

Annual review of performance 2018/19

# General Osteopathic Council



## About the Professional Standards Authority

The Professional Standards Authority for Health and Social Care promotes the health, safety and wellbeing of patients, service users and the public by raising standards of regulation and voluntary registration of people working in health and care. We are an independent body, accountable to the UK Parliament.

We oversee the work of nine statutory bodies that regulate health professionals in the UK and social workers in England. We review the regulators' performance and audit and scrutinise their decisions about whether people on their registers are fit to practise.

We also set standards for organisations holding voluntary registers for people in unregulated health and care occupations and accredit those organisations that meet our standards.

To encourage improvement we share good practice and knowledge, conduct research and introduce new ideas including our concept of right-touch regulation.<sup>1</sup> We monitor policy developments in the UK and internationally and provide advice to governments and others on matters relating to people working in health and care. We also undertake some international commissions to extend our understanding of regulation and to promote safety in the mobility of the health and care workforce.

We are committed to being independent, impartial, fair, accessible and consistent. More information about our work and the approach we take is available at [www.professionalstandards.org.uk](http://www.professionalstandards.org.uk).

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<sup>1</sup> *Right-touch regulation revised* (October 2015). Available at [www.professionalstandards.org.uk/policy-and-research/right-touch-regulation](http://www.professionalstandards.org.uk/policy-and-research/right-touch-regulation)

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## About the General Osteopathic Council

The General Osteopathic Council (the GOsC) regulates the osteopathic profession in the United Kingdom. Its work includes:

- Setting and maintaining standards of practice and conduct
- Maintaining a register of qualified professionals
- Assuring the quality of osteopathic education and training
- Requiring osteopaths to keep up their skills up to date through continuing professional development
- Taking action to restrict or remove from practice professionals on its register (registrants) who are not considered to be fit to practise.

As at 31 December 2018, the GOsC was responsible for a register of 5,344 osteopaths. Its annual retention fee for registrants is £320 for the first year, £430 for the second year and £570 for each subsequent year.



# At a glance

Annual review of performance

Regulator reviewed: **General Osteopathic Council**

## Standards of good regulation

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### Core functions

**Met**

Guidance & Standards

**4/4**

Education & Training

**4/4**

Registration

**6/6**

Fitness to Practise

**10/10**

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# 1. The annual performance review

- 1.1 We oversee the nine health and care professional regulatory organisations in the UK, including the GOsC.<sup>2</sup> More information about the range of activities we undertake as part of this oversight, as well as more information about these regulators, can be found on our website.
- 1.2 An important part of our oversight of the regulators is our annual performance review, in which we report on the delivery of their key statutory functions. These reviews are part of our legal responsibility. We review each regulator on a rolling 12-month basis and vary the scope of our review depending on how well we see the regulator is performing. We report the outcome of reviews annually to the UK Parliament and the governments in Scotland, Wales and Northern Ireland.
- 1.3 These performance reviews are our check on how well the regulators have met our *Standards of Good Regulation* (the Standards) so that they protect the public and promote confidence in health and care professionals and themselves. Our performance review is important because:
- It tells everyone how well the regulators are doing
  - It helps the regulators improve, as we identify strengths and weaknesses and recommend possible changes.

## The Standards of Good Regulation

- 1.4 We assess the regulators' performance against the Standards. They cover the regulators' four core functions:
- Setting and promoting guidance and standards for the profession
  - Setting standards for and quality assuring the provision of education and training
  - Maintaining a register of professionals
  - Taking action where a professional's fitness to practise may be impaired.
- 1.5 The Standards describe the outcomes we expect regulators to achieve in each of the four functions. Over 12 months, we gather evidence for each regulator to help us see if they have been met.
- 1.6 We gather this evidence from the regulator, from other interested parties, and from the information that we collect about them in other work we do. Once a year, we collate all of this information and analyse it to make a recommendation to our internal panel of decision-makers about how we believe the regulator has performed against the Standards in the previous 12

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<sup>2</sup> These are the General Chiropractic Council, the General Dental Council, the General Medical Council, the General Optical Council, the General Osteopathic Council, the General Pharmaceutical Council, the Health and Care Professions Council, the Nursing and Midwifery Council, and the Pharmaceutical Society of Northern Ireland.

months. We use this to decide the type of performance review we should carry out.

- 1.7 When considering information relating to a regulator's timeliness, we consider carefully the data we see, and what it tells us about the regulator's performance over time. In addition to taking a judgement on the data itself, we look at:
- any trends that we can identify suggesting whether performance is improving or deteriorating
  - how the performance compares with other regulators, bearing in mind the different environments and caseloads affecting the work of those regulators
  - the regulator's own key performance indicators or service standards which they set for themselves.
- 1.8 We will recommend that additional review of their performance is unnecessary if:
- we identify no significant changes to the regulator's practices, processes or policies during the performance review period; and
  - none of the information available to us indicates any concerns about the regulator's performance that we wish to explore in more detail.
- 1.9 We will recommend that we ask the regulator for more information if:
- there have been one or more significant changes to a regulator's practices, processes or policies during the performance review period (but none of the information we have indicates any concerns or raises any queries about the regulator's performance that we wish to explore in more detail) or;
  - we consider that the information we have indicates a concern about the regulator's performance in relation to one or more Standards.
- 1.10 This targeted review will allow us to assess the reasons for the change(s) or concern(s) and the expected or actual impact of the change(s) or concern(s) before we finalise our performance review report.
- 1.11 We have written a guide to our performance review process, which can be found on our website [www.professionalstandards.org.uk](http://www.professionalstandards.org.uk)

## 2. What we found – our judgement

2.1 During February 2019, we carried out an initial review of the GOsC's performance from 1 January 2018 to 31 December 2018. Our review included an analysis of the following:

- Council papers, including performance reports and updates, committee reports and meeting minutes
- Policy, guidance and consultation documents
- Statistical performance dataset
- Third party feedback
- A check of the GOsC register
- Information available to us through our review of final fitness to practise decisions under the Section 29 process.<sup>3</sup>

2.2 We found that the GOsC had not made significant changes to its practices, processes or policies during the performance review period and that none of the information available to us indicated any concerns about its performance that we wished to explore in more detail.

2.3 We therefore decided that no further review of the GOsC's performance for 2018/19 was needed. In light of this, we have concluded that the review we have done is sufficient and that the GOsC has demonstrated that it continued to meet all of the Standards. We set out the reasons for this in the following sections of the report.

### Summary of the GOsC's performance

2.4 For 2018/19 we have concluded that the GOsC:

- Met all of the *Standards of Good Regulation* for Guidance and Standards
- Met all of the *Standards of Good Regulation* for Education and Training
- Met all of the *Standards of Good Regulation* for Registration
- Met all of the *Standards of Good Regulation* for Fitness to Practise.

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<sup>3</sup> Each regulator we oversee has a 'fitness to practise' process for handling complaints about health and care professionals. The most serious cases are referred to formal hearings in front of fitness to practise panels. We review every final decision made by the regulators' fitness to practise panels. If we consider that a decision is insufficient to protect the public properly we can refer them to Court to be considered by a judge. Our power to do this comes from Section 29 of the [NHS Reform and Health Care Professions Act 2002 \(as amended\)](#).

## 3. Guidance and Standards

- 3.1 The GOsC has met all of the *Standards of Good Regulation* for Guidance and Standards during 2018/19. Examples of how it has demonstrated this are indicated below each individual Standard.

**Standard 1: Standards of competence and conduct reflect up-to-date practice and legislation. They prioritise patient and service user safety and patient and service user centred care**

- 3.2 This Standard was met last year when we reported on the work the GOsC completed to review and update its *Osteopathic Practice Standards* (OPS) which will replace the OPS that were introduced in 2012. The updated OPS constitute the Standard of Proficiency<sup>4</sup> and the Code of Practice for osteopaths.<sup>5</sup> The updated OPS are arranged in four main themes:
- Communication and patient partnership
  - Knowledge, skills and performance
  - Safety and quality in practice
  - Professionalism.
- 3.3 This year the GOsC has published the updated OPS and developed a microsite which provides easy access to the new OPS and sets out the changes that have been made.
- 3.4 The OPS were published on 1 September 2018 and will be effective from 1 September 2019. We have seen nothing to suggest that the existing OPS (which remained in place during the period under review) do not sufficiently prioritise patient and service user safety and patient and service user centred care. We are therefore satisfied that this Standard is met.

**Standard 2: Additional guidance helps registrants apply the regulator's standards of competence and conduct to specialist or specific issues including addressing diverse needs arising from patient and service user centred care**

- 3.5 The GOsC did not publish any new additional guidance in the period under review. However, in April 2018 it updated and published *Obtaining consent – capacity to consent*, a practical information leaflet which uses scenarios to explain the law and the requirements of the OPS in the different countries of the United Kingdom. The publication relates to:
- examining and treating adults who may not have capacity to consent
  - receiving consent for the examination and treatment of young people.
- 3.6 We have not seen any evidence to suggest the guidance documents published by the GOsC do not provide registrants with appropriate

<sup>4</sup> The Standard of Proficiency sets out what is required for the competent and safe practice of osteopathy.

<sup>5</sup> The Code of Practice for osteopaths lays down the standards of conduct and practice expected of osteopaths.



supplementary guidance in areas where it is required. We are therefore satisfied that this Standard is met.

**Standard 3: In development and revision of guidance and standards, the regulator takes account of stakeholders' views and experiences, external events, developments in the four UK countries, European and international regulation and learning from other areas of the regulator's work**

- 3.7 The information we reviewed this year indicates that the GOsC continues to take account of stakeholders' views and experiences.
- 3.8 As part of the work it completed to develop the updated OPS, the GOsC sought and obtained the views of key stakeholders. Additionally, the new OPS include information and guidance on key developments in healthcare regulation such as the duty of candour, consent and boundaries, and the role of osteopathy in public health and in relation to other healthcare professionals. We are satisfied that this Standard is met.

**Standard 4: The standards and guidance are published in accessible formats. Registrants, potential registrants, employers, patients, service users and members of the public are able to find the standards and guidance published by the regulator and can find out about the action that can be taken if the standards and guidance are not followed**

- 3.9 The GOsC has not reported any changes to the way in which it publishes documents which contain information about its standards and guidance. They remain available on its website and are easy to locate.
- 3.10 The GOsC website continues to provide information on how to raise a complaint about a registrant. It also includes information on what action can be taken under its fitness to practise process if its standards are not met. We are therefore satisfied that this Standard is met.

## 4. Education and Training

- 4.1 The GOsC has met all of the Standards of Good Regulation for Education during 2018/19. Examples of how it has demonstrated this are indicated below each individual Standard.

**Standard 1: Standards for education and training are linked to standards for registrants. They prioritise patient and service user safety and patient and service user centred care. The process for reviewing or developing standards for education and training should incorporate the views and experiences of key stakeholders, external events and the learning from the quality assurance process**

- 4.2 The GOsC has not published any new educational standards in the period under review.

- 4.3 Our recent performance review reports have highlighted the work completed by the GOsC when developing new guidance for osteopathic pre-registration education, guidance about professional behaviours and fitness to practise for osteopathic students and *Student Fitness to Practise: Guidance for Osteopathic Educational Institutions* (OElS). These documents remain available on its website and we have not seen any evidence to suggest they are not sufficiently linked to the existing OPS.
- 4.4 Last year, we reported that the GOsC published a *Thematic Analysis of Boundaries Education and Training within the UK's Osteopathic Education Institutions*<sup>6</sup> which reported the findings of its commissioned thematic review that explored how maintaining appropriate boundaries is incorporated into osteopathic teaching and learning.
- 4.5 This year, the GOsC has continued to progress its work in this area and held two joint workshops with the General Chiropractic Council (GCC) and its stakeholders to share and obtain feedback on the findings of the report. We understand the information obtained at the workshops will be used to inform its work on the standards for education and training.
- 4.6 We welcome joint working between healthcare regulators and note the positive engagement between the GOsC and GCC in respect of this piece of work.
- 4.7 From the information we have reviewed, we are satisfied that this Standard is met.

**Standard 2: The process for quality assuring education programmes is proportionate and takes account of the views of patients, service users, students and trainees. It is also focused on ensuring the education providers can develop students and trainees so that they meet the regulator's standards for registration**

- 4.8 Last year, this Standard was met, and we reported that the GOsC agreed the scope of a consultation on changes to its mechanisms for assuring the quality of osteopathic education and training.
- 4.9 This year the GOsC consulted on these proposals which included removing the expiry dates for Recognised Qualifications (RQs), enhancing transparency and accountability by publishing conditions placed on OElS after a quality assurance visit, introducing a formal procedure for dealing with concerns about osteopathic education and identifying and sharing good practice. The consultation also invited respondents to provide suggestions on how the GOsC might better ensure its approach to assuring the quality of education and training is more risk-based.
- 4.10 We responded to the consultation and were supportive of the proposal to remove RQ expiry dates and to approve RQs which are not subject to specific conditions for an indefinite period. We noted that the proposed review cycle would fit more flexibly with institutions' internal quality assurance

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<sup>6</sup> Available at: [www.osteopathy.org.uk/news-and-resources/document-library/research-and-surveys/thematic-analysis-of-boundaries-education-and-training/](http://www.osteopathy.org.uk/news-and-resources/document-library/research-and-surveys/thematic-analysis-of-boundaries-education-and-training/)

processes and agreed it would be appropriate for the GOsC to move to a more risk-based approach to its quality assurance of osteopathic education.

- 4.11 Following its consideration of the responses to the consultation, the GOsC agreed to implement the proposals to remove expiry dates for RQs and to publish conditions placed on education institutions after a quality assurance visit. The GOsC has said it will continue to develop its proposals for a more risk-based approach, and we will consider the outcomes of this work once the new arrangements have been introduced.
- 4.12 This evidence we assessed does not indicate that the GOsC's arrangements for assuring the quality of education and training programmes are not proportionate or fail to take account of the views of patients, service users, students and trainees. We are satisfied that this Standard is met.

### **Standard 3: Action is taken if the quality assurance process identifies concerns about education and training establishments**

- 4.13 This Standard was met last year with no concerns.
- 4.14 In this review period, the GOsC has not recognised any new osteopathic qualifications. As part of its public consultation on proposals to change its policies and processes for assuring the quality of education and training, the GOsC requested views on introducing a formal procedure for its consideration of concerns raised by OEIs. The aim of the formal procedure was to provide clearer information and greater transparency about how it deals with concerns about OEIs.
- 4.15 We noted in our response to the consultation that the draft procedure appears to be clear, and that it would be useful to have such a procedure in place to raise the profile of the facility for students, staff, patients or others to raise concerns that they may have.
- 4.16 In November 2018, following the public consultation on the proposals to change its quality assurance processes, the GOsC published its *Management of Concerns Policy* which sets out the formal procedure for dealing with complaints received about OEIs.
- 4.17 As we have reported in previous years, the GOsC provides information on how to raise a concern about OEIs and approved courses. We saw no evidence that the GOsC has failed to act on complaints it received about OEIs or the courses it has approved in the period under review. We are therefore satisfied that this Standard is met.

### **Standard 4: Information on approved programmes and the approval process is publicly available**

- 4.18 The GOsC has not reported any changes to its arrangements for publishing information about approved programmes or the approval process. It continues to maintain and update the relevant section of its website and quality assurance reports of approved osteopathic courses remain publicly available on the website. We are satisfied that this Standard is met.

## 5. Registration

- 5.1 The GOsC has met all of the Standards of Good Regulation for Registration during 2018/19. Examples of how it has demonstrated this are indicated below each individual Standard.

### **Standard 1: Only those who meet the regulator's requirements are registered**

- 5.2 We have not seen any evidence to suggest the GOsC has added to its register anyone who has not met its requirements for registration.

#### **Fraudulent entry onto the register**

- 5.3 In the period under review the GOsC took action to rectify an incorrect and/or fraudulent entry on its register.
- 5.4 In July 2018, the GOsC became aware of a case where an individual had fraudulently obtained a primary medical qualification, which enabled the individual to obtain a recognised qualification from an OEI and thereby gain entry onto the register of osteopaths. Having looked at the evidence before it, the GOsC Council ordered the Registrar to remove the registrant from the register.
- 5.5 The GOsC acted quickly to investigate and take action on this concern in a way which protected the public.

#### **Guidance for Restoration to the Register**

- 5.6 Section 8 of the Osteopaths Act 1993 makes provision for the restoration of an osteopath who has been removed from the GOsC register by the Professional Conduct Committee (PCC). Applicants may apply for readmission to the register after a period of 10 months.<sup>7</sup>
- 5.7 In July 2018, the GOsC agreed that it should produce and publish guidance for restoration hearings. The guidance will set out the arrangements for, and the procedure to be used at, a hearing where an application for restoration to the register is made after an osteopath has been removed from the register and wishes to be restored.
- 5.8 The GOsC decided to produce the guidance because the PCC (Procedure) Rules 2000 do not set out the procedure to be followed by the Registrar when making arrangements for a restoration hearing, or the procedure to be followed by the Committee during the hearing. It considered that guidance in this area would:
- provide transparency by ensuring that those seeking restoration to the register are aware of the procedures to be followed during proceedings

<sup>7</sup> Section 8(5) of the Act states, 'The Committee shall not grant an application for restoration unless it is satisfied that the applicant not only satisfies the requirements of section 3 (as modified) but, having regard in particular to the circumstances which led to the making of the order under section 22(4)(d), is also a fit and proper person to practice the profession of osteopathy'.

- facilitate consistency in the approach adopted by the Registrar following receipt of an application to re-join the register
- ensure consistency in the approach adopted by the PCC during restoration proceedings.

5.9 Although the GOsC had not previously received or granted an application for restoration to the register before the production of the guidance, we note that a restoration hearing was held in December 2018. We understand from our review of Council meeting minutes that an interim version of the guidance was used to assist proceedings.

5.10 As the GOsC had not previously considered an application for restoration to the register, we consider the risks arising from the absence of a formal procedure have been low. However, we welcome the production of this guidance.

### Conclusion against this Standard

5.11 The information we have assessed does not give rise to concerns about performance against this Standard. The GOsC acted quickly when it identified a fraudulent entry on its register and it has developed guidance to address a shortcoming it identified in its legislation. For these reasons we are satisfied that this Standard is met.

### Standard 2: The registration process, including the management of appeals, is fair, based on the regulator’s standards, efficient, transparent, secure, and continuously improving

5.12 This Standard was met last year when we found that the processing times for applications to join the register from applicants who acquired their qualifications in the UK remained static. We noted that there was some variation in the processing times from applicants who obtained their qualifications in the EU/EEA and from elsewhere (international applications). However, we concluded that the variations in processing times were not significant and noted that all applications were progressed within the GOsC’s target time frames.

5.13 For this performance review period,<sup>8</sup> the median processing times, in working days, for each category of applicant are provided below:

Median processing times for registration applications from:	Q1 17/18	Q2 17/18	Q3 17/18	Q4 17/18	Q1 18/19	Q2 18/19	Q3 18/19
UK	2	2	2	2	2	2	2
EU/EEA	17	21	50	27	2	2	N/A <sup>9</sup>

<sup>8</sup> The 2018/19 performance review period consists of Q4 17/18 and Q1-Q3 18/19.

<sup>9</sup> No applications on that category were received in the quarter.

<b>International</b>	52	N/A <sup>10</sup>	47	90	2	2	N/A <sup>11</sup>
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5.14 The table shows that processing times for UK applications have remained stable at two working days. Like last year, there has been some variation in the processing times for EU/EAA and international applications. However, in view of the relatively small number of applications received from individuals who obtained their qualifications in the EU/EEA and from elsewhere, we do not consider this variation gives rise to concerns about the GOsC's performance in this area.

### Registration assessment fees

5.15 Between November 2017 and January 2018, the GOsC sought views on its proposal to increase its registration fee for applications received from individuals who qualified outside the UK and the EEA. The rationale for increasing the fees was to ensure that the cost of the registration assessment is met by applicants who obtain their qualifications outside the UK and EEA rather than by existing registrants as was previously the case.

5.16 The GOsC reported that the feedback it received to the consultation was mixed and whilst the responses were given due regard, the GOsC determined that the consultation did not yield any new information which suggested the proposal should be rejected. The proposal was agreed and the new registration fees for applicants who obtained their qualifications from outside the UK EU/EEA came into force in May 2018.

### Conclusion against this Standard

5.17 The information we have reviewed indicates that the GOsC continues to process applications to join its register efficiently. Therefore, we are satisfied that this Standard is met.

### Standard 3: Through the regulator's registers, everyone can easily access information about registrants, except in relation to their health, including whether there are restrictions of their practice

5.18 This Standard was met with no concerns last year.

5.19 During this review period, there have been no changes to how the GOsC's register is accessed or the information that is published on it. The evidence we assessed did not suggest the register is not accurate or accessible.

5.20 The checks we completed on a sample of entries on the GOsC's register did not identify any anomalies in the information provided and therefore we are satisfied that this Standard is met.

<sup>10</sup> As above.

<sup>11</sup> As above.

**Standard 4: Employers are aware of the importance of checking a health professional's registration. Patients, service users and members of the public can find and check a health professional's registration**

5.21 The register search function remains prominently displayed on the GOsC's website. It allows the user to search by postcode, county or country, by the osteopath's surname and by GOsC registration number. Additional features enable users to search for registered osteopaths practising in premises with disabled access, those who conduct home visits or are Welsh-speaking.

5.22 We are therefore satisfied that this Standard is met.

**Standard 5: Risk of harm to the public and of damage to public confidence in the profession related to non-registrants using a protected title or undertaking a protected act is managed in a proportionate and risk-based manner**

5.23 This Standard was met last year and there have been no changes to the GOsC's processes in this area. Its website continues to provide information about protection of title, including information about how to raise a concern and the process followed when it receives information about non-registrants using a protected title or undertaking a protected act.

5.24 The GOsC's *Protecting the osteopathic title* enforcement policy sets out its approach to protecting the unlawful use of the osteopathic title and is available on the website.

5.25 During this review period, the GOsC reported it received 33 concerns related to the protection of title and issued 27 cease and desist letters informing the individual and/or organisation concerned of the law, asking them to stop using the title and warning they may be prosecuted if they fail to act as instructed. We are satisfied that this Standard is met.

**Standard 6: Through the regulator's continuing professional development/revalidation systems, registrants maintain the standards required to stay fit to practise**

5.26 Last year we reported on the GOsC's progress with the development of its new Continuing Professional Development (CPD) scheme. Throughout this review period, the GOsC has continued to develop its CPD guidance, guidelines and resources which provide registrants with the information they require to complete their CPD. It has also:

- produced peer discussion review guidelines
- created templates for recording CPD activity
- developed documents for self-reflection
- published case studies
- published articles explaining the new CPD scheme in its magazine *The Osteopath*.

- 5.27 The GOsC launched the new CPD scheme for osteopaths on 1 October 2018 when the first cohort of registrants moved onto the scheme. The new scheme requires registrants to complete 90 hours of CPD, including at least 45 hours learning with others, over a three-year period. The underpinning themes of the new scheme are engagement, support and community, and the scheme aims to address professional isolation through creating collaborative working and learning environments. Under the new scheme, CPD will remain primarily self-directed, but must include the following:
- CPD in each of the four themes of the OPS<sup>12</sup>
  - a CPD activity in communication and consent
  - an objective activity, for example case-based discussion, peer observation and feedback, patient feedback or clinical audit
  - at the end of the three-year CPD cycle, a Peer Discussion Review with an osteopathic colleague to discuss CPD and practice, demonstrating engagement with the CPD scheme.
- 5.28 The GOsC provided registrants with their individual CPD cycle dates to inform them when they would transfer to the new scheme. Any osteopaths who register with the GOsC from 1 October 2018 will automatically be included in the new scheme.
- 5.29 Under the previous scheme, registrants were required to complete a minimum of 30 hours of CPD activities within a 12-month period, split into two categories: ‘learning with others’ – any relevant learning activity that involves interaction with osteopaths, healthcare practitioners or other professionals; and ‘learning by oneself’ – any relevant learning activity that does not involve other people.
- 5.30 The new scheme reinforces the requirements for registrants to work in accordance with the OPS and requires registrants to evidence learning in line with the four themes of the OPS. We will monitor the effectiveness of the new CPD scheme in future reviews.
- 5.31 Based on the information we have reviewed, we are satisfied that this Standard is met.

## 6. Fitness to Practise

- 6.1 The GOsC has met all of the Standards of Good Regulation for Fitness to Practise during 2018/19. Examples of how it has demonstrated this are indicated below each individual Standard.

**Standard 1: Anybody can raise a concern, including the regulator, about the fitness to practise of a registrant**

- 6.2 This Standard was met last year after a targeted review which examined the impact of the *Threshold Criteria for Unacceptable Professional Conduct*

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<sup>12</sup> See paragraph 3.2 above



(threshold criteria) which were introduced in February 2015; and the impact of the Initial Closure Procedure (ICP) introduced in February 2017.

- 6.3 As part of our targeted review, we identified some concerns in relation to the way in which the ICP was being applied. One concern related to adherence to the GOsC timeframe for requesting further information when required. However, we did not find any public protection concerns arising from these issues. In response to our findings, the GOsC told us that it would be reviewing its existing performance indicators, and it intends to pilot its proposed new performance indicators during 2019.
- 6.4 The evidence we have assessed this year does not suggest that the GOsC is not adhering to its own published timeframes for requesting further information.
- 6.5 In our 2017/18 performance review, we noted that the published guidance on the ICP did not make it clear that it is not only the substance of a complaint but also the evidence in support of it which will be considered by a Screener, and that the guidance did not indicate when the assessment on whether a case raises issues of public and patient safety would be made. In response to our concerns, the GOsC informed us that it would consider adding an explanatory note to clarify the point at which an assessment on whether a case raises issues of public and patient safety would be made.
- 6.6 The GOsC has not updated the guidance used by Screeners. However, we note that our last report was published on 13 December 2018, towards the end of this review period and as such, there has not been sufficient time for the GOsC to review the guidance and introduce amendments in response to our suggestions. Whilst the evidence we assessed in the period under review did not suggest additional concerns in this area, we will consider any updated guidance as part of future reviews of the GOsC's performance against this Standard.

### **Advertising cases**

- 6.7 In the period under review, the GOsC did not receive any advertising concerns. Last, year we had some concerns about the way in which the ICP was being applied to these cases but did not identify any public protection concerns. In our report, we suggested that the GOsC should consider documenting its processes in relation to these types of cases. We note that since the publication of our last report, there has been limited time for the GOsC to consider this suggestion. We will continue to monitor this area.

### **Conclusion against this Standard**

- 6.8 The information we assessed during this performance review period does not give rise to concerns in this area. Furthermore, the GOsC continues to have processes in place allowing individuals to raise concerns about a registrant. The complaints page on the GOsC website is easily accessible and provides clear information for complainants and registrants. We are therefore satisfied that this Standard is met.

**Standard 2: Information about fitness to practise concerns is shared by the regulator with employers/local arbitrators, system and other professional regulators within the relevant legal frameworks**

- 6.9 This Standard was met with no concerns last year when we reported that the GOsC has memoranda of understanding with several organisations. These arrangements remain in place and the evidence we reviewed did not indicate the GOsC failed to share information about fitness to practise concerns with local arbitrators, system and other professional regulators.
- 6.10 The *Policy on Notification of Fitness to Practise Investigations and Outcomes*, which we referred to last year, sets out when the GOsC will inform a registrant's employer, and anyone who they may have a contractual relationship with, that it has received a referral and that the allegation is to be referred. It also contains information on when the GOsC will disclose the details of any sanction imposed.
- 6.11 We are satisfied that this Standard is met.

**Standard 3: Where necessary, the regulator will determine if there is a case to answer and if so, whether the registrant's fitness to practise is impaired or, where appropriate, direct the person to another relevant organisation**

- 6.12 This Standard was met last year following a targeted review which looked at the impact of the threshold criteria and ICP on how the GOsC determines whether there is a case to answer in respect of the complaints it receives. We were satisfied that the Standard was met as the number of cases closed by the Investigating Committee (IC) since the introduction of the threshold criteria in 2015 was low, and we did not observe a change in the proportion of case to answer to no case to answer decisions made by the IC.

**Investigating Committee Decision-Making Guidance**

- 6.13 During this review period the GOsC consulted on and introduced an amended *Investigating Committee Decision-Making Guidance* (the guidance). Key changes included providing detailed guidance to the IC on its role and function, providing clarity on the process for decision making, including guidance on issuing advice to registrants, and incorporating the threshold criteria into the guidance document.
- 6.14 The guidance was introduced in August 2018 and the GOsC has said it updated it to improve the quality and consistency of decisions made by the IC. The GOsC states that the guidance provides a framework for decision-making but that this should not impact the IC reaching a decision independently.
- 6.15 As the guidance was only recently introduced and the number of decisions where it will have been applied is likely to be low, we will consider the impact of the guidance on decision-making in our next performance review when there is likely to be a larger number of decisions for us to review.
- 6.16 The following table compares the GOsC's performance in the number of decisions made by the IC in the period under review against the performance

it reported to us over the last two years when the Authority routinely collected the outcome of cases concluded by the IC.<sup>13</sup>

		2016/17 <sup>14</sup> annual	2017/18 <sup>15</sup> annual	2018/19 annual
<b>Number of decisions made by an IC, and with the following outcomes</b>	No further action	15	19	15
	Advice	0	1	1
	Warning/caution (not published on the register)	N/A	N/A	N/A
	Warning/caution (published on the register)	N/A	N/A	N/A
	Referral to Fitness to Practise Committee	40	23	34
	Undertakings	N/A	N/A	N/A
	Adjourned <sup>16</sup>	N/A	N/A	8
	Total	55	43	58

- 6.17 This information shows that the number of no further action decisions has remained relatively stable year on year since the inception of the threshold criteria in 2015 and since last year's performance review period. While the proportion of case to answer and no further action decisions has varied from year to year, this is across a very small number of cases and does not on its own raise concerns. We will continue to monitor this.
- 6.18 There have been no changes to the GOsC's processes in this area and its performance is consistent with that reported to us in previous years. We have not identified any concerns which suggest the GOsC does not determine whether there is a case to answer or does not direct individuals to another relevant organisation. Accordingly, we are satisfied that this Standard is met.

**Standard 4: All fitness to practise complaints are reviewed on receipt and serious cases are prioritised and where appropriate referred to an interim orders panel**

- 6.19 In our targeted review last year, we had some concerns about the GOsC's processes for, and its approach to, risk assessments of fitness to practise concerns. The GOsC introduced a new triage form in 2016 and implemented an amended form in July 2018, which requires a more detailed assessment to be evidenced than that which we observed in a number of cases we

<sup>13</sup> Where N/A is inserted, the data is not applicable to the GOsC.

<sup>14</sup> The data for this year records the number of cases concluded by the IC and the outcomes. In April 2018, the Authority amended the dataset to ask regulators to provide information on the number of decisions made by the IC.

<sup>15</sup> See footnote 15 above.

<sup>16</sup> The Authority began collecting adjournment data in relation to IC decisions as part of its dataset from January 2018.

audited. As we did not identify any cases in which a significant risk was not acted upon, and due to the GOsC's improved performance in time taken to impose an interim order, we concluded that this Standard was met last year.

6.20 During this performance review period, the GOsC has provided as part of its dataset the median time from receipt of a complaint to an interim order decision, and the median time from receipt of information indicating the need for an interim order and decision. The former is an indicator of how well the regulator's risk assessment process is working – whether it is risk assessing cases promptly on receipt, identifying potential risks and prioritising higher risk cases so that it can quickly obtain further information. The latter indicates whether the regulator is acting as quickly as possible once it identifies the need to apply for an interim order.

6.21 The quarterly and annual median data regarding the time taken to impose an interim order, as provided to us by the GOsC is set out in the table below:

	Median time to interim order committee decision from receipt of complaint	Median time to interim order committee decision from decision that there is information indicating the need for an order
Annual 2016/17	7	4
Annual 2017/18	3	3
Q1 2018/19	5	3
Q2 2018/19	6	3
Q3 2018/19	3	1

6.22 The dataset shows that the median time taken to an interim order decision from receipt of a complaint has decreased throughout 2018/19. We note a slight increase in quarter two, however we do not perceive this to be a significant concern as the median times in quarters one and three are lower. Fluctuations are to be expected where the caseload is as low as that of the GOsC. The median time from receipt of information indicating the need for an interim order to interim order committee decision has remained at three weeks in the period under review. This indicates to us that its processes are effective and suggests that the GOsC is acting quickly when it receives information indicating that an interim order may be required. On this basis, we are satisfied that this Standard is met.

**Standard 5: The fitness to practise process is transparent, fair, and proportionate and focused on public protection**

**Hearings and Sanctions Guidance**

6.23 As we reported last year, in February 2018 the GOsC implemented new *Hearings and Sanctions Guidance* which is designed to assist the Practice

Committees when it considers which sanctions are appropriate following its findings that a registrant's fitness to practise is impaired.

- 6.24 During this performance review period the GOsC submitted 28 decisions to the Authority. We did not appeal any of these decisions under our Section 29 powers<sup>17</sup> and we have not identified concerns about how the *Hearings and Sanctions Guidance* is being used by the Practice Committees.

### **Practice note on consensual disposal (Rule 8)**

- 6.25 Last year, we reported that the GOsC had consulted on a new practice note for consensual disposal under Rule 8 of the GOsC Professional Conduct Committee (Procedure) Rules 2000.<sup>18</sup> The practice note describes the process where the Professional Conduct Committee (PCC) may decide to dispose of proceedings against a registrant without holding a hearing, by issuing an admonishment which is accepted by the registrant. The practice note was effective from 1 February 2018.

- 6.26 The practice note sets out cases which will not be appropriate for disposal under Rule 8. The document states that cases which include, but are not limited to, serious allegations in relation to the following will not be appropriate for disposal under Rule 8:

- violence
- sexual and/or physical abuse (including child pornography and neglect)
- vulnerable persons
- dishonesty, deception or fraudulent behaviour
- criminal convictions resulting in the imposition of a sentence of imprisonment (or suspended sentence)
- significant failings in the examination and/or treatment of one or more patients
- significant failure to protect patients, colleagues or the wider public from risk of harm
- where public confidence in the osteopathic profession could be substantially undermined
- a significant failure to uphold the standards and competence among osteopathic professionals.

### **Key performance indicator review**

- 6.27 In this review period, the GOsC confirmed that it was undertaking a review of its fitness to practise processes and key performance indicators (KPIs). As

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<sup>17</sup> See footnote 4 for an explanation of our Section 29 process.

<sup>18</sup> The provisions set out under Rule 8 of the PCC Rules 2000 allow the GOsC to conclude cases between the GOsC and the Registrant subject to fitness to practise proceedings, without holding a final hearing. The Rule 8 procedure only applies to an allegation that a registrant is guilty of unacceptable professional conduct, professional incompetence or has been convicted in the UK of a criminal offence which is relevant to the registrant's fitness to practise. An admonishment is the only available sanction under this provision.

part of this review the GOsC is exploring options which will allow it to improve the efficiency of its processes without the need to make changes to its legislation. As outlined below, the GOsC is also consulting on a number of other procedures to improve its processes.

### **Cancellation of a hearing (Rule 19)**

- 6.28 Rule 19 provides for the GOsC or the registrant subject to fitness to practise proceedings to make an application for the PCC to conclude a case without a final hearing. Examples of when these applications can be made include: where a complainant is unfit to provide evidence at a hearing; or where evidence has emerged subsequent to the IC referral to the PCC which means that there is no longer a case to answer. From March to May 2019, the GOsC consulted on a draft practice note on Rule 19 proceedings which, if introduced, will guide the PCC through the appropriate procedure for the cancellation of a case following referral from the IC. The GOsC has told us that this practice note is intended to enable the PCC to adopt a workable and flexible approach to Rule 19 applications which it hopes will improve transparency while preserving the safeguards built into the Rule.

### **Standard Case Directions**

- 6.29 Last year, we reported that the GOsC was consulting on a practice note for Standard Case Directions. The consultation concluded in the period under review. The GOsC has informed us that, in accordance with its 2018/19 business plan, it will introduce the practice note and also review its fitness to practise KPIs and internal timescales. Since the practice note will affect the GOsC's fitness to practise procedures post IC referral, it is delaying the introduction until its KPIs have been considered by its Council.

### **Conclusion against this Standard**

- 6.30 This year, the GOsC has continued its work in developing a number of its fitness to practise processes, as outlined above, to ensure that they are transparent, fair, and proportionate, and are focused on public protection. We are therefore satisfied that this Standard is met.

**Standard 6: Fitness to practise cases are dealt with as quickly as possible taking into account the complexity and type of case and the conduct of both sides. Delays do not result in harm or potential harm to patients and service users. Where necessary the regulator protects the public by means of interim orders**

- 6.31 Last year, we conducted a targeted review of the GOsC's performance against this Standard as we noted a decline in performance of the time taken by the GOsC to conclude fitness to practise cases. We were also concerned about the increasing times to progress cases and increases in the number of adjourned hearings. Following the review of GOsC cases and the data provided, we decided that the increase in time taken to conclude cases was not so significant as to justify a finding that the Standard was not met in 2017/18.

6.32 The median timeliness data for the period under review is set out below:<sup>19</sup>

Measure	2017/18				2017/18 annual	2018/19		
	Q1	Q2	Q3	Q4		Q1	Q2	Q3
<b>Number of open cases older than:</b>								
<b>52 weeks</b>	15	17	12	7	7	7	11	7
<b>104 weeks</b>	3	3	2	1	1	1	3	5
<b>156 weeks</b>	0	0	0	0	0	1	1	1
<b>Median time from receipt of initial complaint to the final PCC determination</b>					58	53	87	35
<b>Median time taken from receipt of an initial complaint to a final decision by the IC</b>	30	42	16	25	34	18	20	20
<b>Median time taken from final IC decision to the final PCC determination</b>					32	33	53	22

6.33 The data shows that the median time from receipt of referral to final IC decision has decreased, which indicates an improvement in the time taken to progress cases through the initial stages of the process.

6.34 The quarterly data for the time taken from final IC decision to final PCC decision or other final case disposal shows an increase from 33 weeks in quarter one to 53 weeks in quarter two, and then a decrease to 22 weeks in quarter three. We cannot, at this stage, draw a conclusion on this data. However, we will continue to monitor this in future performance reviews.

6.35 At the time of writing this report, we do not hold the annual data for the time from receipt of a complaint to referral to a final PCC determination or other final case disposal for 2018/19. We do however hold quarterly data in respect of three quarters for this review period. The quarterly data we have does not provide sufficient basis to determine that performance has declined during this review period. We note that the GOsC has reported that the timeliness measure increased because several complex older cases were concluded.

<sup>19</sup> The Authority introduced a revised quarterly dataset with effect from 1 April 2018. This review period for the GOsC therefore straddles two different datasets. There are some differences in the items collected in each dataset. The shaded areas represent unavailable data due to the way in which the data was previously collected.

- 6.36 We do not consider the increase in quarter two to be of a concern given the significant reduction in the median time in quarter three. The GOsC has a relatively small caseload which can lead to greater variation in its figures.

### **Conclusion against this Standard**

- 6.37 The median time from receipt of referral to final IC decision has significantly decreased in the period under review as compared to the 2017/18 annual figure.
- 6.38 This review period, the median time from receipt of initial complaint to the final PCC determination has fluctuated which is in part explained by the disposal of older cases. At the time of writing, we have not received the annual data.
- 6.39 The median time taken from receipt of complaint to IC has been consistent during this performance review period, following a period of fluctuation last year. Last year our concerns were mitigated by the measures taken by the GOsC to improve timeliness. The measures included the introduction of a listings protocol and an escalation policy for use when requested information was not provided within set timeframes. These measures appear to have had a positive impact on timeliness this year.
- 6.40 Overall, the GOsC's timeliness measures have improved since 2017/18. Furthermore, the GOsC has developed Standard Case Directions which it anticipates will improve how all parties prepare for hearings. This has the potential to improve the progression of cases and reduce the number of cases adjourned.
- 6.41 Based on the information we have assessed this year, we are satisfied that this Standard is met.

### **Standard 7: All parties to a fitness to practise case are kept updated on the progress of their case and supported to participate effectively in the process**

- 6.42 Although this Standard was not included as part of our targeted review last year, we identified several cases where the complainant was not informed of the decision to close the case despite the provisions laid out in its Rules.<sup>20</sup> The GOsC told us that, in the cases we identified, the complainants had indicated that they did not wish to pursue the case and therefore the GOsC did not consider it necessary to confirm that the Screener had closed the concern under the ICP. We considered that a formal notification of closure and reasons should be sent to the complainant.
- 6.43 We also had concerns that the GOsC did not make clear that decisions to close cases rested with an independent decision-maker (the Screener). The GOsC acknowledged that a consistent and clearer explanation should be used across all cases closed by a Screener. However, we determined that

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<sup>20</sup> Section 6(1) of The General Osteopathic Council (Investigation of Complaints (Procedure) Rules Order of Council 1999 directs screeners to notify the complainant of the decision and reasons in writing.



our concerns were not sufficient for us to conclude that this Standard was not met.

- 6.44 During this performance review period, the GOsC has introduced a template letter which is a basis for notifying complainants of the Screener's closure decision and its standard procedure is to send this letter in all cases closed unless there are exceptional circumstances, for example when the complainant has asked explicitly not to be contacted. We welcome the amendment to this procedure.
- 6.45 The GOsC has amended its internal manual regarding communicating closure decisions to complainants. We have seen no other developments in this area of the GOsC's work during the review period and we have seen no evidence to suggest that parties to the fitness to practise process are not being appropriately updated and supported to participate. The guidance available to its registrants regarding the fitness to practise process and hearings, both updated in the previous performance review period, is comprehensive.
- 6.46 We are therefore satisfied that this Standard is met.

**Standard 8: All fitness to practise decisions made at the initial and final stages of the process are well reasoned, consistent, protect the public and maintain confidence in the profession**

- 6.47 This Standard was met last year. During this performance review period, the GOsC provided us with 28 final decisions. All of the decisions were found to be sufficient to protect the public, and we did not refer any decisions to the High Court.

**Decision Review Group**

- 6.48 As noted in last year's report, the GOsC established a Decision Review Group (DRG) to provide quality assurance, advance learning and continuous improvement by monitoring the fitness to practise decision making process, and to review learning points issued by the Authority. The membership of the DRG comprises GOsC staff and at least one person from another healthcare regulator overseen by the Authority at each meeting. Meetings are chaired by the Head of Regulation (or a delegate in their absence) and take place every six months.
- 6.49 During this performance review period, the DRG met once and reviewed the determinations of four final PCC hearings. The DRG provided the following feedback to the GOsC:
- Consider how it can improve clarity on the use of expert evidence
  - Develop guidance for the IC and PCC in respect of expert evidence.
- 6.50 The GOsC is in the process of considering these suggestions and we will report on these when we next consider its performance against this Standard.

- 6.51 We note the positive initiative taken by the GOsC in engaging with other regulators to share learning and development in respect of IC and PCC decisions.

### **IC and PCC Panel training**

- 6.52 During this performance review period, the GOsC held a training day for all members of the PCC and IC. A specialist trainer was engaged to assist the Committees in the approach to be taken to making primary findings of fact as part of their decision making. The GOsC reported to its Council that the learning outcomes focused on improving the efficiency and quality of committee decisions.

### **Section 29 review**

- 6.53 Through our Section 29 work we identified a concern about the GOsC's commissioning of expert witnesses which we determined was conducted with insufficient care. We had concerns about the quality of expert evidence and noted that the PCC took the decision to exclude an expert's evidence on the basis of the experts' lack of expertise. Our concerns were not so significant for us to lodge a Section 29 appeal. We note that the GOsC has taken measures to improve the quality of the experts it commissions through a recruitment process and has reviewed cases to advance learning that may be used to make further improvements.

### **Conclusion against this Standard**

- 6.54 We note it is positive that the GOsC has delivered training in a timely manner to address concerns raised and has tailored its learning to address issues identified by us, the High Court and the DRG.
- 6.55 We also note it is constructive that the GOsC continues to use the DRG to scrutinise and drive improvement of its Committee decisions. The DRG provides an opportunity for sharing good practice and creating a consistent approach to regulation to ensure that all fitness to practise decisions are coherent, well-reasoned, protect the public and maintain public confidence in the osteopathic profession. We welcome the positive developments the GOsC has made in engaging with other regulators to share learning and development in these areas.
- 6.56 For these reasons we are satisfied that this Standard is met.

### **Standard 9: All fitness to practise decisions, apart from matters relating to the health of a professional, are published and communicated to relevant stakeholders**

- 6.57 The GOsC has not reported any changes to the way in which it publishes and communicates fitness to practise decisions to relevant stakeholders.
- 6.58 As part of our performance review we checked a sample of entries on the GOsC register. This did not identify any errors in the publication of fitness to practise information.

- 6.59 Under our Section 29 powers, we review all final fitness to practise decisions made by the GOsC. Through our review of the decisions reported to us in the period under review, we identified that the GOsC had failed to notify us of the outcome of a review (and continuation) of a suspension order. This was potentially serious, but we did not identify a risk to public protection from the decision made by the PCC in that case, and we are satisfied that this was an oversight. We note that the GOsC did properly report the original PCC decision and the subsequent reviews to us. We are therefore satisfied that this Standard is met.

**Standard 10: Information about fitness to practise cases is securely retained**

- 6.60 This Standard was met last year with no concerns.
- 6.61 In quarter one of 2018/19, the GOsC reported a data breach to the Information Commissioner's Office (ICO). The breach involved a witness statement relating to a fitness to practise concern being sent to the incorrect registrant. The GOsC explained to us that the error occurred because the document was stored incorrectly on its electronic system. The GOsC told us that it took immediate action to rectify the error and notified the individuals concerned before reporting the issue to the ICO.
- 6.62 The GOsC informed us that it has collectively reflected on this data breach and has changed its processes to minimise the likelihood of such an incident re-occurring. It also confirmed to us that the ICO decided to take no further action.
- 6.63 As the GOsC has not reported a data breach to the ICO in recent years,<sup>21</sup> we consider that this data breach does not give rise to wider concerns about how information relating to fitness to practise cases is retained by the GOsC. Accordingly, we are satisfied that this Standard remains met.

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<sup>21</sup> Our statistical dataset shows that the GOsC has not reported a data breach to the ICO since 2015/16.

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