



**General Osteopathic Council
Osteopathic Practice Committee**

Minutes of the Osteopathic Practice Committee held on 19 September 2013

Unconfirmed

Chair: Ms Julie Stone

Present: Ms Jane Fox
Mr Haidar Ramada
Ms Alison White
Ms Jenny White

In attendance: Mrs Fiona Browne (Head of Professional Standards)
Mr David Gomez (Head of Regulation)
Ms Kellie Green (Regulation Manager)
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: Apologies

1. The Chair formally welcomed Ms Jane Fox to the Committee. Ms Fox had been appointed by Council as a co-opted member of the Committee.
2. **Noted:** apologies had been received from Mr Jonathan Hearsey. Mr Hearsey had provided the Chair with comments on the items that were to be considered and she would feed these into the meeting at the relevant point.

Item 2: Minutes and matters arising

3. **Approved:** the minutes of the meeting held on 14 May 2013.
4. **Noted:** the suggestion that as part of the Common Classification System we should also record the date of registration of registrants subject to a complaint or claim. This would allow us to identify whether the length of time in practice had any impact on the type of complaints/claims being received.

Item 3: Professional Indemnity Insurance (PII) Consultation

5. Following the implementation of an EU Directive on cross border patient rights, the GOsC would need to make changes to its existing PII Rules 1998. The Committee, at its meeting in May 2013, had considered five aspects of the current and future insurance requirements. It was now asked to consider the consultation document, prepared by the Executive, which covered these key areas. The Committee was asked to note that there would need to be a further consultation, on the draft PII Rules.

6. It was noted that open questions had been used within the consultation document and some members wondered whether more closed questions, or recommendations, would assist those who wished to respond.
7. Section 1 of the document asked the respondent to identify whether there were any circumstances that should not require an osteopath to hold PII. This did not appear to sit well with the Government's view that there should be an obligation on all healthcare professionals to hold insurance or indemnity as a condition of registration. It was suggested that the Executive clarify this question.
8. **Agreed:** subject to reviewing the points above, Council should be invited to approve the consultation document for publication.

Item 4: Rule 8 procedures

9. At its meeting in March 2013, the Council approved the renewed use of Rule 8 of the GOsC (Professional Conduct Committee) (Procedure) Rules 2000. Rule 8 allows for cases which have been referred to the Professional Conduct Committee (PCC) to be disposed of, in certain circumstances, without a hearing. The Committee was now asked to consider the suitability criteria and documents that had been designed to operationalise these procedures.
10. The PCC Chair and the PCC Panel Chair, and members of the Fitness to Practise Forum had provided their comments and these were tabled for the Committee's consideration. Further comments would be sought from registrants and patients at focus group meetings that were to be held and at the end of September and beginning of October 2013.
11. The Committee discussed the contents of the PCC Practice Note, guidance for registrants and process flow and timeline. It agreed with the draft suitability criteria, with a proviso that the criteria should not be exhaustive and that the documents should make it clear that the PCC retained the discretion to decide whether or not a particular case should be considered under the Rule 8 procedure. It was considered preferable that the Practice Note should state that the PCC would exercise its discretion in particular cases, rather than stating that poor communication and rudeness/poor customer services should be always be dealt with by use of Rule 8 where possible.
12. Suggested drafting points included that it should be made clear that the factors at paragraph 31 derived from the Indicative Sanctions Guidance. It should also be made clear in the process flow diagram when the Notice of Hearing would be served.
13. The Committee also discussed the meaning of 'single incidence' and thought that it could incorporate:
 - a) a single occasion of wrongdoing/failure in relation to a single consultation;
 - b) multiple wrongdoing/failures within a single consultation, which could reflect a 'bad day' rather than systemic failure; and
 - c) multiple wrongdoing/failures in multiple consultations that all relate to a single patient, which could reflect in a scenario where you get off the wrong foot with a patient and this sets the tone.

Item 5: Obtaining Consent Guidance

14. The Osteopathic Practice Standards (OPS) took effect on 1 September 2012. Each standard is supported by guidance, which is designed to help osteopaths understand and achieve the relevant Standard. Standard A4 requires a registrant to obtain valid consent before examining or treating a patient. The guidance provides advice on this and indicates that additional guidance on capacity to consent will be produced.
15. The GOsC consulted on draft guidance in early 2013. As a result of the consultation, a further version of the guidance has been produced. The Committee considered the current draft Obtaining Consent guidance. It acknowledged that the subject of consent was complex. The law varies across the UK and it is difficult to convey these nuances accurately while avoiding statutory language. This was one of the reasons why a decision was taken to provide this information separate to the main body of the Osteopathic Practice Standards.
16. The guidance could not be comprehensive and it had been written for health care professionals who must apply their own judgement, within the law. The Committee thought that the current draft was very readable and that technical language had been kept to a minimum. It was not always clear which UK country the guidance related to and so it was suggested that the guidance relating to the different jurisdictions be clearly separated.
17. **Agreed:** the guidance, subject to the above, and noting that further comments would be received from the planned focus groups and consultation, which ends on 15 October 2013.

Item 6: Review of Notice to Parties

18. The PCC's Notice to Osteopaths and Legal Representatives (Notice to Parties) was last published in November 2011. Its purpose is to ensure that those who are party to PCC proceedings understand and comply with certain requirements. A review of the Notice to Parties had been undertaken and the Committee was asked to consider the proposal that the pre-hearing information now be presented in the Preparing for a Hearing Practice Note.
19. The Committee thought that the content of the Practice Note was very clear. The proposal that the information be presented in a Practice Note was sensible, given the suite of Practice Notes that are currently being produced by the Executive.
20. **Agreed:** that Council should be asked to approve the Preparing for PCC Hearings Practice Note, noting that further comments would be received from key stakeholders.

Item 7: Fitness to Practise Risk Assessment

21. As part of package of regulatory tools and mechanisms for providing greater assurance to Council about the GOsC's fitness to practise process, the Executive had developed a new approach to assessing the risk in fitness to practise cases, as an aid in determining whether or not to make an application for an Interim Suspension Order. The Committee was asked to consider this new approach.

22. The Committee welcomed the new approach, and was encouraged to hear that it had been tested and was being used by case managers, who had found that the new approach did cause them to think more about risk. The form needed to encourage thinking around risk and so it would be helpful to also have a written summary of the reasons for making (or not making) the application, produced by the case manager. There should also be a means of escalation when the score reached is around 50, so that department managers are aware of cases that might fall into grey area but present a level of risk that might require action.

Item 8: Fitness to Practise Quality Assessment Framework

23. As part of the package of regulatory tools and mechanisms, mentioned at paragraph 24, the Executive had also produced a draft Quality Management and Assurance Framework, which was designed to answer the question: whether those involved in fitness to practise and protection of title issues were doing the right things, in the right way and at the right time.
24. The Committee considered the draft Framework and commended the approach that was being taken. It was suggested that the Framework should take account of the approach to quality initiated by Lord Darzi in the NHS, and, and that additional indicators might include f "economy", "efficiency" and "effectiveness".

Item 9: Notification of fitness to practise investigations and outcomes

25. In recent discussions with the Professional Standards Authority and other regulators arising out of Francis Report recommendations, there has been a greater emphasis on informing other regulators, employers and others with a legitimate interest of the fact of an investigation, at an earlier stage, as well as the outcome of regulatory proceedings. The Executive, therefore, proposed a policy that would allow it to obtain information from registrant's about their employers, contractors etc. and to inform and provide information to those employers, contractors etc. about the registrant's fitness to practise investigation.
26. The OPC considered that the draft policy was a helpful codification of existing and best regulatory practice. It was acknowledged that notification would involve informing persons about complaints that might later prove to be not well founded. However, it was considered that this was an aspect of professionalism, and in any event osteopaths would be expected to have already informed the relevant persons in advance of notification by the Council.
27. The OPC considered that the Council should not routinely inform employers or other third parties about health allegations, and that this should be made explicit. The OPC considered that where an osteopath's health posed a danger to patients or the public, the appropriate protective mechanism would be an Interim Suspension Order. In the event that an ISO was granted, the Council would then inform interested parties in the normal way.
28. The OPC also considered that the policy should include notification by the GOsC to employers and other relevant parties about allegations of breach of title.
29. **Agreed:** that Council should be asked to approve the policy.

Item 10: PSA Performance Review

30. The PSA publishes an annual Performance Review of all healthcare regulators. Its report for 2012-13 was published on 27 June 2013. The GOsC received a positive report, the findings of which were presented in the paper.

31. **Noted:** the PSA Performance Review report for 2012-13.

Item 11: Osteopathic Practice Standards implementation evaluation

32. The Osteopathic Practice Standards (OPS) came into force on 1 September 2012 and work has now turned to evaluating the effectiveness of the implementation strategy and to identify further evaluation activities or actions required to embed the OPS.

33. **Noted:** the evaluation plan.

Item 12: PSA – Encouraging registrant candour

34. The Francis Report recommended that the Government legislate to introduce a statutory duty of candour on all healthcare professionals. The PSA requested the GOsC's views on how professional regulation can encourage health professionals to be more candid when care goes wrong. The GOsC responded in August 2013.

35. **Noted:** the GOsC response to the PSA.

Item 13: Fitness to practise case trends

36. **Noted:** the analysis of fitness to practise cases that have been closed between 1 June 2012 and 31 July 2013.

Item 14: Any other business

37. No other business was raised.

Date of the next meeting: 27 February 2014 at 2.00pm.