



**General Osteopathic Council
Osteopathic Practice Committee**

Minutes of the 4th Osteopathic Practice Committee held on 25 June 2014

Unconfirmed

Chair: Julie Stone

Present: Jane Fox
Jonathan Hearsey
Haidar Ramadan
Alison White
Jenny White

In attendance: Russell Bennett (Regulation Manager)
Fiona Browne (Head of Professional Standards)
David Gomez (Head of Regulation)
Matthew Redford (Head of Registration and Resources)
Marcia Scott (Council and Executive Support Officer)
Tim Walker (Chief Executive and Registrar)

Item 1: Welcome

1. The Chair welcomed all participants to the meeting. A special welcome was extended to Russell Bennett, recently appointed as Regulation Manager of the Regulation Department.
2. It was agreed that for ease of reference agenda Item 8: State of CPD, and Item 11: Update on continuing fitness to practise, would be taken together.

Item 2: Apologies

3. Apologies were received from Manoj Mehta who was unable to attend the meeting due to prior commitments.

Item 3: Minutes and matters arising

4. The minutes of the meeting held on 27 February were approved subject to the following amendments:
 - a. Page 1: Correction to the spelling of Gina Bajdoo.
 - b. Page 3: Item 6 – **Agreed:** the Committee agreed that Council should be asked to approve a revised policy on whistleblowing.

- c. Page 4: Item 7 – paragraph 21, Point 4, the reference to “the second bullet point” should be replaced with the information contained in that bullet point in the paper before the Committee.
5. Matters arising – common classification system update: the Chief Executive advised the Committee that there were ongoing discussions with data providers about how the data was to be presented, and the expectation is that a report on the common classification system would be brought to the next meeting of the Committee.

Item 4: Scrutiny/Risk Register

6. The Chief Executive introduced the item reminding members that the high level Risk Register is kept up to date by the Senior Management Team, reviewed by Council every six months, and also reviewed at the meetings of the Audit Committee.
7. After the recent revisions to the Risk Register, it now included a column describing the assurance mechanisms for each listed risk. Oversight of the assurance mechanisms include Council and, on the recommendation of Council at its meeting in May 2014, the Council Committees. The Committees were therefore expected to consider the Risk Register in relation to their own roles.
8. The Committee was asked for their views and comments on the Register and the oversight and assurance aspects.
9. The Chair added that this was a high-level register and having committee cross-over in ownership added to the degree of assurances in relation to risk management. It was noted by members that the means of assurance and channels of assurance were not necessarily the same thing. In response, the Chief Executive stressed that the Committee should proactively require the executive to provide it with the information it needed to be an effective assurance mechanism.
10. In relation to channels of assurance to Council, it was agreed that the Osteopathic Practice Committee should be added as an assurance mechanism to items 2.1; 1.4 and 1.5 in the Risk Register.
11. In relation to means of assurance, members queried whether there was enough activity to allow the executive to examine registrant engagement and related risk especially in adherence to the *Osteopathic Practice Standards*. The Chief Executive referred to the detailed paper presented to the last meeting on the evaluation of the implementation of the *Osteopathic Practice Standards*. Members suggested that issues relating to the developing maturity of the profession and the importance of self-reflection could usefully be further explored.

12. Members agreed that the inclusion of the assurance mechanisms were very useful in highlighting the function and importance of the committees and their responsibilities for oversight of GOsC functions.
13. The Chief Executive thanked members for their comments and advised that the Audit Committee would be updated on the discussions at their next meeting.

Item 5: Professional indemnity insurance consultation analysis

14. The Head of Registration and Resources introduced the item, advising members that following the implementation of EU Directive 2011/24/EU, the GOsC Professional Insurance Indemnity Rules 1998 would need to be amended.
15. The principles underpinning new rules had been subject to a three-month consultation to which GOsC received 47 responses including two of the larger insurance providers.
16. The consultation covered 7 areas which members reviewed and discussed in turn:

Section 1: Obligation to insure – should there be an obligation for all osteopaths to be insured?

In discussion, it was confirmed that the Osteopaths Act 1993 did not differentiate between a practising and non-practising registrant, meaning an obligation to insure remained true for any registrant.

The Committee agreed that the new rules should clearly state that there is an obligation on all registrants to be insured.

Section 2: Prescribed risks – are the current rules too prescriptive? Can the current rules be simplified?

The Committee agreed the new rules should continue to prescribe risks but should attempt to do so in a better/clearer manner while being mindful that the description does not inadvertently restrict the variety of osteopathic practice. This would be explored in a forthcoming meeting with insurers

Section 3: Prescribed amounts – should the GOsC prescribe a minimum amount of cover in legislation? Should the current minimum level of cover increase?

The Committee agreed that the new rules should prescribe £5m in the aggregate as a minimum level of cover.

Section 4: Run-off cover – should run-off cover feature in the rules? If yes, for how long should run-off cover last?

The Committee agreed the new rules should seek to introduce the concept of perpetual run-off cover and should make clearer that the cover should relate to periods following the termination of insurance rather than practice.

Section 5: Evidence of compliance – is the current mechanism for a registrant to demonstrate to the GOsC they hold insurance too burdensome? Are there alternative mechanisms?

It was thought that the current mechanism was too burdensome and could be simplified to ensure a reduction in the regulatory compliance cost on registrants. A new model would be based on a self-declaration and a targeted annual audit.

The Committee agreed the new rules should retain the point that registrants must be able to demonstrate they hold insurance cover in line with the rules and the onus remains on the registrant to advise the GOsC immediately if cover ceases.

Section 6: Non-compliance – how should the GOsC deal with an osteopath who fails to maintain insurance in accordance with the rules?

The Committee noted that the PSA response had advocated that only fitness to practise rather than administrative action should be taken, despite the proposed amendment to the Osteopaths Act providing for either course. The Committee agreed that the approach taken should depend on the circumstances of the case.

The Committee agreed that the new rules should make clear that a registrant will be held to account and this may involve using the GOsC fitness to practise procedures.

Section 7: Registrants who work overseas – should the rules be extended to include work by registrants overseas?

The Committee agreed that the new rules should be clearer that a UK registrant providing professional services overseas should hold insurance if available.

The Chair thanked members for their comments and input.

Agreed: the Committee agreed the recommendation to Council to adopt the new mechanism for registrants to demonstrate they hold professional indemnity insurance.

Noted: the Committee noted that Council would be asked to publish draft professional indemnity insurance rules for consultation in July 2014.

Item 6: Consent Scenarios

17. The Head of Regulation introduced the item. The draft scenarios had been produced as a result of feedback from the Registrants Focus Group indicating that it would be helpful to have practical scenarios to accompany the guidance document 'Obtaining Consent - Patients' capacity to give Consent' published in October 2013.
18. Members discussed the nature and purpose of the consent scenarios. A range of views on the merits and perceived flaws of the individual scenarios were expressed. It was noted that emerging best practice amongst the health care regulators was to provide registrants with a range of learning materials in different formats, which included scenarios and e-based learning packages. It was also noted that people had different learning styles and preferred to receive information in different ways. Feedback from the Pathfinder Groups has indicated strongly that scenarios were a useful learning tool.
19. It was acknowledged that consent is a particularly complex area for registrants and that learning materials on this topic would be a valuable addition.
20. However, it was agreed that any scenarios should strike the right tone with the profession and should reflect actual clinical practice as far as possible. It was suggested that shorter scenarios dealing with particular points of the Guidance issued by the GOsC, or the law on capacity to consent, might be preferable to longer all-inclusive scenarios. The importance of recording decisions taken in relation to consent should also be reflected in the scenarios.
21. The registrant members, Jonathan Hearsay and Haidar Ramadan agreed to help the executive to rework the scenarios in the light of the points made by the Committee.

Noted: the Committee noted the work on the consent scenarios.

Item 7: Guidance on Threshold criteria for Unacceptable Professional Conduct

22. The Head of Regulation introduced the item which set out the proposals for new guidance on 'threshold criteria' to assist Screeners and the Investigating Committee in making decisions on whether complaints or allegations should be investigated or referred to a hearing. He explained that the GOsC has general powers to issue guidance and that the case of Spencer v General Osteopathic Council had effectively established a threshold for determining whether or not a complaint about a registrant amounted to Unacceptable Professional Conduct. Members were asked to review and comment on the draft criteria.
23. Members welcomed the initiative to produce draft criteria. They considered that the criteria might usefully make reference to the principle of proportionality, and to the public interest.

24. It was suggested that the draft criteria could, in due course, be supplemented by an indication of the sorts of matters that would be referred for a hearing. The Head of Regulation confirmed that guideline cases would be a useful tool for the persons making the decision to refer a case and would be built into a future workstream.
25. In relation to the draft criteria, members acknowledged the current state of the law as set out in the Spencer judgment but expressed a residual concern that a public statement by GOsC that 'complaints about note taking and record keeping alone' would not amount to Unacceptable Professional Conduct might give the wrong message to the profession about the importance of good record keeping.
26. In relation to 'vexatious complaints', members considered that a definition of this term might be useful.
27. In relation to 'anonymous complaints and complaints in which the complainant subsequently refused to participate', members considered that the criteria should make it clearer that the case would be referred unless the allegation could not otherwise be verified.
28. Members disagreed with the inclusion of 'Driving without due care and attention' and recommended that this criterion be removed.
29. Members also expressed some concern about how 'minor' motoring offences should be defined, and recommended that the draft criteria should instead only refer expressly to parking and penalty charge notice contraventions and fixed penalty/conditional offer fixed penalty motoring offences.
30. In relation to 'differences of professional opinion', members considered that the criteria should make reference to the Bolam/Bolitho tests and the requirement that an opinion should be held reasonably.
31. Members suggested the inclusion of an additional criterion: matters that ought to be considered by other regulators, such as the Advertising Standards Authority, or complaints which were effectively trying to pre-empt or influence the outcome of other types of proceedings.
32. In the event that threshold criteria were agreed by the Council following consultation, members considered it important to ensure that the use of the criteria was monitored and that this be built into the fitness to practise quality assurance processes. It was also noted that if the threshold criteria were to be implemented, other Council Guidance may have to be reviewed for consistency.

Agreed: the Committee agreed to recommend that Council approve for consultation the amended draft Guidance on Threshold Criteria for Unacceptable Professional Conduct.

Item 8: State of CPD

33. The Head of Professional Standards introduced the item which seeks to establish the current picture of osteopathic CPD under the existing scheme. The Committee was invited to give their views on the broad scoping of the report.
34. Members noted that this was a useful benchmarking exercise from which improvements in the quality of CPD could be measured.
35. In relation to improving the quality of CPD undertaken by registrants, Members noted the importance of asking open questions and requiring registrants to reflect both on the learning from the activity undertaken, and the relevance of the activity to the registrant's professional practice.
36. Rather than asking for lists of activity, registrants should be asked to focus on the extent to which the activity had improved their professional practice. In addition, it was considered that registrants might usefully be required to demonstrate a changed approach to the undertaking of CPD and a move away from a 'tick-box' approach.
37. As such, registrants should provide evidence of reflection, and should ensure that there was a balance of CPD activity which reflected all domains of the *Osteopathic Practice Standards*.
38. Members suggested that the GOsC could assist registrants by providing an appraisal learning tool to assist in identifying the appropriate CPD activities that should be undertaken.
39. The Head of Professional Standards highlighted the revised timetable and advised there would be a report to Council in due course.

Noted: the Committee noted the Update report on the state of CPD.

Item 9: OPC Annual Report

40. The Head of Regulation introduced the item which reviews the work of the Osteopathic Practice Committee for the financial year April 2013 to March 2014.
41. The Chair, on behalf of the OPC, thanked the Head of Regulation and his team for the work carried out on behalf of the Committee.

Agreed: the Committee agreed the content of the report to be submitted to Council on 23 July 2014.

Item 10: PSA Audit

42. The Head of Regulation introduced the item reporting on the outcomes of the recent PSA Audit.
43. He advised the Committee that the findings from the audit had been positive in that:
- a. the audit did not identify any decision to close cases at the initial stages of the fitness to practise process that posed a risk to patient safety and/or the maintenance of public confidence in the profession and the regulatory process;
 - b. the PSA's overall conclusion was that the GOsC's initial stages fitness to practise process protects the public and maintains public confidence in the profession; and
 - c. the PSA had identified good practice in relation to the handling of personal and sensitive information in fitness to practise cases.
44. However, the audit identified a number of areas for improvement in relation to customer service issues and keeping the parties informed; recording of case work decisions and compliance with key performance indicators. These learning points would be considered as part of on-going quality assurance work.
45. Members were advised that the full report would be presented to Council in due course.

Noted: the Committee noted the oral report on the PSA Initial Stages Audit.

Item 11: Update on continuing fitness to practise

46. The Head of Professional Standards introduced the item updating the Committee on the development of the draft continuing fitness to practise framework. She pointed out that, in relation to this item, the terms 'continuing fitness to practise', 'continuing professional development' and 'revalidation', were interchangeable.
47. The Head of Professional Standards advised she would be happy to discuss details and receive comments on the framework outside of the committee meeting.
48. Members asked if it was the assumption for peer reviews all to be face to face. It was confirmed that other methods of communication would be used including Skype.
49. Members said that they were impressed with the work to date. They also commented that they liked the references, as well as the process for meeting but noted that there was a lot for participating osteopaths to review. The Head

of Professional Standards agreed it was a lot of work but was looking at different ways to present findings.

50. Members expressed a difficulty with the term creating a 'culture' and suggested maybe the word 'environment' might be more appropriate. The Head of Professional Standards responded that the Pathfinder Groups found the term important but this could be changed.
51. It was suggested that the 'Cultural Web' be viewed to assist in considering concepts and directions as it was advised that in terms of fostering change, it was easier to change skills than change culture.

Noted: The Committee noted the update on the work on continuing fitness to practise.

Item 12: Professional Values

52. The Head of Professional Standards introduced the item to report on the first steps towards the review of the *Osteopathic Practice Standards*.
53. Members considered that that there was still some work to be done in osteopathic education in relation to the embedding of professional values. The work on professional values was at an early stage and was a good example of the importance of joint input from the OPC and ERSC, and therefore the importance of having some members who sat on both committees.
54. Members agreed the project and seminar were a welcome initiative and the Head of Professional Standards advised she would report back to the Committee on the outcomes of the seminar after the event in November.

Noted: The Committee noted the update on progress of the work on professional values.

Item 13: Any other business

55. The Head of Professional Standards asked that the Committee extend formal thanks to the Pathfinder Groups for their participation in developing the continuing fitness to practise scheme.

Date of the next meeting: Tuesday 2 October 2014 at 14.00