



Initial Closure Procedure

This note was approved by Council on 12 July 2016

1. The purpose of this procedure note is to enhance the transparency of the initial stages of the GOsC's disciplinary process, by explaining the way in which we deal with professional conduct and fitness to practise concerns where they are not (yet) accompanied by sufficient relevant information to permit a decision on closure or referral under the statutory process.
2. The GOsC investigates and determines complaints (also known as allegations) about the professional conduct and fitness to practise of registered osteopaths (registrants), following a process set out in law. The Osteopaths Act 1993 (the Act), the primary legislation, puts a broad framework in place, especially in sections 19-28. More detailed adjudicatory steps and functions are described in secondary legislation: especially the General Osteopathic Council (Investigation of Complaints) (Procedure) Rules 1999 (Rules). Additionally, paragraph 15 of schedule 1 to the Act gives the GOsC a broad power to do anything which is calculated to facilitate, or which is incidental or conducive to, the discharge of any of its functions: paragraph 15(1). It also confers a discretion for the GOsC to regulate its own procedure: paragraph 15(5).
3. Section 20 of the Act sets out the categories of allegation that must be investigated by the GOsC. It does not apply to **every** general communication, assertion or concern, but only to: (i) an allegation, (ii) against a registrant, which (iii) falls within one of six defined categories. Most notably, these include:
 - the registrant has been guilty of conduct which falls short of the required standard (known as 'unacceptable professional conduct');
 - the registrant has been guilty of 'professional incompetence';
 - the registrant has been convicted at any time in the UK of a criminal offence which has 'material relevance to the fitness of the osteopath concerned to practise osteopathy'; and
 - the registrant's ability to practise as an osteopath is 'seriously impaired because of his physical or mental condition'.
4. The GOsC uses the term fitness to practise 'concern' to describe any professional conduct communication containing information which may amount to an 'allegation' or 'complaint' under the Act. This procedure note outlines the process undertaken upon receipt of a concern.
5. An initial assessment is carried out of every concern received, to enable a determination on whether it is an allegation or complaint capable of falling into one or more of the categories of section 20 of the Act. An allegation or complaint needs no particular formality. Although a completed form or a signed witness statement will often make things easier and quicker, any form of communication may be sufficient as content and substance is more important than the presentational form.

6. Concerns reach the GOsC from many different sources: patients, relatives, other members of the public, employers, colleagues and public officials (such as the police). The GOsC may also become aware of fitness to practise concerns about a particular registrant or group of registrants through other channels (such as the media or the publication of a report). In this situation, the GOsC can raise the enquiry on its own initiative. Regardless of the means by which a concern arises, the GOsC has a duty to identify whether there is a legitimate concern that needs to be investigated.
7. The GOsC's overriding objective is to protect public and patient safety. It takes seriously any professional conduct and fitness to practise communications. However, not all such communications raise safety issues. Accordingly, the extent and immediacy of any risk posed by the registrant is always assessed on receipt of every concern. The risk level of the concern will be reassessed throughout its lifecycle, as there can be a significant difference in risk level to patient and public safety as the case progresses after the concern is first received.
8. Sections 20(4) and (5) authorises the GOsC to make Rules requiring 'preliminary consideration' to be carried out by 'a person appointed by the [GOsC's] Council'. Those persons are appointed, and their role detailed, by rules 3-6. They are known as 'Screeners', and all are members of the Investigating Committee (IC). Section 20(6)(a)-(b) require a Screener to:
 - (a) consider the allegation with a view to establishing whether, in his opinion, power is given by this Act to deal with it if it proves to be well founded; and
 - (b) if he considers that such power is given, give the [IC] a report of the result of his consideration.'
9. Thus, if the Screener considers that there is power to deal with the allegation, it must be referred to the IC along with the Screener's report (which may contain a recommendation). Otherwise, the Screener should dismiss (close) the case and inform the complainant through a written and reasoned decision: rule 6(1). The GOsC has developed an established practice to furnish the Screener with adequate material to permit a properly informed choice between those two options: either referral to the IC or closure.
10. Concerns often need clarification. They can be very brief, vague and/or incoherent. For each new concern the GOsC tries to gather information (if it has not already been provided) which is sufficiently relevant, credible and detailed to enable the Screener to reach a reasonable opinion on whether or not 'power is given by [the] Act to deal with it if it proves to be well founded'. Essentially, this involves the Screener forming a view (and perhaps making a recommendation) on whether the concern meets the statutory definition of an 'allegation' or 'complaint' (as set out in paragraph 3 above) and is **capable** (assuming the factual assertions are made out) of affecting the registrant's registration status. This typically means inviting the enquirer or third parties to provide further information. Such requests are issued under rule 5, which permits Screeners to 'seek information about or observations on the case from any person who, in the opinion of the Screener, might assist him in his consideration'. In practice, it is the regulation team that sends out the requests, in order to streamline the process.

11. Sometimes, the registrant is also asked for some input before the papers are placed before a Screener.
12. The GOsC imposes a deadline to this initial stage of its disciplinary function to enable concerns to be managed in a timely manner. If the enquirer or other third parties do 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 the enquirer cooperates sooner, an earlier referral is made. The Screener will then form a view in accordance with the [Guidance for Screener](#).
13. Before the case is referred to a Screener, the initial risk assessment will be reviewed. As described above at paragraph 7, patient and public safety is an ongoing assessment and will be assessed before any case is considered by a Screener. The initial closure procedure applies to only those concerns that are assessed **not** to raise an issue of public and patient safety.¹
14. This procedure note should be read in conjunction with the GOsC's guidance on [Threshold Criteria for Unacceptable Professional Conduct](#).

Version history

Document title	Document author	Version	Date	Changes made
Initial Closure Procedure	Regulation department	1	July 2016	
Initial Closure Procedure	Regulation department	1.2	Jan 2020	<p>Changed 'enquiry' to 'concern'</p> <p>Clarification that risk assessment of a concern is ongoing</p> <p>Added footnote clarifying when a concern raises an issue of public and patient safety</p>

¹ Whether a concern raises an issue of public and patient safety is made at the point it is considered by the Screener