



Osteopathic Practice Committee
19 September 2013
Refined approach to risk assessment

Classification	Public
Purpose	For discussion
Issue	<p>This paper proposes the introduction of a refined approach to risk assessment as part of a package of regulatory tools and mechanisms for providing greater assurance to Council about the GOsC's fitness to practise processes.</p> <p>Essentially, the new approach to risk assessment will include both an objective and subjective assessment of risk, and the introduction of an agreed level of risk tolerance. The introduction of the new risk assessment form will allow the regulation team to demonstrate the process followed, and the matters which they have taken into account when deciding whether or not to apply for an interim suspension order.</p>
Recommendation	To consider the approach to risk set out in the draft Risk Assessment Form set out in the Annex.
Financial and resourcing implications	Any new activities identified will need to be incorporated into the current or future budgets.
Equality and diversity implications	None identified. Equality monitoring in relation to FTP cases is part of the draft Quality Management and Assurance framework.
Communications implications	None identified at present. The GOsC may wish to consult informally with stakeholders on adopting the refined approach to risk assessment.
Annex	Draft Risk Assessment Form
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Background

1. The Professional Standards Authority's (PSA) overall assessment of the GOsC at the conclusion of the 2012 Performance Review was that 'The GOsC has maintained its effectiveness as a regulator and is meeting all the Standards of Good Regulation across its regulatory functions'.
2. Despite this positive assessment, we are keen not to rest on our laurels, and wish to demonstrate a greater level of assurance about our fitness to practise and protection of title processes.
3. The aim is develop mechanisms by which the GOsC can demonstrate to stakeholders, including the PSA, that its fitness to practise and protection of title processes are protecting the public in accordance with good regulatory practice and appropriate customer service standards.

Discussion

Refined approach to risk assessment

4. An essential ingredient of any fitness to practise investigation is the assessment of the risk posed to the public by the registrant whose conduct is under investigation.
5. As part of on-going quality assurance work, that risk will be initially assessed by the regulation team case workers on receipt of a formal complaint, and the assessment will be reviewed on a continual basis at formal case reviews throughout the investigation process.
6. Where a sufficient degree of risk is identified, the regulation team may apply for an interim suspension order to be placed on a registrant's registration.
7. Under Sections 21 and 24 of the Osteopaths Act 1993, the GOsC's Investigating, Professional Conduct and Health Committees are each able to impose an interim suspension order (ISO) upon a registrant's registration.
8. The sole criteria for making an ISO is whether the relevant Committee '*is satisfied that it is necessary to do so in order to protect members of the public.*'
9. The assessment of risk is necessarily a subjective exercise. Individual case workers may have different views about the weight to be assigned to factors which are present in any particular case.
10. The imposition of an ISO is a serious interference with a registrant's right to practise, which should only be exercised where a case meets the statutory threshold.

11. Over time, a shared understanding of this threshold should develop amongst the regulation team making the application.
12. The new Risk Assessment Form is designed to assist the regulation team to identify and weigh risk factors, and to demonstrate the matters which have been taken into account when deciding whether or not to make an application for an ISO.

Identifying the risk score

13. The regulation team has reviewed all applications for ISOs made in the last five years. From this review, and from the Guidance on ISOs, a number of risk and mitigating factors have been identified. After internal discussion, each factor was then assigned a presumed score on a scale of 1 to 3.
14. The presumed score is intended to be the objective element-wherever this risk or mitigating factor is present, the presumed score will apply.
15. To this, will then be added the subjective element. The caseworker will add their own assessment of the same risk or mitigating factor, based on the facts of the particular case.
16. Where there is a difference between the presumed score and the caseworker score, the caseworker will be required to justify this on the Risk Assessment Form.
17. A final score for each identified risk will then be calculated by multiplying the presumed score against the caseworker score. The individual final scores for each risk will then all be added together.
18. The same process of multiplying presumed scores against caseworker scores will be used for mitigating factors. The individual final scores for each mitigating factor will then all be added together.
19. A total risk score will then be worked out by subtracting the total of the individual mitigating factors from the total of the individual risk scores.

Identifying the level of risk tolerance

20. The risk assessment form was trialled by two members of the regulation team, using the information from a number of previous applications for ISOs made during the last five years.
21. The cases included issues relating to health; sexual boundaries; convictions; treatment claims; and a case in which written signed undertakings had been provided to the relevant fitness to practise committee.

22. Encouragingly, the trial revealed little disparity in the caseworker scores. Where there was a difference in the score assigned, this could be justified.
23. Analysis of the total risk score assigned on the trial compared with the actual outcome of the ISO application indicated that cases with scores of 60 or over had resulted in ISOs being made by the committee.
24. However, looking at the scoring criteria, it was noted that a number of cases in this score bracket had multiple complainants and would thus get a higher score. After making adjustments to take into account cases in which there might only be one complainant, the regulation team consider that a score of 50 should be the level of risk tolerance.
25. In other words, it is only in cases where the risk assessment reveals a total risk score of 50, that an ISO should be applied for.
26. The Risk Assessment Form will need to be modified over time as new risk factors are identified. The risk tolerance level will also need to be reviewed in the light of decisions made by the fitness to practise committees.
27. The Chair of the Investigating Committee has been provided with a copy of this paper in draft, and with a copy of the Risk Assessment Form. This paper incorporates his comments.
28. The IC Chair notes that, unlike other regulatory regimes, the statutory test for imposition of an ISO is simply the protection of the public. The draft risk assessment form, however, currently includes risk and mitigating factors relating to the interests of the registrant and the wider public interest. This is because the GOsC statutory test is likely to be brought into line with the other healthcare regulatory regimes in due course and because some elements of risk relating to the interests of the registrant and the wider public interest do impact on the protection of the public.
29. The Committee's views are sought on the risks and mitigating factors identified; the presumed scores applied to each of these; and on the risk tolerance figure. The Committee is also invited to consider whether the Risk Assessment Form should, for the present, only refer to risks and mitigating factors directly related to the protection of the public.

Recommendation: to consider the refined approach to risk as set out in the Risk Assessment Form set out in the Annex.

**GENERAL OSTEOPATHIC COUNCIL
REGULATION DEPARTMENT**

RISK ASSESSMENT FORM

FULL NAME OF REGISTRANT:	
CASE NUMBER:	
ALLEGATION:	
CASEWORKER ASSIGNED TO CASE:	

SUMMARY OF CASE:

DATE OF INITIAL RISK ASSESSMENT:

Risks relating to the interests of patients and members of the public

Risk factor	Presumed score if risk factor present (On scale of 1 to 3) <i>The automatic score has been determined by SMT/OPC Council)</i>	Case worker score according to circumstances of case (scale of 0 to 3 depending on the case workers view of the case)	Reasons for Case worker score being above or below the presumed score	Risk score (Presumed score x Case-worker score)
Is the osteopath still practising?	3			
Does the osteopath work in a single handed practice?	1			
Does the allegation relate to violent or sexual/inappropriate conduct?	3		Does the Osteopath work in a multi handed practice?	

Annex to 7

			Does the Osteopath practice with a chaperone?	
Is there evidence of grooming a patient/complainant	3			
Does the allegation relate to a conviction for which a sentence (or suspended sentence) of imprisonment was imposed?	3			
Is the complainant/victim potentially vulnerable (persons under 18/senior citizens/persons with mental health issues)?	3			
Is there evidence of harm or potential harm to a patient/member of the public?	3			
Is there evidence to suggest a pattern of previous behaviour?	3			

Annex to 7

Is there evidence to suggest that the conduct complained of is likely to be repeated?	3		
Is there evidence that the registrant lacks insight into his/her behaviour?	3		
Any other additional risk factors?	2		
			TOTAL:

Risks relating to the interest of the osteopath

Risk factor	Presumed score if risk factor present (On scale of 1 to 3) <i>(The automatic score has been determined by SMT/OPC /Council)</i>	Case worker score according to circumstance s of case (scale of 0 to 3 depending on the case workers view of the case)	Reasons for Case worker score being above or below the presumed score	Risk score (Presumed Score x Case worker score)
Is there any evidence of mental health issues?	3			
Is there evidence that the osteopath is professionally isolated?	3			
Any other additional risk factors?	3			
				TOTAL:

Risks relating to wider public interest

Risk factor	Presumed score if risk factor present (On scale of 1 to 3) <i>(The automatic score has been determined by SMT/OPC/Council)</i>	Case worker score according to circumstances of case (scale of 0 to 3 depending on the case workers view of the case)	Reasons for Case worker score being above or below the presumed score	Risk score (Presumed Score x Case worker score)
Is the allegation of a type that is likely to bring the osteopathy profession into disrepute?	3			
Would members of the public be surprised to learn that an osteopath facing this sort of allegation was still practising without any restrictions?	3			
Any other additional risk factors?	2			
				TOTAL:

Mitigating factors

Mitigating factor	Presumed score if mitigating factor present (scale of 1 to 3)	Case worker score according to circumstances of case (scale of 1 to 3 depending on the case workers view of the case)	Reasons for caseworker score being above or below presumed score	Mitigating score (Presumed score x Case worker score)
Does the Osteopath work in a multi handed practice?	2			
Does the Osteopath practice with a chaperone?	3			
Is there evidence to suggest that the Osteopath has demonstrated genuine insight into the gravity/consequences of the allegation?	2			
Is there evidence to demonstrate that the osteopath has made genuine efforts to improve his or her practice and to remedy alleged failings?	2			
Has there been a substantial period of time	2			

since the date of the alleged incident?				
Are there any other assurances in place which might indicate that an interim order is not necessary in this case?	2			
				TOTAL:

Total Risk Score (Total risk scores minus total mitigating score):
GOsC Risk Tolerance level: 50

IF RISK SCORE EXCEEDS GOsC RISK TOLERANCE LEVEL, APPLY FOR INTERIM ORDER

DATE OF REVIEW OF RISK ASSESSMENT:

Has the GOsC received any new information about this case since the previous risk assessment? Y/N

If so, provide details:

Have any of the risk or mitigating factors changed since the previous risk assessment? Y/N

If so, provide details:

What is the revised total risk score?

IF REVISED RISK SCORE EXCEEDS GOsC RISK TOLERANCE LEVEL, APPLY FOR INTERIM ORDER