



Consensual Disposal Consultation Note

Introduction

1. All osteopaths who are registered with the General Osteopathic Council (GOC) must be fit to practise. This means that they must have the skills, knowledge, good character and health to do their job safely and competently. We investigate concerns about an osteopath's fitness to practise, and if, ultimately, those concerns prove to be well founded, the osteopath may be subject to a sanction which can range from admonishment to removal from the Statutory Register of Osteopaths.
2. The processes under which concerns are dealt with are laid down in legal Rules and within that framework we try to address concerns in a cost effective and proportionate way, remembering always that we exist to protect patient safety and that our procedures must be fair to all parties.

Complaints process

3. The current process for dealing with concerns about conduct, competence or criminal convictions is as follows:
 - i. A complaint is made and if we have jurisdiction to deal with it ('screened in') it is investigated and considered by our Investigating Committee.
 - ii. If our Investigating Committee find there is a 'case to answer' they refer it to the Professional Conduct Committee. If they find there is no case to answer, the case is closed.
 - iii. When the Investigating Committee decides that there is a case to answer, it also decides what specific matters it wishes to refer to the Professional Conduct Committee. Following that, charges are drawn up which form the basis of the case against the osteopath.
 - iv. A hearing is held, at which the osteopath has a right to be present. The Professional Conduct Committee listens to the charges and the evidence put both against and for the osteopath, and then comes to a decision about the case. If it finds against the osteopath the Committee must impose a sanction.
4. Currently, whenever the Professional Conduct Committee decides a case about an osteopath there is a full hearing. However, there is scope within the rules for us to close (or 'dispose of') certain cases by agreement with the osteopath concerned. This is known as 'consensual disposal'.

We believe that such an approach has a part to play in achieving the aims of patient safety and fairness to the parties, and have been reconsidering one of the Rules which would allow for consensual disposal. We are now seeking the views of osteopaths, patients and members of the public on our proposals.

Our proposal

5. Rule 8 of the GOSc's Professional Conduct Committee Procedure Rules 2000 allows for certain cases (described below), which have been referred by the Investigating Committee to the Professional Conduct Committee, to be disposed of without a hearing.
6. This discretionary power of consensual disposal has not been exercised since March 2003 when the Council, having received legal advice that its use put into question an osteopath's right to a fair trial under human rights legislation, decided that it should no longer be used.
7. Consensual disposal may be used where an osteopath admits all the facts in the allegation, and that they amount to unacceptable professional conduct (UPC), professional incompetence or that the osteopath has been convicted of the offence(s) referred to in the complaint, and the Professional Conduct Committee (PCC) concludes that an admonishment would be the appropriate sanction. This operates in the time between a referral from the Investigating Committee (IC) and hearing by the PCC, as shown in the following brief summary of the PCC's procedural rules:
 - Rule 4 after referral of the allegations by the IC, the Council, in its role as prosecutor, sends papers to solicitors to review the evidence and draw up charges.
 - Rule 7 the PCC [in practice, the Council on its behalf] serves the registrant [osteopath] with a copy of the allegations referred, its evidence and a copy of the Rules, notifies the registrant that he has an opportunity to put his case at a hearing, if he asks for one or the PCC considers it desirable, and that he has a right to be represented.
 - Rule 8 following referral of the allegations by the IC, the PCC reviews the evidence 'assembled by the IC and any material submitted by the osteopath' and where it considers it appropriate to do so, can:
 - a. Invite the osteopath to say if he accepts that the facts amount to UPC, professional incompetence, or that he has been convicted of the offence(s) referred to in the complaint,
 - b. Tell him that if he does so accept, they would be minded to conclude that the complaint can be dealt with by way of admonishment without a hearing, and
 - c. Tell him also that if he does not want to go down the route in b) he is entitled to a hearing.

8. The GOsC decided last year to look again at the principle of consensual disposal. Working with our Fitness to Practise Policy Committee, we have been considering whether the concerns expressed in 2003 (that use of the consensual disposal could jeopardise the fairness of proceedings for an osteopath) continued to be justified, and if not whether, and how, this should again be used in cases which have been referred by the IC to the PCC.
9. We obtained further legal advice on the human rights concerns previously raised. This advice concluded that using consensual disposal did not prejudice a registrant's right to a fair trial and any specific problems which might arise from its use could be overcome.
10. Since then we have been looking at how consensual disposal might work in practice. There are practical challenges which arise in identifying and agreeing suitable cases for disposal in this way, as well as challenges in terms of safeguarding patient safety and ensuring that osteopaths, whose cases may be disposed of in this way, have fully accepted the allegation and shown insight and remorse.
11. We consider that those practical challenges can be overcome, and the GOsC's Council has recently formally approved the renewed use of consensual disposal subject to consultation.

The consultation

12. We are asking osteopaths, patients and the public if they agree in principle with the implementation of consensual disposal or not, and why. Please fill in the [online consultation response form](#) or the Word [consultation response form](#) with your views.
13. Copies of this Consensual Disposal Consultation Note setting out our proposals for consultation and the consultation response form are also available in other formats on request by contacting the GOsC via email at regulation@osteopathy.org.uk or 020 7357 6655 ext 236.
14. This consultation runs from 30 November 2012 until 31 January 2013.

Next steps

15. Views expressed in this consultation will be taken into account by the GOsC Council before we make any changes to the use of consensual disposal.
16. If implemented, we will support the application of consensual disposal with a Guidance Note, setting out the principles of this course of action and serving as a practical explanation to interested parties of how it will operate. The Guidance Note will be supplemented by other relevant documents, including letters to the osteopath or their representative following the IC referral, so that the process works properly and smoothly.

Further information

17. More information on how the GOsC deals with concerns and complaints about osteopaths is available at: www.osteopathy.org.uk