

General Osteopathic Council

Osteopathic Practice Committee

Confirmed Minutes of the meeting held at 2.00pm on Tuesday 14 May 2013 at
The Society of Chiropractors and Podiatrists, Fellmongers Path, Tower Bridge Road,
London, SE1 3LY

Present: Ms Julie Stone (Chair)
Mr Jonathan Hearsey
Mr Haidar Ramadan
Ms Alison White
Ms Jenny White

In attendance: Mrs Fiona Browne (Head of Professional Standards)
Ms Kellie Green (Acting Head of Regulation)
Mrs Priya Lakhani (Regulation Officer)
Mr Matthew Redford (Acting Head of Registration and
Head of Finance and Administration)
Ms Brigid Tucker (Head of Communications)
Mr Tim Walker (Chief Executive and Registrar)

ITEM 1 – CHAIR’S WELCOME AND APOLOGIES FOR ABSENCE

1. The Chair formally welcomed members to the new Osteopathic Practice Committee (the Committee) and confirmed that there were no apologies for absence.

ITEM 2 – TERMS OF REFERENCE

2. The Committee noted the Terms of Reference, which had been agreed by Council.
3. It was agreed that paragraph (a) of the Terms of Reference, it should read ‘post-registration’ and not ‘post-graduate’. This amendment would be made.

ITEM 3 – SUMMARY OF PAST AND FUTURE WORK

4. The Committee noted the reports from the Acting Head of Regulation and Head of Professional Standards on the work that had been undertaken by the Fitness to Practise Policy Committee (Po Policy Committee), Education Committee and the Revalidation Standards and Assessment Group in the last year.
5. It noted also the future plan of work for this Committee, which included:

- a) Continuing fitness to practise: Revalidation and CPD
 - b) Osteopathic Practice Standards
 - c) Professional Indemnity Insurance
 - d) Professional Standards Authority – GOsC Performance Review
 - e) Notice to Parties.
6. The Chair confirmed that the Committee was an advisory Committee and it would, therefore, be making recommendations to Council.

ITEM 4 – FITNESS TO PRACTISE PUBLICATION POLICY

7. The Acting Head of Regulation explained that the Policy Committee had taken the decision to review and update the existing Professional Conduct Committee Publication Policy. At its last meeting in January 2013, the Policy Committee had agreed:
- a) The policy should be extended to include the work of the Investigating Committee (IC) and Health Committee (HC).
 - b) IC decisions to impose an Interim Suspension Orders (ISO) should be publicised and a note of the suspension should be made against the registrant’s entry on the online register. If the IC decided not to impose the Interim Order, then that decision should not be publicised.
 - c) To publicise HC decisions to suspend or impose conditions but not to publicise the reasons for that decision. If the HC decides that the registrant’s ability to practise is not impaired, the decision should not be publicised at all.
 - d) The policy should distinguish between the two different types of ISOs that can be imposed by the PCC under section 24(1)(a) and (b) of the Osteopaths Act 1993 (the Act).
 - e) When the PCC decide not to impose an ISO, the registrant should be able to choose whether that decision is published or not. If publicised it will appear on the GOsC’s website for a period of 28 days.
 - f) The PCC’s full decision should be published (redacted as appropriate).
 - g) The policy should allow for redactions of information that was heard in private to be made to the PCC’s publicised written decision.
8. The revised draft policy reflected these decisions.
9. The outstanding issue that the Committee was asked to consider was for what length of time should the PCC’s decisions be actively published on the GOsC’s website. This was the publication of the full PCC decision that a case had been proved and a sanction applied. These decisions appeared on the Findings page of the website and were currently published as follows:

Location	Current length of
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	publication
Admonishment	28 days
Conditions of Practice Order	Duration of the Order
Suspension	Duration of the Order
Removal	10 months

10. The recommendation was that the length of publication be extended to six years. When asked to explain the rationale for the six years, the Acting Head of Regulation explained that there was no consistent approach taken by healthcare regulators. Some published their decisions for a few months, others published them forever. There was a concern to ensure that the length of time was proportionate and that it recognised that registrants who had had findings made against them might rehabilitate themselves.
11. Moving away from a tiered approach would make the application of the policy more straight forward. Six years had been selected as this would ensure publication beyond the point at which a registrant may have returned to unrestricted practice. Conditions of Practice Orders or Suspension Orders could be imposed for up to three years. If a removal was made, while currently the registrant could apply for restoration after 10 months, it was expected that this would be extended to five years when the Law Commission's proposals were implemented. It was noted that this five year period was consistent with many of the other healthcare regulators.
12. The Committee thought that a tiered approach was probably more appropriate to distinguish between the seriousness of the sanctions that could be imposed, which would always reflect the seriousness of the conduct that led to them. The Committee thought that Admonishments and Conditions of Practice fell one side of the line and that Suspensions and Removals, which would reflect more serious conduct or competence issues, should be on the other side of the line.
13. The Committee also thought that the revised policy should be based on and reflect the current position, which was that a registrant may apply for restoration after a period of 10 months, following a removal. This would not support the proposed six years.
14. The Committee agreed that it was difficult to determine the most appropriate length of time for publication. It agreed, therefore, that a sensible way forward was to invite comment on this during the consultation. Rather than propose a specific time, the consultation should include questions that directed the respondent to indicate what they considered to be the appropriate length of time for publication of the different decisions.

15. It was agreed that the Council be asked to approve the draft policy for consultation and that that consultation should include questions that would elicit the views on the appropriate length of publication.

ITEM 5 – PROFESSIONAL INDEMNITY INSURANCE CONSULTATION AND PRINCIPLES OF COVER REQUIREMENTS

16. The Acting Head of Registration explained that under the EU Directive 2001/24/EU, all healthcare professionals would be required to hold insurance or indemnity cover as a condition of registration. Osteopaths are already subject to this requirement as a condition of their registration with the GOsC. However, the UK Government proposes that the Osteopaths Act is amended so that the requirement to hold insurance or indemnity cover is consistent across the healthcare regulators and professions. The GOsC would, therefore, need to draft new Professional Indemnity Insurance Rules in due course.
17. The Committee was asked to consider five elements of the insurance requirements and to give a view in relation to each.

Prescribed risks

18. The Committee discussed whether the PII rules should prescribe risks. It noted the view of other regulators, which was that regulators should not prescribe risks but allow registrants to determine their own appropriate cover.
19. The Committee agreed that the rules should be less prescriptive about what risks should be covered. It would, however, be helpful for the GOsC to provide guidance for registrants on the risks that could be covered.

Prescribed amounts

20. The Committee discussed whether the rules should prescribe a minimum amount of cover required in respect of prescribed risks. It noted that the current minimum requirement is £2.5m and that this figure had remained unchanged since 1998.
21. The Committee agreed that the rules should prescribe a minimum limit and that the limit should be increased above its current £2.5m level. It was noted that most insurers now offer £5m.

Run-off cover

22. The Committee discussed whether the rules should require run-off cover.
23. It agreed a requirement for run-off cover should be included and recommended that this be for a minimum period, which was to be determined.

Evidence of compliance

24. The Committee discussed whether registrants needed to provide evidence to show that they have current insurance, which is usually achieved by the GOsC seeing a copy of the relevant policy, to a system where the registrant could self declare that they held adequate cover. It was agreed that moving to a self declaration system, supported by sample audits, would be appropriate.

Oversees practice

25. It was noted that the current rules only required those registrants who were practising in the UK to maintain adequate insurance. There are a number of registrants who practise overseas.
26. The Committee agreed that the requirement to maintain insurance should extend to those registrants who practised overseas, whether or not they are based in the UK.

ITEM 6 – INVESTIGATING COMMITTEE DECISION-MAKING GUIDANCE

27. The Committee was asked to consider the revised decision making guidance and flow chart that is used by the Investigating Committee (IC). A review of this guidance had been prompted by the recent decision in *Spencer v General Osteopathic Council [2012]* (Spencer) and the fact that the guidance had not been reviewed since first publication in 2007.
28. The IC had been informed of the review and had the opportunity to feed in to it. The IC had not seen the current version of the draft guidance. The IC had recommended some minor amendments, which included:
 - a) Making the guidance more concise.
 - b) Removing, from the flow chart, the box that contained the reference to disputed facts. The IC did not consider this box added anything to the flow chart.
 - c) Changing another box on the flow chart into two, with one containing the question 'is there a real prospect of the alleged facts being proved before the PCC' and one containing the question 'is there a real prospect that those alleged facts, if established, would amount to unacceptable professional conduct, professional incompetence etc.'
29. The Acting Head of Regulation confirmed that these changes had been made. Changes had also been made to the layout of the decision making guidance and to include references to the new Osteopathic Practice Standards, Spencer and the case of *Calheam v GMC [2007] EWHC 2006 (Admin)*.
30. The Committee agreed that Council should be asked to approve the revised decision making guidance and the revised flow chart. It further agreed that the IC

should have the opportunity to comment on the revised version before it is presented to Council.

ITEM 7 – OBTAINING CONSENT GUIDANCE

31. The Acting Head of Regulation reminded the Committee that new guidance was being produced to support the Osteopathic Practice Standards. This guidance focussed on the capacity element of the consent process. A version of the guidance had been consulted on and the Committee was now asked to note the outcome of that consultation, the current position and the proposed next steps in relation to the development of the guidance.
32. The Committee noted that the response to the consultation had been low. However, it had provided some valuable feedback on the content, language and format of the draft guidance. In light of this feedback and on further reflection, the executive proposed that it re-draft the guidance, using a narrative approach and a language that was more in tune with the OPS. It would seek views of some registrants and patients on the new draft and aim to bring a final version to the Committee at its meeting in September 2013.
33. The Committee noted the position and next steps as outlined by the Acting Head of Regulation.

ITEM 8 – DEVELOPMENT OF COMMON CLASSIFICATION SYSTEM FOR RECORDING COMPLAINTS

34. The Head of Policy and Communications explained that the development of a common classification system for recording complaints had arisen from a recommendation in the NCOR Adverse Events Project No 3. The Chair declared that she had been on the Steering Group for the original NCOR research project but did not consider that this raised any conflict here.
35. A project initiation meeting had been held in October 2012 and it was agreed that organisations that receive complaints and claims about osteopaths, in particular the GOsC, the British Osteopathic Association and the professional indemnity insurers, should adopt a standardised classification system for recoding what those complaints or claims were about. The primary aim of this project is to develop a better understanding of the circumstances that give rise to patient complaints and claims in order to inform education, training and guidance.
36. The final classification system, which contains standard categories of complaint, was agreed in December 2012 and was put in place on 1 January 2013. This was reviewed in April 2013, after some use, and some amendments were made to the categories of complaint.

37. Data will be collected annually by the participating organisations and will be passed to NCOR, who will analyse and produce an annual report for the organisations. Steps had been taken to avoid, as far as possible, any duplication in the data.
38. This was a new initiative and its progress would need to be regularly reviewed. It was suggested that recording the age and gender of the complainant and registrant might add useful data.
39. The Committee noted the work to date and asked that it be kept informed of the project's development. It was agreed that members could feed any comments on the categories of complaints directly to the Acting Head of Regulation.

ITEM 9 – ANY OTHER BUSINESS

40. No other business was raised.

ITEM 10 – DATE AND TIME OF NEXT MEETING

41. The Committee noted that its next meeting would be held on 19 September 2013 at 9.30am.