position before'] <p>(Continued on next page)</p>

Osteopath	Date of decision	Source of complaint	Outcome	Summary
				<ul style="list-style-type: none"> • ‘oh tell everyone I gave you a multiple, I will be famous all round with other osteopaths’ • ‘you’ll be telling your husband that I asked you to stand on your tip toes and bend over in just your underwear’ • ‘[Patient A] is small but perfectly formed’ • ‘oh yes you have shaved’ [while touching Patient A’s legs] • failed to offer Patient A a chaperone • instructed Patient A to undress down to her underwear although this was not clinically necessary • rubbed Patient A’s calf although this was not clinically necessary • invited Patient A to meet him for a social, non-professional purpose.
Quentin Shaw (2212)	13 September 2019	Patient/service user	Admonishment	<p>On 25 May 2018 during an appointment with Patient A, Mr Shaw did not communicate appropriately and professionally with Patient A’s mother in that he questioned and challenged her about her political views.</p> <p>Mr Shaw’s conduct put Patient A in fear of being hurt during treatment.</p>
Benjamin Ludlow (5741)	16 October 2019	Self-referral	Suspension for 5 months	<p>On 4 October 2018, Mr Ludlow was convicted of doing acts tending and intended to pervert the course of public justice for which he was sentenced to 6 months’ imprisonment suspended for 18 months.</p>
Christian Bates (2913)	1 November 2019	Registrar	Suspension	<p>Mr Bates was registered as an osteopath from 1 September 2015 to 7 June 2018 without professional indemnity insurance cover.</p> <p>(Continued on next page)</p>

Osteopath	Date of decision	Source of complaint	Outcome	Summary
				<p>Mr Bates knew that in holding himself out to the public as an osteopath, he was required to hold professional indemnity insurance.</p> <p>Mr Bates treated patients despite not having appropriate professional indemnity insurance, thereby acting to the potential detriment of such patients and placing them at risk.</p> <p>Mr Bates renewed his registration online on three separate occasions during the relevant period, namely 26 April 2016, 27 February 2017 and 29 May 2018, falsely declaring that he had professional indemnity insurance cover.</p> <p>His conduct was misleading and lacked integrity.</p>
Dinash Gaur (1581)	6 November 2019	Registrar	Suspension for 12 months	<p>Mr Gaur was registered as an osteopath from 27 November 2016 to 19 March 2017 without professional indemnity insurance cover (the first relevant period).</p> <p>Mr Gaur was registered for a further period from 20 March to 31 October 2018 without professional indemnity insurance. (the second relevant period).</p> <p>Mr Gaur knew that in holding himself out to the public as an osteopath, he was required to hold professional indemnity insurance.</p> <p>Mr Gaur's conduct in relation to the first and second relevant periods lacked integrity.</p> <p>Mr Gaur made misleading submissions to the GOsC through his solicitor about the second relevant period.</p>

Osteopath	Date of decision	Source of complaint	Outcome	Summary
Jacqueline Almond (9521)	28 November 2019	Registrar	Suspension for 2 months	<p>Ms Almond was registered as an osteopath from 17 May to 26 September 2018 without professional indemnity insurance.</p> <p>Ms Almond failed to immediately inform the GOsC that her insurance had lapsed.</p> <p>Ms Almond knew that in holding herself out to the public as an osteopath, she was required to hold professional indemnity insurance.</p> <p>Ms Almond treated patients despite not having appropriate professional indemnity insurance, thereby acting to the potential detriment of such patients and placing them at risk.</p> <p>Ms Almond's conduct above was misleading, lacked integrity and was dishonest.</p>
Giles Gyer (8104)	11 February 2020	Anonymous	Admonishment	<p>Between March 2015 and November 2016, non-physiotherapist staff provided physiotherapy treatment at a company where Mr Gyer was a director.</p> <p>Claims for payment of the physiotherapy treatment by non-physiotherapist staff were submitted to BUPA by the company.</p> <p>Mr Gyer's conduct set out above demonstrated a lack of integrity.</p>
Jimmy Michael (8107)	11 February 2020	Anonymous	Admonishment	<p>Between March 2015 and November 2016, non-physiotherapist staff provided physiotherapy treatment at a company where Mr Michael was a director.</p> <p>Claims for payment of the physiotherapy treatment by non-physiotherapist staff were submitted to BUPA by the company.</p> <p>Mr Michael's conduct demonstrated a lack of integrity.</p>

Review Hearings

Osteopath	Date of review	Order requiring review	Outcome of review
Oliver Eaton (8557)	16 April 2019	Suspension	The suspension order imposed in September 2018 to run its course and expire on 18 January 2019.
Elizabeth Treadaway (6857)	27 May 2019	Suspension	Case stayed because the PCC directed Ms Treadaway's removal in February 2019.
Marietta Olson (7631)	28 June 2019	Suspension	The suspension order to lapse on expiry.
Daniel Gerber (3698)	24 July 2019	Suspension	The suspension order to lapse on expiry.
Jacqueline Almond (9521)	19 February 2020	Suspension	The suspension order to lapse on expiry.
Benjamin Ludlow (5741)	30 March 2020	Suspension	The suspension order to lapse on expiry.

Allegations not well founded

The Professional Conduct Committee considered a case against Garry Hares (3413) in January and July 2020. The Committee determined that the allegations found proved, did not amount to unacceptable professional conduct and the case was concluded with no findings against Mr Hares.



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