



**Education and Registration Standards Committee
19 September 2013
Good Character Assessment Framework**

Classification	Public
Purpose	For discussion
Issue	A person applying for registration must, as part of their application, satisfy the Registrar that they are of 'good character'. This paper proposes the introduction of a 'Good Character Assessment Framework' to assist the Registration team in determining whether someone is of 'good character'.
Recommendation	To consider the Good Character Assessment Framework set out in the Annex.
Financial and resourcing implications	None.
Equality and diversity implications	None.
Communications implications	None.
Annex	Good Character Assessment Framework
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Background

1. Under Section 3 of the Osteopaths Act 1993 a person applying for registration must satisfy the Registrar that he or she 'is of good character'. In practice, the function of deciding whether or not an applicant is of good character is carried out by the Registration team.

Discussion

Entry to the Register

2. Applicants for registration are required to undertake an 'enhanced check for regulated activity' as part of their application. The check, formerly known as a Criminal Records Bureau check, discloses any caution or conviction issued to an applicant.
3. Any disclosure is discussed on a case-by-case basis between the Acting Head of Registration and Chief Executive and Registrar regardless of the severity of the disclosure.

Renewal of Registration

4. At the point a registrant renews their registration the osteopath self-declares whether there are any 'character issues' that should be considered by the Registrar prior to renewal being granted.
5. Any disclosure would be discussed on a case-by-case basis between the Acting Head of Registration and Chief Executive and Registrar regardless of the severity of the disclosure.

Good Character Assessment Framework

6. It is proposed that a Good Character Assessment Framework be introduced to assist the Registration team in determining whether the applicant/registrant is of good character.
7. The introduction of the Framework will ensure the Registration team are better placed to make consistent and proportionate decisions.
8. In practice this would mean disclosures which presented certain factors that would be automatically regarded as serious (as set out in the Framework) would be referred to the Registrar, with other disclosures being handled by the Registration team in-conjunction with the Acting Head of Registration.

Structure of the Framework

9. The Framework – set out in the Annex – is structured in the following way:

- a. Purpose: This section sets out the purpose of the framework which is to assist the Registration team in making consistent and proportionate decisions about whether an applicant/registrant is of good character.
- b. Definition of Good Character: This section defines good character and acknowledges the Professional Standards Authority (PSA) test of good character as set out in their publication, *A common approach to good character across the Health Professions Regulators*.

The Registration team would use the definition and PSA test when deciding whether or not an applicant for registration is of good character.

- c. Good Character Assessment Framework: This section describes the evidence to be considered when deciding whether or not an applicant is of good character; the factors to be considered when assessing the weight and significance of any evidence about the applicants' character, and when considering the seriousness of the disclosure what factors will automatically be regarded as serious.

This section also sets out a presumption that where certain factors are present, the applicant should not be registered. Further discussion is set out at paragraphs 10-12.

- d. Application of Good Character Assessment Framework to renewal of registration: This section confirms that the factors and principles set out in the framework apply equally to self-declarations made at the point of registration renewal as they do new applications for registration.

Presumption against registration without consideration by the Registrar

10. The framework sets out a number of factors which, when present in the disclosure, will automatically be regarded as serious and where they must be referred to the Registrar:

Dishonesty, fraud, deceit or misrepresentation
Drug or alcohol dependency
Violence or intentional or deliberate or reckless disregard of human life
Sexualised behaviour as defined in <i>Clear sexual boundaries between healthcare professionals and patients; responsibilities of healthcare professionals</i> published by the CHRE in January 2008
Sexual acts with children

Abuse of trust or other inappropriate behaviour with vulnerable persons ¹
Trafficking in, or illegally manufacturing, any controlled drug
Threats to public health, safety or welfare
Discrimination on the grounds of race/colour/religion
Blatant disregard for the law or the system of registration

11. The Committee views are sought on this approach.

Recommendation: to consider the Good Character Assessment Framework set out in the Annex.

¹ Vulnerable persons are 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.

GOOD CHARACTER ASSESSMENT FRAMEWORK

1. THE PURPOSE OF THIS FRAMEWORK

Under Section 3 of the Osteopaths Act 1993 (1993 c.21), a person seeking registration with the General Osteopathic Council (GOsC) must satisfy the GOsC Registrar that he or she 'is of good character.'

In practice, the function of deciding whether or not an applicant is of good character, will be carried out by the GOsC Registration Department.

The purpose of the Good Character Assessment Framework is to assist the Registration Department in making consistent and proportionate decisions.

In deciding whether or not an applicant is of good character, the Registration Department will have regard to the matters set out in this framework.

Where the Registrar decides that an applicant is not of good character, the applicant may appeal to the Registration Appeals Committee in accordance with section 29 of the Osteopaths Act 1993.

2. THE DEFINITION OF GOOD CHARACTER

For the purpose of the GOsC's registration procedures, we define 'good character' as:

'the absence of evidence that a person has committed conduct or behaviour that is inconsistent with the Osteopathic Practice Standards published by the GOsC, or the exercise of the profession of osteopathy; and that he or she has any disposition to commit such conduct or behaviour.'

In *A Common Approach to Good Character across the Health Professions Regulators*, the Professional Standards Authority stated that 'Health professionals have a relationship with members of the public unlike that in many other sectors, one which is rooted in the mutual trust, confidence and respect that are necessary for a profession to be practised safely and effectively. To prove that they are fit to enter this relationship there are expectations that a prospective professional must meet.'

The PSA set out a suggested test of good character (at paragraph iii, p.2 and paragraph 4.9):

'Has the applicant in the past acted, or is there reason to believe that the applicant may be liable in the future to act:

- in such a way that puts at risk the health, safety or well-being of a patient or member of the public;
- in such a way that his/her registration would undermine public confidence in the profession;

- in such a way that indicates an unwillingness to act in accordance with the standards of the profession; or
- in a dishonest manner.'

In deciding whether or not an applicant for registration is of good character, the GOsC Registration Department will apply the test suggested by the Professional Standards Authority.

In making decisions about an applicant's character, the GOsC Registration Department will also have regard to the GOsC's published *Indicative Sanctions Guidance*, to provide a benchmark about the seriousness of any findings or convictions received by the applicant; or any allegations or other information about his or her conduct or behaviour.

The rationale for this is that conduct or behaviour that would lead to a registrant being barred from practising should also prevent an applicant from entering the profession in the first place.

Any person applying for registration bears the burden of proving that he or she is of good character.

3. GOOD CHARACTER ASSESSMENT FRAMEWORK

In deciding whether or not an applicant is of good character, the Registrar will consider all available evidence about his or her character.

This may include evidence relating to:

- a) criminal convictions;
- b) cautions, bind-overs, conditional discharges, admonishments or reports to a procurator fiscal;
- c) findings by a body responsible for the regulation of a health or social care profession;
- d) findings made by an osteopathic educational institution;
- e) findings made by a Criminal or Civil Court relating to the applicant;
- f) any evidence in criminal or civil proceedings relating to the registrant, including claims for negligence and disciplinary proceedings;
- g) allegations, complaints or information about the conduct or behaviour of the applicant which have been brought to attention of the Registrar and which are incompatible with the standards set out in the *Osteopathic Practice Standards*; and
- h) testimonials and character references about the applicant.

In the case of applicants seeking temporary registration under Section 5A of the Osteopaths Act, the Registrar may also take into account information received from the Competent Authority in the applicant's state of establishment. This may include whether or not the applicant is subject to any conditions on practice in his or her

state of establishment; and the absence of any disciplinary or criminal sanctions of a professional nature.

In assessing the weight and significance of any evidence about the applicant's character, the following factors will be considered:

The seriousness of the conviction, finding, conduct or behaviour
The relevance of the conviction, finding, conduct or behaviour to the practice of osteopathy
The relevance of the conviction, finding, conduct or behaviour to maintaining public confidence in the osteopathy profession
The extent and nature of any risk to patients or the public
The length of time since the conviction or finding was received, or the conduct or behaviour was committed
The number and nature of instances of the conviction, finding, conduct or behaviour, and whether or not they form part of a pattern
The applicant's age at the time the conviction or finding was received, or the conduct or behaviour was committed
The applicant's personal mitigation in respect of the conviction, finding, conduct or behaviour
The applicant's efforts (or lack of) to rehabilitate himself since the conviction and/or finding was received or the conduct or behaviour was committed
The applicant's insight (or lack of) in relation to the conviction, finding, conduct or behaviour
The extent to which the conviction, finding, conduct or behaviour is counterbalanced by testimonials and character references about the applicant's subsequent and recent conduct and behaviour
The extent to which the conviction, finding, conduct or behaviour is characteristic of the applicant, or indicative of a disposition by the applicant to commit such conduct or behaviour
The extent to which the applicant disclosed (or failed to disclose) the existence of the conviction, finding, conduct or behaviour, during the application process
The extent (or lack of) of co-operation by the applicant with any inquiries made by the GOsC

When considering the seriousness of the conviction, finding, conduct or behaviour in question, the following factors will, where present, be regarded **automatically** as serious:

Dishonesty, fraud, deceit or misrepresentation
Drug or alcohol dependency
Violence or intentional or deliberate or reckless disregard of human life
Sexualised behaviour as defined in <i>Clear sexual boundaries between healthcare professionals and patients; responsibilities of healthcare professionals</i> published by the CHRE in January 2008
Sexual acts with children

Abuse of trust or other inappropriate behaviour with vulnerable persons ²
Trafficking in, or illegally manufacturing, any controlled drug
Threats to public health, safety or welfare
Discrimination on the grounds of race/colour/religion
Blatant disregard for the law or the system of registration

Any disclosure that is considered to be serious will be referred **automatically** to the Registrar for consideration.

The Registration Department places great emphasis on the important of full and frank disclosure by an applicant as part of the registration process.

As such, any failure to disclose matters that are potentially relevant to an applicant's character will be viewed as positive evidence of a lack of good character, and may result in a decision not to register the applicant.

It is therefore in the applicant's interest to declare any and all matters which may be relevant to a decision about 'good character'.

4. APPLICATION OF THE GOOD CHARACTER ASSESSMENT FRAMEWORK TO RENEWAL OF REGISTRATION

Persons registered with the GOsC are required to renew their registration periodically. As part of this process, registrants are required to complete a self-declaration in relation to character.

The Registration Department will apply the factors and principles set out in this framework to any matters which come to light as part of the registration renewals process, and which call into question the registrant's continued good character.

² Vulnerable persons are 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.