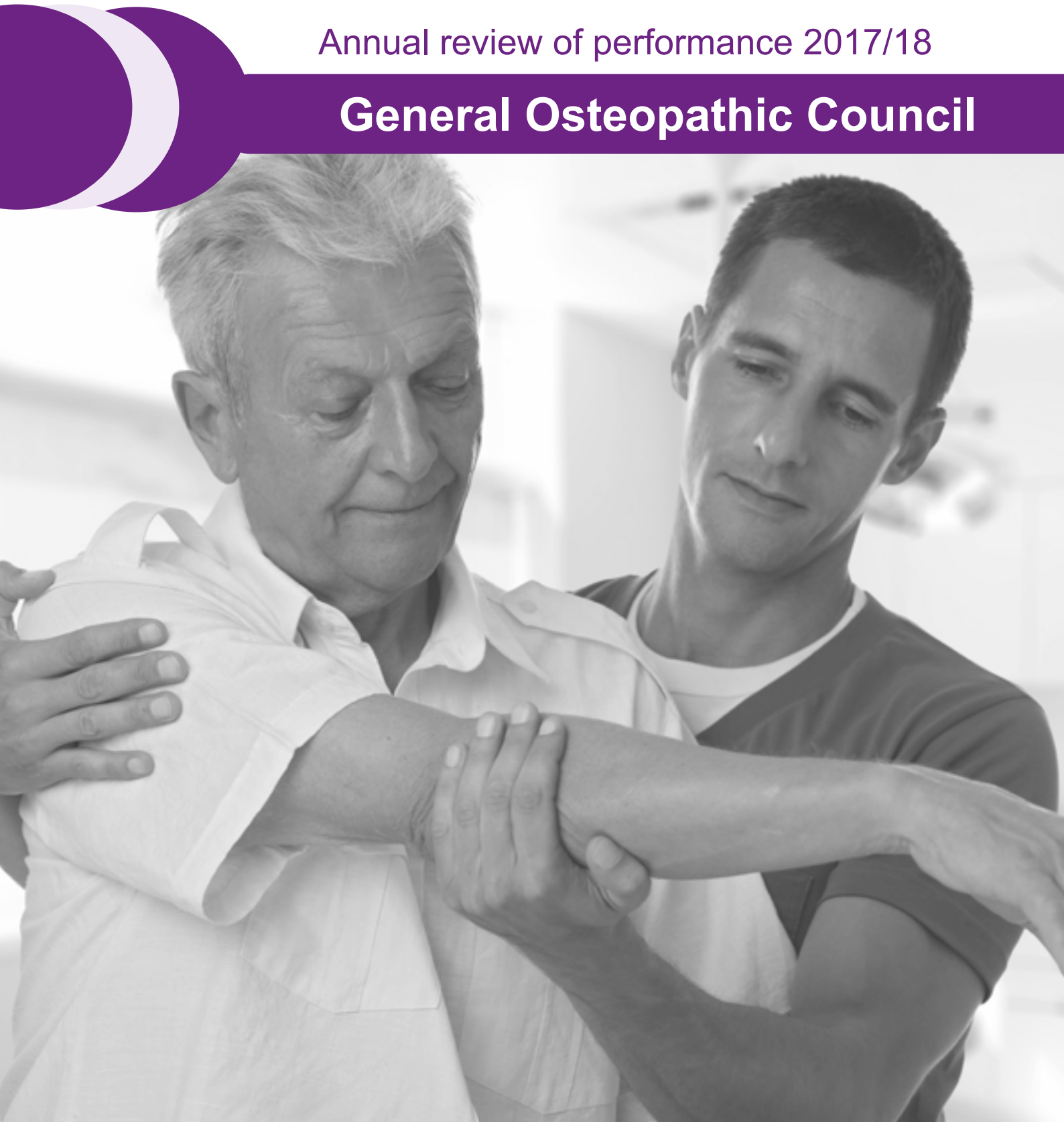


Annual review of performance 2017/18

**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 practice of osteopathy in the United Kingdom. Its work includes:

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

As at 31 December 2017 the GOsC was responsible for a register of 5,239 osteopaths. The fee for registration 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 months. We use this to decide the type of performance review we should carry out.

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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.

- 1.7 When considering information relating to the 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 2018 we carried out an initial review of the GOsC's performance from 1 January 2017 to 31 December 2017. Our review included an analysis of the following:
- Council papers and reports
  - Policy and guidance documents
  - Statistical performance dataset (see sections below)
  - Third party feedback
  - Register check
  - Information available to us through our review of final fitness to practise decisions under the Section 29 process.<sup>3</sup>
- 2.2 As a result of this assessment, we decided to carry out a targeted review of Standards 1,3 and 6 of the *Standards of Good Regulation* for Fitness to Practise.
- 2.3 We obtained further information from the GOsC relating to these Standards. We also carried out a targeted audit of a sample of fitness to practise cases closed during the period 1 January 2017 to 31 December 2017. As a result of a detailed consideration of this further information and our audit findings, we decided that the GOsC has met all of the Standards subject to review.

### Summary of the GOsC's performance

- 2.4 For 2017/18 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 2017/18. 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 The GOsC's work to review and update its Osteopathic Practice Standards (OPS) has progressed over this review period. The standards under review were last updated in September 2012.
- 3.3 The GOsC consulted on draft standards between August and October 2017. The standards combine the GOsC's Standard of Proficiency and its *Code of Practice*, both of which it is required to publish under the Osteopaths Act 1993.<sup>4</sup> The four themes of the existing OPS were retained (Communication and patient partnership; Knowledge, skills and performance; Safety and quality; and Professionalism).
- 3.4 A final version of the updated OPS was agreed by the GOsC's Council at its meeting in May 2018. The new standards will come into force on 1 September 2019.

**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 No new supplementary guidance for osteopaths was published during this review period. The GOsC continues to publish guidance on issues including:
- Blood-borne infections
  - Conflicts of interest
  - The duty of candour
  - Raising concerns
  - Reporting female genital mutilation
  - Clinical imaging guidelines.
- 3.6 In August 2017 the GOsC, together with the other statutory bodies that regulate health professionals in the UK and social workers in England, issued a joint statement on conflicts of interest. The statement sets the regulators' expectations of health and care professionals in relation to avoiding, declaring and managing conflicts of interest across all healthcare settings.

<sup>4</sup> <http://www.legislation.gov.uk/ukpga/1993/21/contents>



**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 As noted above, the GOsC consulted on its updated draft OPS between August and October 2017. The GOsC reported that there had been input into the development of the draft document from a range of stakeholders.
- 3.8 In revising the standards the GOsC has sought to reflect developments in current osteopathic practice as well as learning from complaints about osteopaths. Specifically, the updated standards are intended to provide clarity in relation to issues such as the duty of candour, consent, boundaries, and the role of osteopathy in public health and in relation to other health professionals.
- 3.9 The consultation was widely promoted by the GOsC. Engagement activities were targeted at registrants, patients and the public, the osteopathic education sector and students, indemnity providers and private health insurers, and organisations involved in health and care regulation across the four countries of the UK and internationally. Resources were made available to enable groups to run their own sessions to engage with the consultation.
- 3.10 The findings of the consultation were presented to a Stakeholder Reference Group formed of the Institute of Osteopathy, the National Council for Osteopathic Research, the Osteopathic Alliance, the Council of Osteopathic Education Institutions and patients from the GOsC's patient and public partnership group. Areas of disagreement among respondents to the consultation were discussed with the group to seek appropriate resolution.

**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**

- 3.11 The GOsC's website provides clear information about its standards, how to complain if an individual has a concern about a registrant and what action can be taken against a registrant under the GOsC's fitness to practise process.
- 3.12 The GOsC has undertaken work to improve the way in which its standards and guidance are presented, with the aim of making it easier for users to find what they are looking for. This involved streamlining content to avoid duplication and moving some material out of its dedicated website for registered osteopaths and onto its main public website to sit with related content.

## 4. Education and Training

- 4.1 The GOsC has met all of the Standards of Good Regulation for Education and Training during 2017/18. 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 In recent performance review reports we highlighted the GOsC's development of 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. We were satisfied in each case that the GOsC had taken appropriate steps to help ensure that student training is linked to the standards registrants must meet.
- 4.3 No new educational standards have been published during this review period, but the GOsC has undertaken research into how its standards are being applied in osteopathic education. The research explored how maintaining appropriate boundaries is incorporated into osteopathic teaching and learning, in light of the high proportion of complaints about osteopaths that relate to this subject.
- 4.4 In 2016, all UK osteopathic educational institutions (OEs) agreed to participate in a thematic review of boundaries to support teaching and learning in this area. The GOsC commissioned an independent consultant to report on the findings of the review. The resulting report, *Thematic Analysis of Boundaries Education and Training within the UK's Osteopathic Education Institutions*,<sup>5</sup> was published in March 2017.
- 4.5 The GOsC's business plan 2017/18 contained a commitment to scope the need for additional guidance for students based on the outcome of this research, with particular reference to student/tutor and student/student relations.

**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**

#### **Education quality assurance contract renewal**

- 4.6 The GOsC's Council agreed in November 2017 to extend the existing contract with its provider for quality assurance services from August 2018 to July 2020. It was the view of the GOsC's Executive that performance had been satisfactory, all work had been completed to agreed timescales and that there were no reasons that the contract should not be extended.

#### **Review of the education quality assurance process**

- 4.7 In March 2017 the GOsC's Policy Advisory Committee (PAC) agreed the scope of the GOsC's education quality assurance review. It was agreed that:

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<sup>5</sup> Available at [www.osteopathy.org.uk/news-and-resources/research-surveys/gosc-research/boundaries/](http://www.osteopathy.org.uk/news-and-resources/research-surveys/gosc-research/boundaries/)

- The existing quality assurance method (comprising: visits, annual reporting and monitoring of information which could impact on the delivery of the OPS) would be retained
  - The GOsC should continue to introduce flexibility and proportionality into that method
  - Consideration should be given to integrating discrete aspects of the process, for example, by streamlining the concerns and unsolicited information policies in a more integrated way
  - Ways of identifying, sustaining and sharing good practice in a more effective way should be explored.
- 4.8 At the October 2017 meeting of the PAC and the January 2018 meeting of the Council, a draft consultation on the review of education quality assurance was discussed. The GOsC reported that in developing the proposals for consultation, it had been working with its external provider of quality assurance services to review feedback on the existing process for the visitors who undertook reviews, review coordinators and osteopathic education institutions.
- 4.9 The consultation was held from 8 March 2018 to 3 May 2018. Implementation of the updated processes began in July 2018.
- 4.10 The GOsC's aim to make its education quality assurance function more transparent and to reduce the burden of its oversight while maintaining appropriate standards is to be welcomed. The outcomes of this work will be considered as part of the performance review next year.

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

- 4.11 In May 2017 the GOsC's Council agreed to recognise a new osteopathic qualification from 1 September 2017 to 31 January 2021. This decision was reached following a review involving a visit which recommended recognition of the qualification, subject to specific conditions being met.
- 4.12 Five yearly visits to review existing recognised qualifications took place at two osteopathic education institutions in October 2017. Specific conditions were agreed when reapproving one programme. These included a condition that the institution ensure the provision of adequate patient numbers (of sufficient range and diversity) and another that students' clinical experience is maintained through the recruitment of sufficient students on each learning pathway.
- 4.13 As part of its review of education quality assurance the GOsC consulted on a procedure for dealing with concerns about osteopathic education, which sets out the types of concerns that the GOsC will and will not consider, and each stage of its procedure for dealing with concerns. We will report on the outcome of the consultation in our next performance review.

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

- 4.14 There have been no significant changes during the period under review to how the GOsC publishes information about approved programmes or the approval process. It has maintained and updated the section of its website dedicated to its training courses and quality assurance process. Decision papers about the award of recognised qualifications are available on the GOsC's website.
- 4.15 The information published as part of the GOsC's quality assurance of courses run by osteopathic education institutions is being considered as part of the GOsC's review of its education quality assurance function. We will report on the outcomes of that review in our next performance review.

## 5. Registration

- 5.1 The GOsC has met all of the *Standards of Good Regulation* for Registration during 2017/18. 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 There have been no changes to processes in this area and we have seen no evidence that the GOsC has registered anyone who has not met its requirements.
- 5.3 Existing registrants may be removed from the register for non-compliance with the GOsC's continuing professional development (CPD) requirements, or non-payment of fees, though in practice these powers are used infrequently. The GOsC reported that from 1 April 2017 to 30 September 2017, it removed nine individuals from the register for failing to meet its requirements. Four of those were removed for non-compliance with CPD and five were removed for non-payment of the registration fee.

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

##### **Registration application processing times**

- 5.4 Last year we reported on variation in the times taken to process applications for registration from international applicants (those trained outside of the UK and not within the EU/EEA). We were satisfied that there was no evidence of a link between an increase in the number of UK applications and an increase in processing times for international applications and that delays that affected a small number of applications were a result of specific and unavoidable circumstances. We also recognised that within a small caseload, processing times will fluctuate, as a delay in a single case can have an adverse impact on median processing times.

5.5 Comparative data on median processing times, in working days, for each category of applicant is provided below. Where N/A is stated, no applications in that category were received in the quarter:

	UK	EU/EEA	International
<b>GOsC target</b>	<b>5</b>	<b>90</b>	<b>90</b>
Q4 2015/16	2	53	56
Q1 2016/17	2	N/A	66
Q2 2016/17	2	N/A	100
Q3 2016/17	2	49	59
Q4 2016/17	2	36	N/A
Q1 2017/18	2	17	52
Q2 2017/18	2	21	N/A
Q3 2017/18	2	50	47

5.6 As can be seen, processing times for UK applications have remained static at two working days during the review period (Q4 2016/17-Q3 2017/18). There has been some variation in processing times for EU/EEA and international applications, but this was not significant and all applications were processed within the GOsC’s target timeframes.

**Registration assessment fees**

5.7 From 8 November 2017 to 30 January 2018 the GOsC consulted on increasing the charges levied on international applicants for registration so that the burden of the cost of registration assessment falls on those applying for registration, rather than existing registrants. The results of the consultation were published and considered by the GOsC’s Council in May 2018. It was agreed that the proposed change should be implemented.

**Seeking the views of users on the registration process**

5.8 In its 2017/18 business plan, the GOsC committed to seeking feedback from those using or applying its registration processes in order to better understand their experiences and improve the registration system. Feedback from new graduates about the process is being collected monthly, starting from July 2017. International applicants to the register now receive a feedback questionnaire at each stage of the assessment process. Registration assessors were also requested to provide feedback on the time commitment involved in their role to ensure that this was appropriate.

**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**

5.9 There have been no changes to the way in which the register is published and accessed in this review period.

### Publication of qualifications on the register

- 5.10 In May 2017 the GOsC's Council agreed that the existing position on which qualifications should be displayed on the register should remain unchanged.
- 5.11 These are restricted to:
- a primary osteopathic qualification
  - a primary medical qualification which can be verified, for example, by checking the General Medical Council website
  - a non-medical doctorate, e.g. PhD.
- 5.12 It is the GOsC's position that allowing a medical qualification and a non-medical PhD doctorate to be displayed is in keeping with the OPS, which states that as an osteopath you should make sure that: 'You do not use any title which implies you are a medical practitioner (unless you are a registered medical practitioner), though this does not prevent you from using the title 'Doctor' if you have a PhD or other doctorate and it is clear that the title relates to this.'

### Register check

- 5.13 As in previous years, we conducted a check of a sample of entries on the GOsC's register to ensure that the entry on the register accorded with the outcome of the fitness to practise hearing. All entries were accurate.

### 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

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

### 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

- 5.15 There have been no changes to the GOsC's processes for managing this risk. The GOsC website continues to provide information about protection of title, including information about how to raise a concern and the process the GOsC follows when it receives information about unregistered practice. It explains that the GOsC can send a 'cease and desist' letter to individuals who practise as osteopaths when they are not on the register and can prosecute if the letter is not successful. The GOsC's *Protecting the osteopathic title enforcement policy* is also available on the relevant section of its website.
- 5.16 The GOsC provides quarterly data to its Council on concerns received in relation to protection of title and action taken. During the review period the GOsC:
- received 55 protection of title concerns

- sent 29 'cease and desist' letters
- resolved 19 cases
- successfully prosecuted in one case.

5.17 There were 24 active protection of title cases as at 31 December 2017.

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

- 5.18 We have reported in previous Performance Reviews on the GOsC's development of a new continuing professional development (CPD) scheme, in accordance with its 2016 to 2019 Corporate Plan. Last year we set out in our report the key features of the existing scheme and what was different about the proposed new model. We reported on the GOsC's consultation on draft proposals for the scheme and the planned 'two-wave' approach to implementation, wherein a group of 'early adopters' would trial the scheme from November 2016, before its introduction for all registrants in 2018. Work to develop and implement the scheme progressed over this review period.
- 5.19 The GOsC continued to develop CPD guidance and resources including draft *CPD Guidelines* and *Peer Discussion Review Guidelines*, templates for recording CPD activity, thought pieces, and case studies. All resources and guidance are available on the GOsC's CPD microsite. The site also provides information on the experiences of early adopters of the scheme. The GOsC reports that it has received positive feedback on the site from registrants including that they had found it clear, accessible and reassuring. Osteopaths were reported to welcome the free resources on the site which could be used under the existing CPD scheme, and the fact early adopters were sharing their experiences.
- 5.20 The GOsC reports that during the review period work was undertaken to develop internal and external processes to support implementation of the scheme, including IT requirements and an audit strategy.
- 5.21 Engagement activity in relation to the new scheme included publication of a video animation for registrants, themed webinars, e-bulletins, and features in *The Osteopath* magazine.
- 5.22 The GOsC consulted on amendments to its *Continuing Professional Development Rules Order of Council 2006* from 14 September to 9 November 2017. The primary changes proposed to the rules were:
- A move to a three-year CPD cycle (from an annual cycle) to enable the incorporation of the new requirement for peer discussion review
  - Inclusion of rules in CPD guidance (including a requirement for consultation on such guidance) describing how the CPD requirement may be satisfied. Such guidance includes instructions about how to undertake the Peer Discussion Review
  - Removal of an anomaly whereby new graduates have an initial exemption from CPD.

- 5.23 The GOsC's response to the consultation was included in the Council papers for the meeting in January 2018, confirming the GOsC's intention to proceed with the changes proposed. The amended rules received Privy Council approval in April 2018 and were laid before Parliament in June 2018.

### **Monitoring, evaluation and risk management of the scheme**

- 5.24 We noted in our response to the GOsC's consultation on the new CPD scheme in 2015 that, as the scheme is tailored to address specific risks, it will be important for the GOsC to ensure that it can identify and adapt to any new risks that emerge over time.
- 5.25 An evaluation is being undertaken in order to provide the GOsC information about patterns of CPD activity under the existing scheme and enable it to monitor how these change with the implementation of the new scheme. The GOsC also describes the exercise as an opportunity for registrants to explore how ready they are to begin the new scheme. The evaluation involves annual surveys of registrants in relation to their CPD activity. The 2017/18 evaluation survey ran from November 2017 to January 2018. 358 responses were received (7% of the registrant population). The survey will continue in the first years of implementation of the new scheme.
- 5.26 The GOsC has reported that under the new scheme it will contact a sample of registrants in the months after they complete annual renewal of their registration to seek verification of the activities undertaken (specifically around the new elements of the CPD scheme) and to understand how registrants are planning their hours across the three-year CPD cycle.

## **6. Fitness to Practise**

- 6.1 As we set out in Section 2, we conducted a targeted review of the GOsC's performance against Standards 1,3 and 6. The reasons for this, and what we found as a result, are set out under the relevant Standards below. Following the review, we concluded that these Standards were met and therefore the GOsC has met all the Standards of Good Regulation for Fitness to Practise in 2017/18.

### **The GOsC's management of advertising complaints**

- 6.2 In our audit of closed fitness to practise cases as part of the targeted review undertaken this year, our sample included cases related to complaints alleging misleading advertising by registrants. We identified aspects of the GOsC's approach to the management of these cases which caused us concern.
- 6.3 The GOsC began receiving a high number of advertising complaints from a single complainant in April 2015. We have noted in previous performance review reports some of the action taken by the GOsC in response. This includes its work to share the Advertising Standards Authority (ASA) guidance. This is the first time that we have reviewed individual cases and the GOsC's management of such complaints in detail.
- 6.4 While we considered that many of the issues identified in these cases are relevant to the *Standards of Good Regulation*, we recognise that the number and



rate at which these complaints were referred to the GOsC posed a particular challenge, with more than 420 complaints received, and that these cases, while clearly raising concerns about practitioners, are not at the higher end of the scale of risk within fitness to practise concerns.

- 6.5 We concluded that our concerns, which were specific to the management of advertising complaints were not a sufficient basis upon which to determine that any of the Standards for Fitness to Practise were not met. However, we consider it appropriate to report on the issues we identified.
- 6.6 The advertising cases we reviewed fell into two groups, reflecting changes that the GOsC made to its approach to managing these complaints. The older cases reviewed (sample size: 12) were closed by the Investigating Committee (IC). Cases more recently received (sample size: 17) were closed by Screeners at an early stage of the process under the GOsC's Initial Closure Procedure (ICP) which was introduced in February 2017 and is discussed in more detail below under the first Standard for Fitness to Practise.

#### **Advertising cases closed by the IC**

- 6.7 In these cases, registrants were informed of the nature of the concerns about their advertising content and were asked to take steps to ensure that the material on the website in question, as well as any other marketing communications, complied fully with the relevant section of the Osteopathic Practice Standards (OPS)<sup>6</sup> by meeting the code and guidance issued by the ASA. Registrants were given a deadline by which to comply and to provide the GOsC with written confirmation to this effect.
- 6.8 The GOsC did not undertake a full assessment of the information provided by the complainant, though we noted that there was evidence of an initial assessment in the triage forms completed in some, though not all, of the cases in the sample. The onus was placed on the registrant to provide information to demonstrate to the GOsC that their advertising was compliant with relevant standards and guidance.
- 6.9 The allegation considered by the Screener in these cases was that the registrant had been professionally incompetent and/or their conduct had fallen short of the standards required of a registered osteopath, in that they had misleading information on a website. After the Screener's decision, particulars of concern were drafted by the GOsC, alleging that the registrant had not responded adequately (or at all) to the concerns raised with them by the GOsC about the advertising content. In our view, this meant that the allegation no longer reflected the concerns raised that the content was misleading. We had concerns about the clarity of the allegations as drafted and considered that the decision to charge the cases in this way appeared to have caused some confusion both to registrants and to the IC when it considered the cases.

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<sup>6</sup> Standard D14 (2.1) of the OPS states: 'Allowing misleading advertising and information about you and your practice. You should make sure that: 2.1. Your advertising is legal, decent, honest and truthful as defined by the Advertising Standards Authority (ASA) and conforms to the current guidance, such as the UK Code of Non-broadcast Advertising, Sales Promotion and Direct Marketing (CAP Code).'

- 6.10 The GOsC's position that registrants have a continuing professional obligation to ensure that any website which features them (and from where they derive business) complies with the ASA guidance is reasonable and is consistent with advice and guidance provided by other regulators. However, we noted that in some of the cases we audited, registrants who contacted the GOsC to inform it that they were not responsible for the advertising content complained about (and to provide the details of another registrant who was) were told that it was not possible to redirect the concerns raised to another registrant. In response to our feedback on this point, the GOsC told us that, due to what it considered to be the negligible risk level and public interest in these cases, it was neither necessary nor proportionate to raise an allegation against any other individual who appeared to have control or influence over the content complained about. We consider that this raises questions about the transparency and consistency of the GOsC's management of these cases.
- 6.11 The GOsC has since told us that there are a variety of circumstances in which advertising content can be generated about an osteopath which may be beyond the control of the individual concerned, and that in such cases it would wish to look carefully at the circumstances prior to taking action.
- 6.12 We identified a number of concerns about the IC's reasoning in this group of cases. We considered that this reflected some confusion on the part of IC panels resulting from the way in which the matters had been charged.
- 6.13 In two cases the IC panel did not fully address the allegation that it was asked to consider and applied the real prospect test only to matters that were not covered by the charges drafted by the GOsC. In a further eight cases, the IC correctly applied the real prospect test to the matters that were charged, but also went on to apply the test to matters that were not. The GOsC accepts that the IC did not explicitly set out the real prospect test with regards to the allegations it was asked to consider in two cases. In one case, the GOsC noted that the panel did refer in its decision to reasons that would justify the finding that there was no real prospect of the facts of those allegations being proved. The GOsC considered that the IC's reasons were sufficient in all cases in this group.
- 6.14 In six cases in this group we noted lengthy delays to case progression which we considered were directly related to the GOsC's case management decisions. The GOsC has expressed the view that advertising cases are extremely low risk to no risk and told us that it prioritised other higher risk cases throughout the management of these concerns.
- 6.15 In six cases in this group we identified concerns about transparency in the sharing of information with registrants. We noted that registrants were not provided with a copy of the IC's reasons for a decision to adjourn its consideration of the case, and that the summary of those reasons provided in correspondence to registrants was incomplete. In each case, the IC had directed that additional allegations be put to the registrant, together with the existing particulars of concern, and that they be invited to make observations on them. In the cases we audited, we saw no evidence that the GOsC disclosed these additional allegations and the full IC decision, and this raises questions around the transparency of the approach in these cases. In one of the cases the

summary of the reasons provided was inaccurate, describing a direction by the IC that was not made.

### Advertising cases closed by Screeners under the ICP

- 6.16 In the more recent cases closed by Screeners under the ICP, registrants were notified of the fact that a complaint had been made but were not given any details of the nature of the complaint or told which content was the subject of the complaint. Registrants were advised to review the content of their websites to ensure that all the material published and made available to potential patients and members of the public complied fully with the OPS, the ASA code and additional relevant guidance issued by the ASA. The GOsC did not ask registrants to provide any evidence that this had been done. If a registrant contacted the GOsC for more information about the complaint, this was provided, though the level of information provided varied in the cases we reviewed. The GOsC placed the onus on the complainant to obtain an ASA ruling on the matter and to contact the registrant with their concerns directly. If the complainant did not provide evidence of an ASA ruling within the deadline set by the GOsC, the cases were closed by Screeners under the ICP.
- 6.17 The GOsC undertook no independent investigation to assess the advertising concerns raised in any of these cases. We did not consider that the GOsC's approach of informing registrants of the fact of a complaint without providing any further details assisted registrants to address the issues of concern. In its response to this, the GOsC stated that it does not consider it appropriate to take at face value the concerns about advertising raised by a third party or to make an assessment of that advertising itself. It considers that this is exclusively the role of the ASA. We found this approach surprising and we do not consider that providing details of the complaint to registrants amounts to the GOsC taking at face value the concerns raised by the complainant, any more than it would in cases unrelated to advertising.
- 6.18 We questioned the suitability of these cases for closure under the ICP. The ICP guidance suggests that a time limit can be set for complainants to provide more information where the concerns raised are *'brief, vague and/or incoherent'*. It is aimed at ensuring that the GOsC has information that is *'sufficiently relevant, credible and detailed to enable the Screener to form a view on whether the enquiry meets the statutory definition of an allegation or complaint'*. In each of these cases, the complainant had provided examples of the content which it argued was non-compliant with ASA/CAP advice, had explained the reasons for this view, and had provided a link to the website in question. We did not agree with the GOsC's position that this was insufficient information to enable a Screener to consider whether there was power under the Act for the IC to consider the matter.
- 6.19 We identified delays in progressing all 17 cases in this group. In its response to our audit feedback, the GOsC told us that these concerns were considered to be of low priority, because they presented little or no risk, were part of a campaign by a particular organisation, and did not involve clinical matters affecting patients. Therefore there were no key performance indicators in place for their progression. Despite the delays observed, we note that the complaints in these

cases were received between March and May 2017 and all were closed by Screeners in August 2017.

- 6.20 We also had concerns about the quality and sufficiency of the Screeners' reasons for closure in all cases in this group. In seven cases, the Screener did not record any reasons for the decision to close the case. The Screener's report stated only *'I agree this case should be closed'*. It is the GOsC's position that the reasons provided in each case were sufficient. However, it told us that in the interest of transparency, the ICP Screener's report template would be amended to include a section for the Screener's reasons for their decision.
- 6.21 We considered that the GOsC's approach to the management of these cases and the Screeners' decision in each case meant that the concerns raised were not assessed or addressed. We could see no evidence that these cases were triaged or risk assessed at any stage. The GOsC's process does not require registrants to be notified or for them to be invited to provide any response to the concerns raised and there was no evidence that the GOsC undertook any checks to determine whether the content complained about had subsequently been removed or amended. We noted that in a number of these cases the content complained about continued to be published at the time of our review of these cases, though we are not in a position to assess whether the content was, in fact, misleading.

### **The GOsC's position on the overall approach taken to advertising complaints**

- 6.22 The GOsC has dealt with the problems around concerns about some of its registrants' advertising for a number of years. It argues that establishing whether there has been a breach of ASA guidance/the CAP Code is difficult because such matters are fact-specific and often finely balanced. The GOsC considers that it lacks the competence to apply the CAP Code and that the ASA and CAP are the bodies with jurisdiction in relation to these matters. It considers that there is minimal risk presented in these types of advertising cases, and so it is not proportionate for the GOsC to make a referral to the ASA for resolution.
- 6.23 The GOsC considers that claims made by the complainant in these cases that patients could be deterred from consulting their doctor/denied effective treatment as a result of the advertising complained about can only be considered as speculative assertions because no evidence was provided of any particular patient being disgruntled or aggrieved, or as having suffered any actual harm. In these circumstances, the GOsC notes, simple assertion is not enough to establish within section 20(6)(a) of the Osteopaths Act that 'power is given' to deal with the concern.
- 6.24 We understand the GOsC's current position to be that a Screener cannot refer an advertising complaint on to the IC unless there is evidence of a clear breach, which it defines as an ASA ruling on the matter or clear CAP advice. The GOsC has told us that it considers that the advertising cases we reviewed during the audit were wrongly opened as fitness to practise concerns and that in future any individual who raises a concern with the GOsC about advertising will be recommended to raise the concern locally with the registrant in the first instance and then with the ASA if the registrant fails to address the concerns raised.

However, the GOsC has also confirmed that it would always review the material provided and retain the option to open a fitness to practise case where the concerns appeared at the outset to be serious enough to merit further immediate consideration. It is not clear whether this review would be documented in each case. There is no formal policy setting out what its approach is.

- 6.25 The GOsC's standards for registrants require that they make sure that their advertising is legal, decent, honest and truthful as defined by the ASA and conforms to the current guidance, such as the CAP Code. We consider that there are good regulatory reasons for this. The purpose is not just to protect the public but to maintain standards of competence and, indeed public confidence in the profession: it is right that professionals should abide by the relevant codes of practice. Moreover, even if the risk to patient safety is low, misleading advertising, particularly in the context of professionals paid privately, may lead to patients wasting money and, in some cases, could lead to them delaying or missing more appropriate treatment. It may also be that many potential breaches of the ASA/CAP Code do not require regulatory action. However, this does not mean that the GOsC should not consider whether they do or not.
- 6.26 The advertising cases considered by the GOsC are likely to range from those where there is a clear and egregious breach of the ASA/CAP Code where there is a potential for risk to the public, to those where the risk is minimal or where there is ambiguity about whether there is a breach of the Standards/CAP Code. What is essential is that the GOsC should have a transparent policy for dealing with such complaints, that it should undertake an appropriate assessment of complaints in the light of that policy and consider the most appropriate course of action in the light of its risk assessment. We were concerned that there appears to be no publicly available written policy (so that all potential complainants are aware of how their complaint is likely to be managed) and that the GOsC's present approach did not document its assessment of risk.
- 6.27 While we consider that the GOsC's management of the cases reviewed during our audit was unsatisfactory for the reasons set out above, we recognise the challenge posed by the way in which these complaints were referred to the GOsC and that, overall, the regulatory risk was low. The GOsC may wish to consider documenting its processes transparently so that they are clear and indicate the circumstances in which it will take immediate action where it appears that there is a serious breach of the ASA/CAP Code. It is an issue that has relevance to a number of other organisations providing oversight of health and care professionals and we may consider it further in the future.

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

- 6.28 We decided to undertake a targeted review of performance against this Standard, because we needed to better understand the impact on the GOsC's management of fitness to practise concerns of the Threshold Criteria for Unacceptable Professional Conduct (threshold criteria) introduced in February 2015 and the ICP introduced in February 2017. After considering the GOsC's responses to our targeted questions as well as the findings of our audit of closed fitness to practise cases, we concluded that this Standard continues to be met.

- 6.29 As part of our targeted review, we sought additional data on the number of concerns received, and the stage at which those concerns were closed down in order for us to assess the impact of the changes.
- 6.30 From the data available on case disposal at the early stages of the fitness to practise process (pre-IC), we could not identify any clear impact on outcomes resulting from the new processes. The way in which the GOsC categorises concerns and enquiries has changed over time and it is difficult to track the proportion of all complaints received which have been either closed by a Screener or referred to the IC when looking at annual data provided. It is clear that there has been a shift away from administrative closure of complaints by GOsC staff to closure by Screeners under the new processes.
- 6.31 The GOsC has not yet undertaken any detailed analysis of the impact of these new processes, though it intends to undertake some work in this area in 2018/19.
- 6.32 We therefore considered that our audit findings provided greater assistance in reaching a judgement as to the impact of these changes.

#### **Use of the threshold criteria at the early stages of the process**

- 6.33 We did not identify any concerns about the way in which GOsC staff and Screeners were applying the threshold criteria in practice, save for two cases where the process for the closure of complaints by Screeners using the criteria had not been fully complied with.
- 6.34 Under the GOsC's process, all cases are considered by a Screener who is a registrant in the first instance. In cases where the Screener determines that a complaint does not meet the threshold criteria, a second, lay, Screener must review the case. If the lay Screener disagrees with the registrant Screener, their reasons should be recorded and the case should be referred to the IC for a final decision. In two of the cases we reviewed there was no evidence that the case was sent to a lay Screener for a second view. The GOsC accepted that this did not comply with its process but noted that the second review was not required by its rules.

#### **Use of the ICP**

- 6.35 We identified some concerns in relation to the way in which the ICP was being applied.
- 6.36 Our first concern related to adherence to the timeframes set out in the ICP. Published guidance on the ICP sets out timeframes within which the GOsC will seek further information where required. Internal guidance for staff provides further detail on deadlines for activity for cases disposed of in this way. We did not see these deadlines for activity and case progression being observed in all the cases reviewed. In some of these cases we had concerns more widely about delays in case progression.
- 6.37 We considered that the process followed in the cases reviewed frequently diverged from that set out in the published ICP process and in guidance for staff. Our assessment of this was made more difficult because it was not clear to us at what point in each case the decision was taken to progress and ultimately close the case under the ICP, as the GOsC keeps no record of this and told us that the

time at which a case is identified as suitable for progression in accordance with the ICP can vary case by case. In a number of cases we noted that information was not sought or chased promptly, and in some cases few attempts to chase information were made before the case was closed. The GOsC has stated that it believes the efforts made were appropriate.

- 6.38 In its response to our audit findings the GOsC accepted that the published timeframes set out within the ICP had not been complied with in the cases reviewed. The GOsC has indicated that the 42-day deadline for obtaining further information is now considered to be overly ambitious and may therefore be extended as part of a wider review of existing published fitness to practise key performance indicators and internal timescales which it told us would begin in August 2018.
- 6.39 Second, we had concerns over the suitability of some cases for closure under the ICP.<sup>7</sup> The ICP procedure note records that the procedure applies to only those cases that are assessed not to raise an issue of public and patient safety. This would suggest that only cases where the substance of the complaint does not raise concerns about public and patient safety. In fact, we saw cases which we considered did raise public/patient safety issues being closed under the ICP because, for example, the evidence that the GOsC had supporting the concern was weak (for example, because the patient had withdrawn the complaint). The GOsC's view is that an assessment of evidence is crucial when carrying out a risk assessment in respect of patient safety as both are intrinsically linked.
- 6.40 We agree that there will be occasions where the evidence available to the GOsC is so weak that it cannot support a concern about patient and public safety. There may be circumstances where a complainant's withdrawal means that, in practice, taking further action is not feasible (for example, because the complainant was the only witness). However, it does not necessarily follow that disengagement by the complainant means that the case no longer raises patient/public safety issues.
- 6.41 In our view the statement in the GOsC's published guidance on the ICP does not make the GOsC's practice on this issue sufficiently clear. In our view, it should make it clear that it is not just the substance of the complaint but the evidence in support of it (assuming that the GOsC has taken reasonable steps to obtain evidence) that will be taken into account by the Screener.
- 6.42 The GOsC has told us that the ICP guidance was designed to be concise and succinct, but that it will consider adding an explanatory note to clarify its position as to the point at which an assessment of whether a case raises issues of public and patient safety will be made.
- 6.43 Our third area of concern was the information provided to Screeners considering recommendations for closure under the ICP.
- 6.44 In one case closed under the ICP, the Screener was not provided with any information about the nature of the concerns when being asked to consider whether there was power under the Osteopaths Act to deal with the complaint should it prove to be well founded. The Screener was simply provided with a

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<sup>7</sup> Our views as to the suitability of closing the 17 advertising cases we reviewed that were closed by Screeners under the ICP are set out above at paragraph 6.18.

case summary which noted that a complaint had been received about ‘concerns with a registrant’ and that no complaint form had been returned by the complainant, despite this being chased up by the GOsC.

- 6.45 The GOsC accepted that no information about the nature of the case was provided, but noted that no contact had been received from the patient after the initial call in which she raised her concerns, despite the GOsC sending two chaser emails. In its view, as the patient was not engaging, full disclosure of the documents was not required for the Screener to come to a decision to close under the ICP. The GOsC noted that, had the Screener wished to see the case documents prior to completing the decision document, a request could have been made to the GOsC case worker, but that it appears the Screener felt able to reach a decision without this.

### **Conclusion on performance against this Standard**

- 6.46 On balance, we determined that the concerns set out above are not so significant that this Standard was not met in 2017/18.
- 6.47 The GOsC has accepted our findings in relation to two cases where its process for closing cases under the threshold criteria was not complied with in full, though it notes that the management of these cases remained consistent with its rules.
- 6.48 Although we identified some concerns regarding the way in which the ICP is being applied, these related primarily to the disparity between the way the process was working in practice and the way in which it has been described in the guidance published by the GOsC. In particular, we consider that the GOsC’s positions as to the timeframes for seeking information under the ICP, which cases are suitable for closure under the ICP, and at what point in the process suitability is properly determined are not made sufficiently clear in the existing guidance. However, we did not identify any public protection concerns arising from these issues.
- 6.49 The GOsC has indicated that it will consider making some changes to its ICP process and guidance which may address some of our concerns in that area. We will report on any changes made in future performance reviews.

### **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**

- 6.50 The GOsC’s *Policy on Notification of Fitness to Practise Investigations and Outcomes* states that, where the IC considers that the registrant has a case to answer and refers the matter to a practice committee, the GOsC should routinely inform a registrant’s employers and anyone with whom they may have a contractual or other arrangement to provide services, and any other health care regulator that they may be registered with, of the fact of the referral and the allegation that has been referred. The same parties must be informed of any subsequent adverse findings by the PCC, any interim order or sanctions imposed or any decision that the allegation was not well founded.
- 6.51 The policy also requires the GOsC to notify last known employers and other relevant parties when it receives an allegation that a person who is not on the



register is using a restricted title, contrary to section 32 of the Osteopath's Act 1993.

- 6.52 The GOsC has memoranda of understanding with: The Australasian Osteopathic Accreditation Council, the Osteopathic Board of Australia and the Osteopathic Council of New Zealand; The Gibraltar Medical Registration Board and the Isle of Man Department of Health and Social Care.

**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**

- 6.53 We conducted a targeted review of performance against this Standard, because we considered that the introduction of the threshold criteria and the ICP were also relevant to the way in which the GOsC determines whether there is a case to answer in respect of complaints it receives. The GOsC has not undertaken any detailed analysis of the impact of these changes and so we considered that further information was required. After considering the GOsC's responses to our targeted questions as well as the findings of our audit of closed fitness to practise cases, we concluded that this Standard continues to be met.
- 6.54 In response to our targeted questions, the GOsC provided data on the outcomes of IC consideration of fitness to practise complaints. The proportion of case to answer to no case to answer decisions made by the IC has varied over recent years, and there is no clear pattern of change in relation to the introduction of the threshold criteria or the ICP. The number of complaints being closed by the IC under the threshold criteria since their introduction in February 2015 has been low.
- 6.55 Our audit identified no concerns over the way in which the IC was applying the threshold criteria. We did note concerns in relation to the allegations drafted in advertising cases closed by the IC,<sup>8</sup> but we considered that there is no indication that these apply more broadly in other types of case. Rather, they appear to be symptomatic of our wider concerns regarding the GOsC's overall approach to the management of advertising complaints which were discussed at the outset of this section.

**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**

### Interim orders

- 6.56 We ask the regulators to provide us with (1) the median time from receipt of a complaint to the interim order decision and (2) the median time from receipt of information indicating the need for an interim order and the decision. The former is an indicator of how well the regulator's initial 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

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<sup>8</sup> See paragraph 6.9 above.

further information. The latter indicates whether the regulator is acting as quickly as possible once it identifies the need for an interim order application.

- 6.57 Quarterly and annual data provided to us by the GOsC on median time, in weeks, taken to impose an interim order is set out in the table below. Where N/A is stated, no orders were imposed in that period:

	<b>Median time to interim order committee decision from receipt of complaint</b>	<b>Median time to interim order committee decision from decision that there is information indicating the need for an order</b>
Q1 2016/17	3.5	8
Q2 2016/17	4.5	5
Q3 2016/17	4	4
Q4 2016/17	10	3
<b>Annual 2016/17</b>	<b>7</b>	<b>4</b>
Q1 2017/18	3	3
Q2 2017/18	7	7
Q3 2017/18	N/A	N/A
Q4 2017/18	3	3
<b>Annual 2017/18</b>	<b>3</b>	<b>3</b>

- 6.58 The GOsC reported that the increase in time taken to impose an order between quarters one and two of 2017/18 was the result of an exception that occurred over the summer period in which it was found to be challenging to convene an interim order panel as well as all the relevant parties. No orders were imposed in quarter three of 2017/18 (the last quarter in this review period), but it can be seen from the data provided above, that the medians reduced in the fourth quarter, and that the annual figures for 2017/18 were lower than those for the previous year.

### **Our audit findings**

- 6.59 This Standard was not included as part of our targeted review of performance this year. However, we considered that some of the information we identified during our audit of closed fitness to practise cases as part of the review was relevant to performance against the Standard.
- 6.60 Our concerns around risk assessment in cases involving advertising complaints have been noted above. We had further concerns of this nature in cases unrelated to advertising.
- 6.61 The GOsC's internal guidance for staff sets out that when a concern is received it is triaged using a triage form and then allocated to a Regulation team member. The triage forms we saw during this audit contained an assessment as to

whether it is necessary to apply for an interim suspension order (ISO), but did not require any further consideration of the risks arising from the information received. The GOsC has told us that the triage form is an initial assessment used to identify key features including whether the concern should be prioritised as a potential ISO case. It is not designed to contain a lot of detailed information or act as a substantive risk assessment. The GOsC noted that prior to the introduction of the form in June 2016, no formal initial assessment was undertaken in relation to concerns received.

- 6.62 Internal guidance also advises staff to complete a risk assessment form within two to three days of a case being logged as a formal complaint and to keep their risk assessment under review throughout the life of the case and at particular points in the investigation. There is no requirement that a risk assessment form is completed before a case is logged as a formal complaint, but it is open to the case worker to complete a form prior to that stage.
- 6.63 We considered that there was a lack of clarity around when a complaint is considered 'formal', which had implications for when a risk assessment is required to be completed under the GOsC's process. In the cases reviewed, points at which the matters were made formal, according to the GOsC's response to our findings, included: receipt of a signed complaint form; receipt of a signed witness statement; and the Screener's decision to refer to the IC. The GOsC's view is that there should not be any rigid definition of a formal case and that flexibility is required. The GOsC told us that a matter is considered to be formal at the point there is sufficient information for a Screener to come to a decision under the threshold criteria or the ICP.
- 6.64 There was a lack of consistency among the cases reviewed in relation to how and when triage and risk assessment took place. In some cases, no triage or risk assessment was documented at any point. In a small number of cases a triage form was completed, but this was not done promptly on receipt of the concern. In many of the cases reviewed where a triage form was completed, there was no evidence of any further documented risk assessment, often because the case was never classified as 'formal'. In a number of the cases where a risk assessment form was completed, risk was not reassessed during the lifetime of the case, including at points where new information was received.
- 6.65 In its response to our feedback, the GOsC expressed the view that it was not necessary to update a documented risk assessment if new information received was considered not to alter the risk profile of the case. The response referred to the undocumented 'mental review' that takes place upon receipt of new information. We consider that risk should be reassessed in light of new information received during the investigation of the case and that this consideration should be documented, including where the judgement made is that the information does not alter the risk profile of the case.
- 6.66 The GOsC has shared with us a new triage form, which contains a section which requires staff to assign matters a risk level<sup>9</sup> and to provide written reasons for this assessment. The form also contains a section to direct staff to undertake an assessment of the needs of parties in the case.

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<sup>9</sup> Low/medium/high/high and potential ISO.

### Conclusion on performance against this Standard

- 6.67 We have described our concerns in relation to the GOsC's processes for, and approach to, risk assessment of fitness to practise concerns. The GOsC has recently introduced a new triage form which requires a more detailed assessment to be evidenced than that we observed in a number of cases we audited. We consider that there is scope for further changes to processes in this area to be made in order to ensure that the risks arising from complaints received are properly and consistently assessed and that the assessment is documented appropriately.
- 6.68 However, given that we did not identify any cases in which a significant risk was not acted upon, and in light of the GOsC's improved performance in time taken to impose an interim order where serious concerns are identified, we have concluded that this Standard continues to be met this year.

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

#### Voluntary removal policy

- 6.69 In February 2017 the GOsC's Council agreed the final version of the voluntary removal policy which had been consulted on in late 2016. The policy was implemented in May 2017. It formalised the decision-making process the Registrar must undertake when an osteopath makes a request to be removed from the register and sets out how the process differs depending on whether there are current fitness to practise concerns at the point when the application is made.
- 6.70 The guidance states that a registrant may request to be removed from the register at any stage during their fitness to practise investigation, but that voluntary removal will generally not be appropriate until the investigation has been completed and all the evidence has been gathered. Voluntary removal can also be granted once a substantive sanction is in place.
- 6.71 The guidance outlines the relevant considerations for the Registrar when making a decision on requests for voluntary removal where the registrant is the subject of an ongoing fitness to practise investigation. These are:
- the public interest, including patient safety
  - the registrant's health
  - the sincerity of the registrant's request to cease to be registered
  - any evidence that the registrant may wish to continue to practise as an osteopath in the UK or overseas
  - the likelihood that the registrant will make an application for restoration to the Register at some point in the future
  - the views of the complainant (if any).
- 6.72 The guidance states that, where there is evidence to suggest that the registrant is seeking voluntary removal as a mechanism to avoid a final hearing, or where there is information to demonstrate that the registrant intends to re-apply to the

register in the near future, this would weigh against granting voluntary removal. Equally, where former osteopaths choose to practise in another discipline, for example, as manual therapists, or where they are dual-registered with another professional regulator, there is a clear public interest in bringing fitness to practise concerns to a hearing. This is because members of the public can then see that the osteopath faced a professional conduct or professional incompetence hearing, as this will be put on public record.

- 6.73 The guidance does not exclude the possibility of voluntary removal in cases involving serious instances of unacceptable professional conduct, but notes that an important consideration in the Registrar's assessment is the need to maintain public confidence in the osteopathic profession and declare and uphold proper standards of conduct and competence amongst the osteopathic profession.
- 6.74 The guidance requires the Registrar to provide reasons for any decision to remove a registrant from the register.

### Hearings and sanctions guidance

- 6.75 New hearings and sanctions guidance was developed over the course of this review period. This replaces the third edition of the GOsC's *Indicative Sanctions Guidance*, which was published in October 2013. The GOsC reported that the revised guidance would be used by practice committees at the sanction stage of fitness to practise hearings and that it was also designed to make parties to a hearing aware of the procedure and approach that will be taken by the committee during the hearing and when imposing a sanction. The guidance is therefore separated into two distinct parts: the procedure that is followed at a hearing and the framework within which the committee will make decisions about sanctions.
- 6.76 The GOsC first consulted on a discussion paper on its development of new guidance from March to May 2017. A literature review of recent developments in equivalent guidance produced by other healthcare regulators was also undertaken. The GOsC then consulted on new draft hearings and sanctions guidance from September to December 2017. The GOsC published its response to the consultation in January 2018. It was evident that suggestions provided by respondents had been taken into account in finalising the guidance. The guidance was implemented in February 2018.

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

- 6.77 From July to September 2017 the GOsC consulted on a new practice note for consensual disposal of fitness to practise cases under Rule 8 of the GOsC PCC (Procedure) Rules 2000. The draft practice note described the process whereby the PCC may decide to dispose of proceedings against a registrant without holding a hearing, by issuing an admonishment which is accepted by the registrant.
- 6.78 Changes were considered necessary given the low take up of the process since its introduction in October 2013. It was thought that this was in part the result of the existing guidance being overly prescriptive. The amended guidance was intended to simplify the procedure for registrants, caseworkers and the PCC and provide more flexibility in the type of cases which can be considered under the process.

- 6.79 We were concerned that the broad framework set out in the draft practice note was too permissive, possibly to the detriment of public protection and the public interest. Given that the only available sanction under Rule 8 is admonishment, which places no restrictions on a registrant's practice, we were concerned by the move from specific categories of case that are excluded from consideration under Rule 8, to an entirely discretionary framework with neither exclusion nor inclusion criteria. We expressed concern that this could lead to decisions that fail to protect the public, maintain public confidence in the profession, and declare and uphold professional standards.
- 6.80 In its response to the consultation in January 2018 the GOsC noted that removing exclusionary criteria from the guidance may give rise to the perception that it may be detrimental to the public interest. It reported that it had therefore modified the draft practice note to incorporate exclusion criteria, while retaining its flexibility.

### **Standard case directions**

- 6.81 Under its legislation, the GOsC is required to serve the evidence it will rely upon 28 days before a hearing, while the registrant is required to serve their evidence seven days before a hearing. The GOsC reports that this can lead to last minute adjournments arising out of the late disclosure of evidence and extended preliminary argument at the outset of a hearing, causing the hearing to run part heard. The GOsC has reported that, because of the unavailability of panel members and defence counsel, it is not uncommon for a hearing to take several months to resume. The GOsC expressed the view that such delay was not in the interest of either the public or the registrant.
- 6.82 The GOsC therefore developed standard case management directions for the progression of cases from referral by the IC to a final hearing. It is intended that the use of the directions will result in cases running more smoothly, allowing the timely listing of a case for a final hearing via liaison between the GOsC regulation team and the registrant and their representatives.
- 6.83 Although the GOsC has no powers to compel adherence to standard case directions, it is hoped that osteopaths and their defence representatives will appreciate the benefit offered in terms of the opportunity to engage with the process, and ensuring the timely progression and conclusion of cases.
- 6.84 The GOsC's consultation on a draft practice note on standard case directions closed in October 2018. The GOsC's consultation response has not yet been published.

### **Conclusion of fitness to practise matters without a final hearing**

- 6.85 Rule 19 of the PCC (procedure) Rules 2000 states:
- 19.—(1) Where after a complaint has been referred to the Committee for consideration it appears to the Committee that such consideration cannot due to exceptional circumstances properly take place, it may, after taking advice from the legal assessor and after consulting the Investigating Committee and obtaining the consent of the osteopath concerned, direct that a hearing should not be held and that the case should be concluded, provided that where there is an individual

complainant the Committee shall, before it consults the Investigating Committee, endeavour to ascertain the views of the complainant.

This power is used infrequently. Three cases out of 46 considered by the PCC in the period covered by its last annual report (1 October 2016 to 30 September 2017) were disposed of in this way. However, given that this amounts to a separate closure point in the GOsC's process following a case to answer decision and without a full hearing, we consider that there is a need for clear published guidance on how the power is applied in practice.

- 6.86 The development of a practice note for the Rule 19 process was included in the GOsC's 2017/18 business plan, for completion by January 2018. This timeline was subsequently extended. A public consultation on the practice note is scheduled to commence in late 2018.

### **Conclusion on performance against this Standard**

- 6.87 The GOsC has undertaken a number of projects this year to improve its fitness to practise process. We have seen evidence that the GOsC has taken into account feedback from stakeholders on its proposals for changes to processes in this area.
- 6.88 The development of a formal voluntary removal policy brings greater transparency to the process. The factors that the policy requires the Registrar to take into account are similar to those required by other regulators. The addition of a requirement to take into account the views of the complainant in response to the consultation is positive and will make the process fairer.
- 6.89 New hearings and sanctions guidance is intended to make the decision-making process more transparent and provides a clear position on issues including dishonesty, sexual misconduct, raising concerns, and the duty of candour. Standard case directions set out clear commitments on the part of the GOsC to manage the process efficiently and fairly.
- 6.90 The re-introduction of exclusion criteria to the draft practice note on consensual disposal guidance is welcome.
- 6.91 In the absence of formal guidance for the closure of cases under Rule 19, it is not clear how this process is currently being managed. However, we note that the process was only used twice during this review period. We will report on work to develop guidance in the next performance review.
- 6.92 We noted some concerns at the outset of this section of the report regarding the transparency and fairness with which some cases involving complaints about advertising had been managed. However, we have not seen any evidence that those concerns are more widely applicable to the GOsC's approach to managing fitness to practise matters.
- 6.93 We have therefore concluded that this Standard continues to be met this year.

**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**

- 6.94 In 2016/17, we concluded that, in order to continue to meet this Standard in the next performance review, the GOsC would need to ensure that the measures it had taken, and would be taking, resulted in sustainable improvements to its timeliness in fitness to practise.
- 6.95 This year we noted indications of declining performance in this area, including data on the timeliness of case progression and reports of increased adjournments of hearings. We therefore sought further information on performance against the Standard through targeted questions. We also identified some relevant information during the course of our audit of closed fitness to practise cases.
- 6.96 After considering the information obtained, we concluded that this Standard continues to be met.

### **Measures taken by the GOsC to improve timeliness in fitness to practise**

- 6.97 In our last performance review report we highlighted some measures that had been implemented or were planned by the GOsC to improve timeliness in the fitness to practise process. These included the introduction of a listings protocol, an escalation policy for use when requested information was not provided within set timeframes, and development of its electronic case management system.
- 6.98 The GOsC told us that these processes have been further embedded over the course of 2017/18, with the exception of the development of its electronic case management system, over which other work has taken a priority. Our audit of a sample of the GOsC's cases provided an opportunity to assess the effectiveness of the current system in place for storing and managing case information. Based on the cases reviewed, we were satisfied that the way in which case information is stored did not appear to be a cause of delay in the progression of cases.
- 6.99 The GOsC provided further information about the way in which its listings protocol functions in practice. We consider it sensible to seek input from registrants and their representatives when estimating the time to allow for a hearing. However, use of the protocol has not prevented problems such as late disclosure of evidence or late calling of witnesses causing delays and adjournments in some cases.
- 6.100 The GOsC also told us about its increased engagement with defence organisations to improve the effectiveness and efficiency of the fitness to practise process. This is to be welcomed and reflects steps taken by other regulators to increase communication with parties to the process.
- 6.101 The GOsC's introduction of standard case directions (see discussion under Standard 5 above) is a positive development which has the potential to result in cases running more smoothly, allowing the timely listing of a case for a final hearing via liaison between the GOsC regulation team and the registrant and their representatives.



## Timeliness data

6.102 Data provided by the GOsC for our fitness to practise data set is set out in the tables below:

	2014/15	2015/16	2016/17	2017/18
Median time from receipt of complaint to final fitness to practise decision (weeks)	51	47	54	58
Median time from final Investigating committee decision to final fitness to practise decision (weeks)	35	31	38	32
Median time from receipt of initial complaint to final Investigating committee (weeks)	11	16	17	24
% of final hearings that conclude within their original hearing day allocation	Not available	90	69	78

Age of case in weeks	2016/17				2017/18			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
52-104	9	17	19	9	15	17	12	7
104-156	1	3	3	1	3	3	2	1
156 +	1	1	1	0	0	0	0	0

6.103 From this it can be seen that the GOsC's performance on timeliness measures has been mixed. There have been increases in the annual median time taken from receipt to a final decision (from 54 to 58 weeks), and from receipt of a complaint to an IC decision (from 17 to 24 weeks), but the median time from an IC decision to a final decision has reduced from 38 weeks in 2016/17 to 32 weeks this year.

6.104 The number of cases held that are older than 52 weeks has also varied across the review period. Numbers of cases older than 104 weeks have remained low, between one and three over the period, and there have been no cases older than 156 weeks.

## Information on adjournments

6.105 This year we saw indications of an increase in adjournments of hearings at both the initial and final stages of the fitness to practise process.

6.106 We also noted a decrease in the proportion of final hearings concluding within their hearing day allocation from 90 per cent in 2015/16 to 69 per cent in 2016/17. We are pleased to note that in 2017/18 this figure has increased to 78 per cent.

- 6.107 The GOsC provided information on all adjournments by the IC and the PCC in the period April to December 2017.
- 6.108 In that period the IC adjourned eight cases of the 43 considered (19 per cent). The reasons provided by the GOsC were as follows:
- four cases where the IC considered that further investigation was required/ further information should be provided to the panel
  - one case where the IC determined that further charges should be put to the registrant
  - two cases where the IC was inquorate (once due to ill health of a panel member and once due to recusal of a panel member on grounds of a conflict of interest)
  - one case where the IC considered that the registrant should be given more time to respond to the allegations.
- 6.109 In the same period, the PCC adjourned nine cases of the 41 considered (22 per cent), two of which were linked. One of the nine cases adjourned twice (hence ten reasons for adjournment are provided below). The reasons provided by the GOsC were as follows:
- nine cases where the hearing was part-heard due to lack of time
  - one case where adjournment was granted because the patient was unable to attend due to ill health.
- 6.110 Some of the reasons for adjournment described were outside of the GOsC's control. Of greater concern are those cases where hearings ran out of time and where the IC adjourned because it considered that further investigation was required, further information should be provided to the panel, or because further charges should be put to the registrant based on the information available.
- 6.111 Nine out of 10 adjournments of PCC hearings were due to hearings running part heard due to lack of time, representing 22 per cent of all cases considered by the Committee in this period. The GOsC told us that in four of those cases the registrant was unrepresented. While we accept that this can lead to delays while the panel and legal assessor take time to ensure that the process is fully understood by the registrant and to give the registrant time to participate effectively, it is often possible to plan for this advance and allow more time for hearings where no representative will be present.
- 6.112 The GOsC has told us that, because of the unavailability of the PCC members and defence counsel, it is not uncommon for a hearing to take several months to resume after it has run part heard. The GOsC agrees that this is neither in the public interest nor that of the registrant.
- 6.113 However, the increase in the proportion of final hearings concluding within their hearing day allocation to 78 per cent this year provides some reassurance that fewer final hearings are running part heard due to lack of time than was previously the case.

### **Our audit findings**

- 6.114 We identified delays and periods of inactivity in a high proportion of the cases reviewed during our audit. In some cases, we considered that the delays identified impacted on customer service. Delays occurred at various stages in the process.
- 6.115 The GOsC accepted the factual basis of our concerns in most cases.
- 6.116 We reviewed a small number of cases where the IC adjourned its consideration of advertising cases. We considered that the lengthy delays caused by this could have been avoided, had the cases been managed differently by the GOsC.<sup>10</sup>

### **Conclusion on performance against this Standard**

- 6.117 The GOsC's performance on timeliness measures this year has been mixed. However, we consider that the increases in median times observed on some measures are not so significant as to justify a finding that the Standard is not met this year.
- 6.118 We have some concerns about the rate of adjournments and hearings running part heard and the delays and periods of inactivity observed in many of the cases we audited, some of which we considered to impact on the level of customer service provided by the GOsC.
- 6.119 However, it is clear that the GOsC is implementing measures and working with stakeholders to improve the efficiency of its fitness to practise process. We will monitor the impact of these on measures of timeliness over the next year.

**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**

### **Complaints and hearings guidance for registrants**

- 6.120 The GOsC's initial work to develop guidance for registrants under investigation was noted in our last performance review report. Following a consultation from January to March 2017, the GOsC's Council agreed the draft complaints and hearings guidance, consisting of two booklets designed to assist osteopaths under investigation. The guidance was developed in recognition that existing guidance was targeted at other parties to the process, but that for osteopaths subject to the process there was an unmet need.
- 6.121 The first booklet explains the GOsC's FTP procedures generally and sets out what an osteopath needs to do if a complaint is made about them. This booklet is provided to registrants when they are notified of a complaint. The second booklet contains detailed guidance about preparing for and attending a hearing and is provided to registrants if their case is referred for a hearing.

### **Our audit findings**

- 6.122 This Standard was not included as part of our targeted review of performance this year. However, we considered that some of the information we identified

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<sup>10</sup> See paragraph 6.14 above.

during our audit of closed fitness to practise cases as part of the review was relevant to performance against the Standard.

- 6.123 Our concerns around the level of information shared with parties in some cases involving advertising complaints have been noted above<sup>11</sup>. We had further concerns about communication with parties in cases unrelated to advertising.
- 6.124 First, we identified a number of cases where the complainant was not informed of the closure of the case. The General Osteopathic Council (Investigation of Complaints) (Procedure) Rules Order of Council 1999 provides that: '6(1) Where the Screener decides that the Investigating Committee has no power to deal with a complaint then he shall inform the complainant of his decision in writing and give reasons.'
- 6.125 In response to our feedback, the GOsC noted that in some of these cases the complainant had indicated that they did not wish to pursue a complaint. It expressed the view that in such circumstances, it may be distressing to the individual (and indeed may be judged to be harassment) to continue contacting them with updates about the concern. The GOsC told us that when a complainant informs the GOsC that they do not wish to pursue their complaint, this is acknowledged and it is confirmed that the complaint will be closed. The complainant is reminded that, if they wish to pursue the complaint at a later date, they should contact the GOsC again. The GOsC does not consider it necessary to send a further email to complainant confirming that a Screener has agreed to close a concern under the ICP.
- 6.126 We consider that a single communication to confirm that the matter is closed is unlikely to cause the level of distress described or to be judged to amount to harassment. We remain of the view that a formal notification should be sent to the complainant informing them that the case has been closed by a Screener with reasons for the closure and advising that it is open to them to contact the GOsC again in the event that they wished to progress the complaint at a later date.
- 6.127 We also saw a small number of cases where the registrant was not informed of the closure of the case.
- 6.128 We also had concerns about the way in which closure decisions were explained to complainants. We noted that in some cases reviewed, the complainant was advised that if they chose not to pursue the complaint or provide any further information, the matter would be closed, without making clear that this decision rested with an independent decision-maker and was not made by GOsC staff. The process was variously described as the GOsC 'closing the file', 'arranging for the case to be closed', 'arranging for the file to be closed for administrative purposes' and 'changing the status of your file to closed'. We considered that this did not accurately reflect the GOsC's process and lacked transparency. We were also concerned that this amounted to pre-empting what should be an independent decision.
- 6.129 The GOsC told us that the process was described in this way as complainants are lay people with no understanding of the GOsC's statutory processes,

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<sup>11</sup> See paragraphs 6.15-6.17

guidance notes and policies. In its view, to comprehensively explain the role of a Screener and the ICP process to a lay person would be confusing and superfluous. The GOsC acknowledged, however, that a consistent lay explanation should be used across all concerns and noted that it had amended its internal manual to make this clear.

- 6.130 We remain of the view that it should be possible to make clear that the decision-maker is a Screener, and not GOsC staff, without causing such confusion, and that it is necessary to do so if the process is to be transparent. The proposed development of a consistent explanation is welcome, but this should make clear that the decision maker is a Screener.
- 6.131 While we have not determined that the concerns identified during our audit are sufficient basis upon which to determine that this Standard is not met this year, we consider that there is a clear need for improvements to the way in which the GOsC communicates with parties to the fitness to practise process. We will monitor any changes made to relevant processes over the coming year.

**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**

#### **Establishment of a Decision Review Group**

- 6.132 The GOsC established a Decision Review Group (DRG) during this review period. The group reviews determinations from final hearings and considers recommendations to improve case management and decision-making. The group met for the first time in May 2017. Published terms of reference for the DRG set out that its purpose is to provide quality assurance, gain learning and bring continuous improvement by monitoring the FTP decision-making process and reviewing learning points issued by the Authority. The DRG consists of GOsC staff and at least one external member from another regulator at each meeting. Meetings are chaired by the Head of Regulation (or a delegate in their absence) and will take place once every six months.
- 6.133 The DRG's recommendations have included 'situational awareness' training for decision-makers and that issuing separate guidance on indemnity insurance for use by both IC and PCC would help committees generally in the approach they take to indemnity insurance cases.

#### **The Authority's review of final fitness to practise decisions**

- 6.134 The Authority sees all final fitness to practise decisions and is able to refer to court cases which we consider insufficient to protect the public. In the period under review, we did not refer to court any decisions made by the GOsC.
- 6.135 We had concerns in a small number of cases over the GOsC's management of matters relating to a registrant's failure to hold indemnity insurance. These included late amendments made to allegations and the seriousness with which the failures were being treated by the GOsC and/or the panel hearing the case. We understand that training on professional indemnity insurance was included in training for panel members in 2017 and note the DRG's suggestions for

improvements to how these are managed. We will monitor the management and outcomes of cases of this nature.

#### **External audit of fitness to practise cases**

6.136 The GOsC commissioned an external audit of eight decisions where successful submissions were made by the registrant that there was no case to answer in respect of one or more allegations at a final hearing or where the final outcome was that no finding of unacceptable professional conduct (UPC) was made. The purpose of the audit was to determine whether there was any underlying cause or common themes arising from these cases. The GOsC reported that no such commonality was established. The stage at which the findings of no UPC occurred varied from case to case. The auditors concluded, given the frequency in GOsC cases where there is a direct conflict of evidence between a single patient complainant and the osteopath, that such issues cannot be fully explored before an oral hearing and when they are, some cases will inevitably not be proved.

#### **Interim orders to cover the appeal period for substantive sanctions**

6.137 As was noted under Registration Standard 3, as part of this review we conducted a register check. During this check, we noted that a registrant who had been made subject to a conditions of practice order in October 2017 was listed as 'fully registered'.

6.138 The GOsC advised us that this was accurate, because the sanction was subject to appeal by the registrant and therefore had not come into effect. Its statutory scheme does provide that an interim suspension may be applied to cover the 28 day period during which an appeal may be made (or until such time as any appeal lodged is disposed of), but does not provide for an interim conditions of practice order to be made to cover this period. An interim suspension will only be imposed if the panel is satisfied that it is necessary in order to protect the public. In practice, this means that the panel will only impose an interim suspension order where the substantive order is suspension or removal. As the sanction in the case in question was conditions, an interim suspension order might be considered to be disproportionate.

6.139 The effect of this is that a registrant is able to practise without restriction until such time as an appeal is resolved, which may take many months.

6.140 We note that this appears to be a rare occurrence among GOsC cases but consider that this problem arising from the GOsC's legislation, with which it is required to comply, has the potential to put the public at risk of harm.

#### **Conclusion on performance against this Standard**

6.141 The GOsC has taken measures to improve the quality and consistency of decision-making in its final hearings and has reviewed cases in order to obtain learning that may be used to make further improvements.

6.142 In addition to the concerns highlighted at the outset of this section regarding decisions and reasons in cases involving advertising complaints, concerns have been identified in a small number of final decisions this year through our Section 29 process. It is clear that the GOsC recognises the need to improve the

approach taken to cases involving a failure to hold appropriate indemnity cover. The impact of the implementation of the suggestions of the DRG and development of new guidance should be monitored in the next year.

- 6.143 Taking into account all of the information available, we have concluded that this Standard continues to be 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**

- 6.144 The GOsC continues to publish the outcomes of fitness to practise cases. In a small number of cases during the review period, there were problems with the GOsC notifying us of hearing decisions in a timely way so that we could consider whether to refer them to Court in accordance with our legal powers. The GOsC took further action in light of these issues and no further problems have been experienced. We are satisfied that there were no public protection concerns arising from the failure to share these particular decisions with the Authority on time.

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

- 6.145 During the period of this performance review, the GOsC has not reported any data breaches from any area of its operations to the Information Commissioner's Office.
- 6.146 We have seen no evidence of concerns in relation to information security in the GOsC's fitness to practise function.

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