

# performance review 2020/21

## GENERAL OSTEOPATHIC COUNCIL





# ABOUT THE PERFORMANCE REVIEW PROCESS

**We aim to protect the public by improving the regulation of people who work in health and care. This includes our oversight of 10 organisations that regulate health and care professionals in the UK. As described in our legislation, we have a statutory duty to report annually to Parliament on the performance of each of these 10 regulators.**

Our performance reviews look at the regulators' performance against our [Standards of Good Regulation](#), which describe the outcomes we expect regulators to achieve. They cover the key areas of the regulators' work, together with the more general expectations about the way in which we would expect the regulators to act.

In carrying out our reviews, we aim to take a proportionate approach based on the information that is available about the regulator. In doing so, we look at concerns and information available to us from other stakeholders and members of the public. The process is overseen by a panel of the Authority's senior staff. We initially assess the information that we have and which is publicly available about the regulator. We then identify matters on which we might require further information in order to determine whether a Standard is met. This further review might involve an audit of cases considered by the regulator or its processes for carrying out any of its activities. Once we have gathered this further information, we decide whether the individual Standards are met and set out any concerns or areas for improvement. [These decisions are published in a report on our website.](#)

Further information about our review process can be found in a [short guide, available on our website](#). We also have a [glossary of terms](#) and abbreviations we use as part of our performance review process available on our website.

## The regulators we oversee are:

General Chiropractic Council • General Dental Council • General Medical Council • General Optical Council • General Osteopathic Council • General Pharmaceutical Council • Health and Care Professions Council • Nursing and Midwifery Council • Pharmaceutical Society of Northern Ireland • Social Work England



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# General Osteopathic Council

## performance review report 2020/21

At the heart  
of everything  
we do is  
one simple  
purpose:  
protection  
of the public  
from harm

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## The General Osteopathic Council

# key facts & stats

The General Osteopathic Council (GOsC) regulates chiropractors in the United Kingdom.

As at 31 December 2020:

**5,438  
professionals  
on its register**

**£320 annual fee for registration  
for the first year, £430 for the  
second year and £570 for each  
subsequent year**

The GOsC's work includes:

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

Standards of Good Regulation met for 2020/21 performance review

|  |                        |     |
|--|------------------------|-----|
|  | General Standards      | 5/5 |
|  | Guidance and Standards | 2/2 |
|  | Education and Training | 2/2 |
|  | Registration           | 4/4 |
|  | Fitness to Practise    | 5/5 |

Meeting, or not meeting, a Standard is not the full story about how a regulator is performing. You can find out more in the full report.

# General Osteopathic Council

## Executive summary

How the General Osteopathic Council is protecting the public and meeting the Standards of Good Regulation



This report arises from our annual performance review of the General Osteopathic Council (GOsC) which is one of 10 health and care professional regulatory organisations in the UK which we oversee. We assessed the GOsC's performance against the [Standards of Good Regulation](#) which describe the outcomes we expect regulators to achieve in each of their four core functions.

### The General Osteopathic Council's performance during 2020/21

We conducted a targeted review of the GOsC's performance against Standards 5, 6, 14, 16 and 17. We concluded that all of the Standards were met.

To carry out this review, we collated and analysed evidence from the GOsC and other interested parties, including Council papers, performance reports and updates, committee reports and meeting minutes, policy, guidance and consultation documents, our statistical performance dataset and third-party feedback. We also utilised information available through our review of final fitness to practise decisions under the Section 29 process<sup>1</sup> and conducted a check of the accuracy of the GOsC's register. We used this information to decide the type of performance review we should undertake. Further information about our review process can be found in our [Performance Review Process guide](#), which is available on our website.

## Key developments and findings

### The GOsC's response to the pandemic

The GOsC made changes to its processes in response to the pandemic. These included allowing education providers flexibility to adapt course delivery and assessment, providing different payment options for registrants, and introducing remote hearings in fitness to practise.

The GOsC also updated its website. It created a Covid-19 central hub page, which included information about how the GOsC would continue to carry out its core functions with links to external guidance and advice for different audiences.

<sup>1</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 \(as amended\)](#).

## **Guidance to support registrants during the pandemic**

The GOsC published guidance for registrants, including on the use of Personal Protective Equipment (PPE), infection control in osteopathy and mental health and wellbeing. It published and kept up to date statements on osteopathic practice, advertising and remote consultations on its website.

## **Understanding the experiences of registrants**

The GOsC looked at how to improve the quality of the equality, diversity and inclusion (EDI) data it holds. It also sought to better understand the experiences of diverse groups of registrants. The GOsC and the Institute of Osteopathy, the professional membership association, met with a group of Black, Asian and Minority Ethnic (BAME) osteopaths who wished to share their insight about the challenges facing BAME students and osteopaths. The GOsC hopes this initial conversation will lead to future meetings and discussions.

## **Learning from external events**

The GOsC considered the impact of external events on its work. It learnt from the Paterson Inquiry in the areas of information to patients, information about care and treatment, consent, complaints, communication with patients, indemnity cover and the regulatory system. It identified themes in the Cumberlege review, such as the need to strengthen the patient voice.

## **Understanding risks around registrant advertising**

We received correspondence from the Good Thinking Society (GTS) about the way the GOsC had responded to complaints about osteopaths' advertising. The GOsC has done some work to engage with stakeholders on this issue. It met with the GTS in July 2020. It also met the Advertising Standards Authority (ASA) in September 2020, and issued a new [joint communication](#) on 22 April 2021. This sets out the responsibility for osteopaths to ensure that their adverts are not misleading and the steps they can take to do so. The joint communication was sent to every registered osteopath and all GOsC stakeholders and was published through the GOsC's social media channels and website.

We looked at how the GOsC manages advertising cases in its fitness to practise processes. The GOsC receives low numbers of concerns about advertising. However, we are concerned that it does not have a formal process in place to refer complaints to the ASA where a complainant does not do this themselves. We think that this is an area that would benefit from further work and guidance for regulators. Over the coming months, we will gather further evidence from the regulators and other stakeholders with a view to providing further guidance.

## **Guidance for Osteopathic Pre-Registration Education**

Last year we reported on the GOsC's plans to review its Guidance for Osteopathic Pre-Registration Education (GOPRE). The GOPRE describes the professional aspects of osteopathic pre-registration education, and the outcomes that students are expected to demonstrate before graduation.

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In this review period the GOsC engaged with stakeholders, reviewed the standards for education published by other UK health and care regulators and used this information to develop a set of themes for consideration by the reference group. It plans to introduce the new standards in September 2022.

### **Expert witnesses**

The GOsC established an Expert Witness working group, which first met in September 2020. The group will advise on the production of guidance for expert witnesses and whether there is a requirement for additional guidance specific to the osteopathic context.

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# How the GOsC has performed against the Standards of Good Regulation

## General Standards

**Standard 1: The regulator provides accurate, fully accessible information about its registrants, regulatory requirements, guidance, processes and decisions.**

- 1.1 The GOsC's website remains largely unchanged since last year, apart from additional information provided in response to the Covid-19 pandemic and changes following the UK's exit from the European Union (EU).
- 1.2 We noted in our report last year that there was no direct link on the registration section of the website to information about registration appeals. To find any guidance on appeals, the user must use the search function. We think it would be beneficial to users for this document to be included within the registration section of the website, along with guidance on registration appeals. This has not changed, and it remains our view that providing a direct link to this information is likely to improve its accessibility.
- 1.3 We also note that information about fitness to practise appeals is limited to a page accessible through the page on hearings. This information states that decisions made by the Professional Conduct Committee (PCC) can be appealed by the osteopath concerned, or the Authority, and the section under the Act which provides for appeals. However, no further information or guidance on appeals can be found on this section of the site. We think that such information should be more easily accessible.

### Updates in response to the pandemic

- 1.4 The GOsC updated its website in response to the pandemic. It created a Covid-19 central hub page.<sup>2</sup> This included information about how the GOsC would continue to carry out its core functions with links to external guidance and advice for different audiences. The GOsC also updated existing webpages, including:
  - The 'Making a complaint' page, to ask complainants to send complaint forms by email if possible. Complainants were advised to contact the GOsC by telephone to discuss alternative methods for sending their complaint if email was not possible
  - The 'Hearings' page was updated to include guidance on remote hearings
  - The 'Search the Register' page noted that osteopaths should use their professional judgement, in discussion with patients, to determine whether face-to-face treatment is appropriate during the pandemic. It also advised

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<sup>2</sup> <https://www.osteopathy.org.uk/standards/guidance-for-osteopaths/coronavirus-covid-19/>



existing patients that face-to-face sessions may be different due to infection control measures that osteopaths are advised to implement.

### Updates in response to the UK's exit from the EU

- 1.1 The GOsC updated the 'How to register with the GOsC' page of the website in response to the UK's exit from the EU to reflect the fact that there is now no special route for those trained in the EU/European Economic Area (EEA) or Switzerland.

### Information published in Welsh

- 1.2 The GOsC's Welsh Language Annual Monitoring Scheme report for 2019/20, published in July 2020, recorded that the level of Welsh language documentation made available by the GOsC had increased. This includes materials for the public, for witnesses in fitness to practise matters, and for osteopaths to use in their practice.

### Conclusion

- 1.3 Although we consider that information about the GOsC's registration and fitness to practise appeal processes could be more easily accessible, we have seen evidence that the GOsC updates the information it provides about its registrants, regulatory requirements, guidance, processes and decisions in response to external events to ensure that it remains current and accurate. We are satisfied that this Standard is met.

## **Standard 2: The regulator is clear about its purpose and ensures that its policies are applied appropriately across all its functions and that relevant learning from one area is applied to others.**

- 2.1 Last year, we reported that the GOsC met this Standard. We have not seen any significant changes this year.

### Work to develop and support the profession

- 2.2 The GOsC continued to consider whether work undertaken to support or develop the profession could be in conflict with its statutory objectives. The GOsC updated its Council in May 2020 on its current approach to development of the profession.<sup>3</sup> It noted that the update was provided with a view to supporting Council to begin to consider the GOsC's future role in the context of a stronger and more developed profession. The GOsC set out what the aims of its development work might be, with reference to its Strategic Plan 2019-24. These included:

- Supporting a research and evidence base (the GOsC currently funds The International Journal of Osteopathic Medicine) and contributes to the National Council of Osteopathic Research.
- Supporting patients to be partners in their care by supporting patient involvement in osteopathic practice and education and policy development
- Supporting the patient journey through a better understanding of osteopathy by other health professionals and a better understanding of other health professionals by osteopaths

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<sup>3</sup> The GOsC is required to develop the profession under section 1 (2) of the Osteopaths Act 1993.

- Supporting engagement, support and community and development of groups of osteopaths and other health professionals.

2.3 We do not consider that any of these activities are in conflict with the GOsC's statutory responsibilities or indicate a lack of clarity about its statutory role.

### Guidance on adjunctive therapies

2.4 We noted a discussion at the GOsC's Policy and Education Committee (PEC, formerly the Policy Advisory Committee) in March 2020 about guidance on adjunctive therapies, which is currently being developed. The Committee discussed whether the GOsC was at risk of moving beyond its statutory remit. It noted that care should be taken in drafting the guidance and that the GOsC should ensure that it does not admit complaints about the use of adjunctive therapies that should properly be dealt with by another body. The development of this guidance is discussed further under Standard 7.

### Sharing learning across functions

2.5 We saw that the GOsC uses internal and external quality assurance processes to ensure that policies are consistently applied across all functions.

2.6 The GOsC reported at its Council meeting in July 2020 that fitness to practise learning points feed into its activities across different areas and that fitness to practise outcomes are shared with stakeholders through social media and the GOsC's magazine and newsletters. It reported that it was also considering ways of ensuring learning is disseminated within the wider osteopathic community through the use of interactive events such as webinars. It further noted that learning arising from cases related to personal indemnity insurance informed changes within registration, was incorporated within the current Osteopathic Practice Standards (OPS) and had helped to shape the draft guidance on personal indemnity insurance.

2.7 The GOsC undertakes activity which is in accordance with its statutory functions. It is open and transparent about any potential conflicts of interest. It continues to ensure that relevant learning from one area of its work is applied to others. We are therefore satisfied that this Standard is met.

## **Standard 3: The regulator understands the diversity of its registrants and their patients and service users and of others who interact with the regulator and ensures that its processes do not impose inappropriate barriers or otherwise disadvantage people with protected characteristics**

3.1 We reported last year that the GOsC worked to understand equality, diversity and inclusion (EDI). We noted that, as a small regulator, the GOsC cannot collect a large sample of data, but that it analyses and uses the data that it does collect to ensure its policies and documents are inclusive. We found that the GOsC has in place clear and comprehensive guidance for disabled students and applicants, and signposts to a diverse range of organisations who can provide support, information and guidance. We saw that the GOsC's processes do not impose inappropriate barriers to or otherwise disadvantage individuals with protected characteristics. We also took into consideration that the GOsC's Equality and Diversity Policy states that it will publish formal equality impact assessments (EIAs) on all major projects and noted that example EIAs we had

seen demonstrated sound knowledge of relevant information and issues. We have not identified any significant changes this year.

- 3.2 The GOsC continues to complete EIAs. This year these were completed for the GOsC's interim remote hearings protocol, draft screeners guidance, the reduced fee consultation, and the recruitment of new Council members.

### Equality and Diversity annual report

- 3.3 The GOsC published its Equality and Diversity annual report 2019-20 in July 2020. This sets out the GOsC's objectives in relation to equality and diversity, as well as the action that had been taken over the past year in order to meet them. This included:

- Ensuring that photographs and illustrations in GOsC publications reflect diversity
- Positively promoting relevant events and issues such the Time to Talk mental health awareness campaign
- Ensuring that technology used to make the GOsC's offices and events accessible to all remained fit for purpose
- Arranging for Council members to undertake unconscious bias training.

### Developments in this period

- 3.4 This year the GOsC looked at how to improve the quality of the EDI data it holds. It also sought to better understand the experiences of diverse groups of registrants. The Equality and Diversity Annual Report 2019/20 noted that it is considering how it might undertake a full EDI data collection exercise with its registrants.
- 3.5 In September 2020, the Chief Executives of the GOsC and Institute of Osteopathy, the professional membership association, met with a group of Black, Asian and Minority Ethnic (BAME) osteopaths who wished to share their insight about the challenges facing BAME students and osteopaths. The GOsC reported that it hoped this initial conversation will lead to future meetings and conversations.
- 3.6 We also saw that the GOsC shared EDI data with other organisations where appropriate. Notably, it provided NHS England and NHS Improvement (NHS E&I) with equality and diversity statistics about osteopaths working in England who are also Allied Health Professionals. It has now established an ongoing relationship with NHS E&I around this topic.
- 3.7 The GOsC has developed its materials and associated resources for its non-executive recruitment process. In doing so, it sought insight about any barriers that could prevent applications from individuals with protected characteristics. The GOsC ensured that recruitment materials were more welcoming, including an introduction piece from the Chair of Council, and that the images used were diverse. Recruitment materials were supplemented with a video promoted on social media from an existing member of the Investigating Committee (IC) and an article in *The Osteopath* magazine.
- 3.8 During this review period the GOsC commissioned an independent audit of its compliance with its equality and diversity policy. The audit included staff surveys, workshops, and structured conversations. The audit did not identify

any potential breaches in the Equality Act 2010 or the Human Rights Act 1998. Actions were identified for the GOsC to enhance its work in this area.

- 3.9 We have not identified any significant concerns against this Standard. We recognise that the GOsC could improve the data and information it holds on its registrants and that it is taking action to do so, and we will monitor this work as it progresses. We will also look at any action the GOsC takes in response to the independent audit. We are satisfied that this Standard is met.

#### **Standard 4: The regulator reports on its performance and addresses concerns identified about it and considers the implications for it of findings of public inquiries and other relevant reports about healthcare regulatory issues.**

##### **Reporting on performance**

- 4.1 The GOsC's legislation<sup>4</sup> requires it to publish a report on equality and diversity arrangements, a statistical report on the efficiency of fitness to practise processes and a strategic plan. It does this in its Annual Report.<sup>5</sup>
- 4.2 In this review period the GOsC held four Council meetings and four PEC meetings. These were held virtually due to the pandemic and Council was provided with performance reports as before.

##### **Accuracy of data**

- 4.3 In this review period, we noticed two errors in the GOsC's reporting, one in the dataset provided to us and one in data provided to the GOsC's Council. The GOsC told us that these were due to human error. This does not raise significant concerns.
- 4.4 In the Audit Committee Annual report<sup>6</sup> which covers the first quarter of this review period, it was reported that there had been one corporate complaint, four data breaches (of varying severity) and no serious events (including fraud). In relation to the remainder of the review period, only one other corporate complaint was reported to the Audit Committee in June 2020 and external financial audit reported that the audit 'produced a clean report and no control points were identified'.
- 4.5 In the 2020 Whistleblowing disclosures report,<sup>7</sup> the GOsC reported that it received three whistleblowing disclosures between 1 April 2019 and 30 March 2020 and all related to the fitness to practise of osteopaths.

##### **Learning from external events**

- 4.6 We saw that the GOsC considered the impact of external events on its work. It reported to the PEC that it learnt from the *Paterson Inquiry*<sup>8</sup> in the areas of information to patients, information about care and treatment, consent, complaints, communication with patients, indemnity cover and the regulatory system.

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<sup>4</sup> Section 40A of the Osteopaths Act 1993.

<sup>5</sup> General Osteopathic Council Annual Report and Accounts 2019-20

<sup>6</sup> Committee Annual report 9 July 2020 for the period 1 April 2019 to 31 March 2020.

<sup>7</sup> Whistleblowing disclosures report 2020 Health professional regulators

<sup>8</sup> Published in February 2020, the Paterson Inquiry was commissioned to investigate the surgeon Ian Paterson's malpractice and to make recommendations to improve patient safety. Further information can be found at:

[www.gov.uk/government/publications/paterson-inquiry-report](http://www.gov.uk/government/publications/paterson-inquiry-report)

- 4.7 Similarly, the GOsC identified themes in the *Cumberlege review*<sup>9</sup> such as the need to strengthen the patient voice, and the benefits of appointing a Patient Safety Commissioner with responsibility for listening to patients and promoting user perspectives, and having an Independent ‘Redress Agency’ to administer decisions using a non-adversarial process with determinations based on avoidable harm looking at systemic failings.
- 4.8 The GOsC noted the recommendations in the *Pandemic Patient Experience* report<sup>10</sup> by the Patients Association. The recommendations focused on recognising the impact of the pandemic on those who already face discrimination and inequality, maintaining principles of patient choice, supporting carers, and providing fully resourced services and clear and timely communication on the impact on services. The GOsC also acknowledged several statements in the *What we need now – National Voices* report<sup>11</sup> which included patient stories and experiences during the pandemic.
- 4.9 In response to our review<sup>12</sup> of research into health and care professional regulation in July 2020, the GOsC noted that research into regulation and its evaluation and impact is limited, in addition to a focus on fitness to practise above other areas, and that more focus on culture, speaking up, and dialogue with patients may be a better focus. The GOsC also noted our research<sup>13</sup> on patient and public perspectives on future fitness to practise processes that there was a ‘general view that independent oversight should be retained and the whole regulatory system leading to final decisions on fitness to practise would need to be robust.’
- 4.10 The GOsC considered a survey undertaken by the Wellcome Collection and Radio Four about touch.<sup>14</sup> The survey ran until 30 March 2020, just before lockdown, and people from 112 countries took part. The GOsC considered whether thoughts about touch might have now changed since the survey because of the pandemic, and it made comparisons with its own literature review about communication and miscommunication in the context of touch.<sup>15</sup> It noted that further work was planned following this literature review, however it has been paused due to the pandemic. The GOsC suggested it may need to revisit the concept of touch in the context of coronavirus.
- 4.11 In this review period the GOsC has continued to report on its performance, addressed concerns identified to it and has taken account of various inquiries and reviews. We are satisfied that this Standard is met.

## **Standard 5: The regulator consults and works with all relevant stakeholders across all its functions to identify and manage risks to the public in respect of its registrants.**

### **Consultations**

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<sup>9</sup> Published in July 2020, the report of the Independent Medicines and Medical Devices Safety Review (IMMDS Review) was published. Further information can be found at: <https://www.gov.uk/government/publications/independent-medicines-and-medical-devices-safety-review-report>

<sup>10</sup> <https://www.patients-association.org.uk/blog/pandemic-patient-experience>

<sup>11</sup> <https://www.nationalvoices.org.uk/what%20we%20need%20now>

<sup>12</sup> Review of research into health and care professional regulation in July 2020

<sup>13</sup> Patient and public perspectives on future fitness to practise processes in August 2020

<sup>14</sup> More information can be found here: <https://wellcomecollection.org/pages/XiW7tRQAACQA9k4C>

<sup>15</sup> In July 2019, the General Osteopathic Council (GOsC) and the General Chiropractic Council (GCC) published: How is touch communicated in the context of manual therapy? More information can be found here: <https://www.osteopathy.org.uk/news-and-resources/news/how-touch-is-communicated-in-the-context-of-manual-therapy-new/>



- 5.1 Last year, we reported that the GOsC did not have a written policy detailing its approach to conducting consultations, but that one would be developed in late 2020. The GOsC's Council approved a position statement outlining the approach to consultations at its meeting in July 2020.
- 5.2 The GOsC ran three consultations in this review period:
- Consultation on policy for registrants not practicing for part of the registration year
  - Consultation on draft guidance on insurance requirements for osteopaths
  - Draft Screeners Guidance

### Engagement with other organisations

- 5.3 At Council meetings in July and November 2020, the GOsC reported that it has participated in several external events with stakeholders and partner organisations. We saw the GOsC engaged with several organisations, including:
- Discussions with the Authority about the Covid Learning Review, regulatory reform and the performance review appraisal
  - Discussion with NHS England and NHS Improvement about the review of the GOsC's Guidance for Pre-Registration Osteopathic Education and Standards for Training
  - Discussions with other healthcare regulators (General Chiropractic Council, General Pharmaceutical Council, General Optical Council and General Dental Council) about forming a working group to explore how the smaller regulators can work more closely.
- 5.4 We reported last year that the GOsC was considering becoming a signatory of the CQC emerging concerns protocol. Further work took place in this performance review period, and in July 2021, the GOsC announced that it is a joint signatory to the protocol.<sup>16</sup>

### Engagement with registrants

- 5.5 We have seen that in this review period the GOsC has engaged with registrants and considered their feedback:
- It increased its offer of Continuing Professional Development (CPD) webinars with professionals in light of the challenges to engagement caused by the pandemic.
  - Osteopaths told the GOsC they wanted to obtain patient views about seeking treatment during the pandemic, so the GOsC developed patient feedback survey templates for registrants to use.
  - The GOsC ran sessions with regional leads about how to run online CPD events, after receiving feedback from osteopaths that they have had to cancel face to face and groups activities due to the pandemic.
  - The GOsC launched its annual CPD evaluation survey on 7 October 2020 until 31 January 2021, following user testing from registrants in August and September 2020.

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<sup>16</sup> More information can be found here: <https://www.osteopathy.org.uk/news-and-resources/news/gosc-signs-up-to-emerging-concerns-protocol/>

- It held a series of fitness to practise webinars to directly engage with the profession and patients.
- 5.6 In November 2020, the GOsC's Council agreed to the discontinuation of *The Osteopath* magazine from 2021, to create resource for the GOsC's first Communications and Engagement Strategy. The GOsC conducted an Equality Impact Assessment related to the discontinuation of *The Osteopath*. The new Communication and Engagement strategy would instead provide a 'more targeted range of communication and engagement activities better suited to people with diverse needs'.

### Engagement with patients and the public

- 5.7 The GOsC's patient involvement group expanded to include nine new patients from Scotland. There were two online focus groups in June and August 2020 to understand patient perspectives about osteopathic practice in light of the pandemic. The GOsC also conducted one-to-one telephone interviews with patients who did not feel comfortable using video conferencing. A mix of ten patients from Scotland, London and the South East of England took part in these focus groups and calls. Those who took part in August had not previously engaged with the GOsC so they received introductory telephone calls and a trial run of the video conferencing system to ensure they felt valued, informed and confident about participating.

### Engagement about osteopathic advertising

- 5.8 In March 2021 we received correspondence from the Good Thinking Society (GTS)<sup>17</sup> which raised concerns about the way the GOsC had responded to complaints about osteopaths' advertising. The GOsC's approach in this area is covered in detail under Standard 14. We looked into this area in more detail under this Standard, to understand what engagement the GOsC had with stakeholders in this area.
- 5.9 The GOsC's Chief Executive and Registrar and Director of Fitness to Practise met with the GTS in July 2020 to discuss osteopathic advertising. A meeting took place between the GOsC, the Institute of Osteopathy and the Advertising Standards Authority (ASA) in September 2020, at which an agreement was made to meet more frequently and to share information.
- 5.10 The GOsC told us that its meeting with the GTS led it to reflect on the need to continue to proactively promote professional practice and advertising, such as through articles within *The Osteopath* magazine and monthly ebulletins. With the exception of the Autumn 2020 edition of *The Osteopath*, the examples of the GOsC's communication within *The Osteopath* and ebulletin pre-date the meeting with the GTS. Within the Autumn 2020 edition is an article "Keeping your advertising compliant" which sets out the importance for osteopaths to keep their adverts compliant with the CAP code.
- 5.11 The GOsC also told us that it has had ongoing dialogue with the ASA and a new [joint communication](#) was issued on 22 April 2021. This sets out the responsibility for osteopaths to ensure that their adverts are not misleading and the steps they can take to do so. The joint communication was sent to every registered osteopath and all GOsC stakeholders and was published through the GOsC's social media channels and website. The GOsC told us that it has not

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<sup>17</sup> More information about the GTS is available on its website, <https://goodthinkingsociety.org/>



received any concerns which would have required it to share intelligence with the ASA or other relevant bodies, for example Trading Standards. We understand from the GOsC that the ASA has received concerns directly from the GTS.

- 5.12 The GOsC issued a statement on advertising claims in relation to the treatment of Covid-19.<sup>18</sup> The GOsC provides examples of its communications to the profession on not making false claims regarding Covid-19 within *The Osteopath* and monthly ebulletins. This shows that the GOsC has taken steps to identify and mitigate the current risks of registrants making false claims during the pandemic.
- 5.13 While the GTS has concerns about the GOsC's management of advertising complaints (which we consider under Standard 14), we are satisfied that the GOsC has engaged appropriately with the GTS and other stakeholders on the subject. We are satisfied that this Standard is met.

## Guidance and Standards

**Standard 6: The regulator maintains up-to-date standards for registrants which are kept under review and prioritise patient and service user centred care and safety.**

### Updated Osteopathic Practice Standards

- 6.1 On 1 September 2019, the GOsC's updated OPS came into effect. Last year, we reported that the GOsC said it will continue to develop its evaluation of the impact of the OPS and it would update and review the OPS equality impact assessment through the implementation period.
- 6.2 The GOsC has worked with Professor Gerry McGivern to undertake a follow up survey to explore the implementation of the OPS. This research aimed to develop further understanding around compliance with regulation and the embodying of the OPS. The research has identified where further work is required and this has informed the GOsC's Communications and Engagement Strategy 2021-24.<sup>19</sup>
- 6.3 The GOsC is assessing the implementation of its CPD scheme and is using data and research to inform ways it can improve compliance with the OPS.
- 6.4 The GOsC told us that it collects feedback and uses this to inform the development of additional guidance. It will continue to do so and provided interim infection control guidance, sitting alongside the OPS, following this feedback

### OPS Equality Impact Assessment

- 6.5 The GOsC told us the EIAs of the OPS and CPD scheme continue to be updated and now are focused on implementation and evaluation. CPD evaluation surveys provide insight on how osteopaths interact with the CPD scheme. The GOsC is cross referencing responses from those with protected

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<sup>18</sup> <https://www.osteopathy.org.uk/news-and-resources/document-library/practice-guidance/gosc-statement-on-advertising-claims-in-relation-to-covid-19/>

<sup>19</sup> <https://www.osteopathy.org.uk/news-and-resources/document-library/about-the-gosc/communications-and-engagement-strategy-2021-24/>

characteristics to explore the equality impact of the CPD scheme. The findings to date are inconclusive.

## Conclusion

6.6 We are satisfied that this Standard is met.

**Standard 7: The regulator provides guidance to help registrants apply the standards and ensures this guidance is up to date, addresses emerging areas of risk, and prioritises patient and service user centred care and safety.**

7.1 On its website, the GOsC publishes a range of guidance to supplement the OPS and to help osteopaths meet those standards.

## Guidance on insurance

7.2 The GOsC has taken measures to raise awareness about registrants' duty to maintain their Professional Indemnity Insurance (PII) by updating the OPS to state explicitly that osteopaths must have a PII arrangement, by features on PII in *The Osteopath* in 2020 and through social media.

7.3 In November 2020, following two periods of consultation,<sup>20</sup> the GOsC's Council agreed to the publication of guidance on insurance requirements for osteopaths. The guidance outlines the provisions within the *Osteopaths Act* and the *General Osteopathic Council (Indemnity Arrangements) Rules Order of Council 2015* as they relate to PII cover and set out the requirements as outlined in the OPS. This was published on its website and featured in *The Osteopath* magazine in February 2021.

## Guidance published in response to the pandemic

7.4 To support registrants during the pandemic, the GOsC published specific guidance on the following areas:

- The use of PPE while treating patients
- CPD requirements
- Displaying QR codes in practices
- Key worker status
- Mental health and wellbeing
- Patient safety in a shared practice
- Registration fees
- Vaccinations.

7.5 The GOsC also published interim guidance on infection control in osteopathy at the start of the pandemic, which it has continued to update regularly to take account of developments and updated government guidance. The GOsC informed us that it is considering developing a more permanent guidance document relating to infection control.

7.6 The GOsC published and kept up to date statements on osteopathic practice, advertising and remote consultations on the GOsC's Covid-19 hub on its website.

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<sup>20</sup> January-April and September-October 2020.

- 7.7 As reported under Standard 5, the GOsC released a statement on 26 March 2020 emphasising that there was no research evidence to indicate that osteopathic manual therapy can help treat Covid-19. The statement also referred to the OPS requirement that any advertising material must comply with ASA guidance on the conditions which osteopaths can claim to treat.

### Guidance on adjunctive therapies

- 7.8 The GOsC's business plan for 2019/20 committed it to explore the need for guidance or resources to support osteopaths in adjunctive/complementary therapies and other stakeholders to understand the application of the OPS. A draft guidance note for osteopaths on adjunctive therapies was considered by the PEC in March 2020. The GOsC aims to publish the final guidance by January 2022.

### Conclusion

- 7.9 In this review period the GOsC has provided additional guidance for osteopaths in response to the coronavirus pandemic. It has recognised the need for guidance and clarification specific to osteopathy and has produced guidance in response to concerns it has received. We have also seen it has had discussions about, and made progress on, longer term activities including guidance on adjunctive therapies. We are satisfied that this Standard is met.

## Education and Training

**Standard 8: The regulator maintains up-to-date standards for education and training which are kept under review, and prioritise patient and service user centred care and safety.**

### Guidance for Osteopathic Pre-Registration Education

- 8.1 Last year we reported on the GOsC's plans to commence a review of its Guidance for Osteopathic Pre-Registration Education (GOPRE), which has been in place since March 2015, and was intended to support the previous version of the OPS. The GOPRE describes the professional aspects of osteopathic pre-registration education, and the outcomes that students are expected to demonstrate before graduation to show that they practise in accordance with the OPS.
- 8.2 The review was planned to update the GOPRE following significant developments that have taken place since its publication, including the introduction of the revised OPS and guidance on the duty of candour and professional boundaries. The review also takes account of changes to the quality assurance process for recognised qualifications.
- 8.3 During this review period the GOsC progressed its work to develop the new standards which it plans to implement in September 2022. The GOsC established a GOPRE stakeholder reference group to assist in the development of the standards. It reviewed the standards for education published by other UK health and care regulators and used this information to develop a set of themes for consideration by the reference group. It sought the engagement of Osteopathic Educational Institutions (OElS) on the current GOPRE and confirmed it would use that feedback to inform the review.
- 8.4 The GOsC's development of the guidance and standards was delayed as a result of the pandemic. The GOsC considers that the extension to the deadline

for implementation will allow education providers greater flexibility to manage the uncertainties caused by Covid-19 over the current academic year.

- 8.5 We are satisfied that the GOPRE, in its current format, gives sufficient priority to patient and service user care and safety. However, we welcome the GOsC's commitment to reviewing the guidance.

### Guidance on maintaining appropriate boundaries

- 8.6 We have reported in recent reviews on the GOsC's research into how maintaining appropriate boundaries is incorporated into osteopathic teaching and learning<sup>21</sup> and a literature review jointly published by the GOsC and GCC titled *How is touch communicated in the context of manual therapy*<sup>22</sup>.
- 8.7 We have not seen any significant developments in this area, but we will continue to monitor. The proposed additions to the working draft of the revised GOPRE are relevant and include the requirement that graduates have the ability to establish and maintain clear professional boundaries with patients, recognise the importance of trust within therapeutic relationships and support patients to make informed choices and express what is important to them.
- 8.8 We are satisfied that this standard is met.

**Standard 9: The regulator has a proportionate and transparent mechanism for assuring itself that the educational providers and programmes it oversees are delivering students and trainees that meet the regulator's requirements for registration, and takes action where its assurance activities identify concerns either about training or wider patient safety concerns.**

### Response to the Covid-19 pandemic

- 9.1 The GOsC permitted Osteopathic Education Institutions flexibility to adapt course delivery and assessment in response to the pandemic. OEs were required to inform the PEC of any change or proposed change likely to influence the quality of a course and its delivery as soon as was practical, to allow them flexibility to adapt quickly to challenges. Prior permission or approval from the PEC was not required.
- 9.2 These adaptations included:
- Closure of teaching clinics to ensure the safety of patients, students and staff. Due to the timing of the lockdown within the academic year, final year students were likely to have completed the substantial part of their clinical training and many institutions provided online training
  - Changes to the delivery of curriculum. Priority was given to final year students in many cases and institutions used online teaching to conduct lectures and tutorials
  - Changes to assessment. Changes included: mapping outcomes to ensure that the OPS continued to be met and delivered; rationalising standard assessment plans – removing some assessments where outcomes are assessed elsewhere; undertaking assessments remotely; taking into

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<sup>21</sup> Available at: [www.osteopathy.org.uk/news-and-resources/document-library/research-and-surveys/thematic-analysis-of-boundaries-education-and-training/](http://www.osteopathy.org.uk/news-and-resources/document-library/research-and-surveys/thematic-analysis-of-boundaries-education-and-training/)

<sup>22</sup> Available at: [www.osteopathy.org.uk/news-and-resources/document-library/publications/an-executive-summary-of-the-literature-review/](http://www.osteopathy.org.uk/news-and-resources/document-library/publications/an-executive-summary-of-the-literature-review/)

account assessments already undertaken; and using a range of information to reach a decision as to a student's overall performance.

### Education quality assurance process

- 9.3 During this review period the GOsC appointed a new provider to deliver its education quality assurance process and is developing a revised Quality Assurance Handbook. An interim Quality Assurance Handbook was in use for Recognised Qualification review visits taking place in 2021 prior to the approval of a final version in March 2021.

### Quality assurance risk profiles

- 9.4 In March 2020 the PEC considered the GOsC's approach for developing quality assurance risk profiles for OEIs.
- 9.5 This year, the GOsC developed key criteria to use to assign risk profiles. It assigned a risk profile on a six-point scale and the individual risk profile for each OEI would be used to map out the next visit date based on the level of risk. Based on the proposed risk model, institutions at risk level 1-2 will have visits in year 5-6. Institutions at risk level 5-6 may have more frequent and potentially targeted visits. We will consider the implementation of this new approach in future reviews.

### Conclusion

- 9.6 The GOsC continues to have a proportionate and transparent mechanism for quality assurance of education and training providers and that it has responded appropriately to the challenges of the pandemic. We are satisfied that this Standard is met.

## Registration

**Standard 10: The regulator maintains and publishes an accurate register of those who meet its requirements including any restrictions on their practice.**

- 10.1 During this review period there have been no changes to the way in which the GOsC register is published and accessed. The online 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.
- 10.2 We checked the register entries of 26 registrants who had been through fitness to practise proceedings, to see whether the register accurately reflected the outcome of those proceedings. We found one error, where the Professional Conduct Committee (PCC) decision was not available on the GOsC's website when it should have been. The GOsC told us the decision had been omitted from its website in error and it took steps to immediately rectify the omission. In our view, this did not raise serious concerns.
- 10.3 We are satisfied that this Standard is met.

## **Standard 11: The process for registration, including appeals, operates proportionately, fairly and efficiently, with decisions clearly explained.**

### **Response to pandemic**

11.1 The GOsC made some changes to its registration process in response to the Covid-19 pandemic. It introduced a direct debit deferral scheme and two payment-free months at the beginning of the year rather than at the end of the year. Assessments of Clinical Performance for international applicants to the register were suspended due to the guidance and legislation relating to social distancing.

### **Dataset**

11.2 The median processing time for UK and EU/EEA applicants remained static this year at two working days. No international applications were received or concluded in this period. The annual median processing time for international applications in 2019/20 was two working days. During this performance review period, the GOsC received one registration appeal in quarter three of 2020/21. None were concluded.

11.3 We reported last year that the GOsC introduced new Assessment of Clinical Performance guidelines for assessors and applicants in September 2019 and new Guidance on the arrangements and procedure for restoration hearings in December 2019. This year, two Assessments of Clinical Performance took place between 1 October 2019 and 31 March 2020, while none took place from 1 April to 30 September 2020.<sup>23</sup> We will continue to monitor their implementation in future reviews.

11.4 We received a concern from an international registration applicant, who felt that they had been discriminated against because of their place of birth. The GOsC itself looked into the concern and concluded that there was no evidence of discrimination by GOsC staff or the independent registration assessors. While there was some evidence of delays in acting upon correspondence from the applicant, these were acknowledged in the GOsC's response to the complaint. The process followed by the GOsC was in line with its guidance and we did not have any significant concerns about the GOsC's action in this case or its broader policies or procedures.

11.5 We are satisfied that the GOsC's processes for registration are proportionate, fair and efficient. The GOsC has taken action to amend its registration processes during the pandemic to support registrants and to enable the smooth running of registration operations. Its performance in processing registration applications has remained stable. We are satisfied that this Standard is met.

## **Standard 12: 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.**

12.1 Section 32(1) of the Osteopaths Act 1993 makes it a criminal offence for a person who is not registered with the GOsC to describe themselves, either expressly or by implication, as any kind of osteopath.

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<sup>23</sup> Assessments of Clinical Performance were suspended as a result of the pandemic. Currently, the [GOsC's website lists forthcoming dates for the assessments in 2021](#), though it is noted that these are subject to government Covid-19 guidance in place at the time scheduled.



- 12.2 We have not seen any changes this year to the information published by the GOsC about illegal practice and misuse of title or its processes.
- 12.3 The GOsC reports on its protection of title prosecutions in its annual report and to its Council. Its latest report (for the 2019/20 financial year), stated that it had sent 67 'cease and desist' letters, resolved 47 cases and progressed two protection of title prosecutions.
- 12.4 The data and information we have reviewed suggests that the GOsC continues to progress these cases appropriately and is taking appropriate action where necessary. We are satisfied that this Standard is met.

### **Standard 13: The regulator has proportionate requirements to satisfy itself that registrants continue to be fit to practise.**

- 13.1 We previously reported on the GOsC's work to consult on and implement its new scheme for CPD, launched in 2018. As of 1 October 2019, all osteopaths had transferred onto the scheme. The GOsC has continued its work this year to evaluate the scheme, though some elements of this work have been subject to delay as a result of the Covid-19 pandemic. The evaluation incorporates consideration of annual CPD evaluation surveys, registration data, verification and assurance data and information based on CPD audits, fitness to practise data, YouGov survey and patient feedback, website use and e-bulletin analytics.

#### **CPD evaluation survey**

- 13.2 Last year we noted that feedback from the 2019 CPD evaluation survey was mainly positive, but found that some osteopaths were concerned about having to give feedback as part of the peer discussion review process. The GOsC delivered webinars in 2020 to address the concerns.

#### **Response to the pandemic**

- 13.3 The GOsC did not make any changes to its CPD requirements in response to the pandemic because the scheme runs over a three-year cycle, with flexibility around when CPD activities are undertaken. However, the CPD verification and assurance process was put on hold and the GOsC worked to support osteopaths to continue to engage in CPD during the Covid-19 pandemic.
- 13.4 The GOsC developed and implemented a range of resources to assist osteopaths to undertake the required elements of the CPD scheme and offered additional CPD webinars to assist registrants to engage with CPD activities during the pandemic. The GOsC introduced 14-day CPD challenges, where osteopaths could complete their objective activity in just 14 days via online webinars in either case-based discussion, patient feedback or peer observation. It was reported that this was a similar model to that which is typically offered at summer schools, which gave osteopaths the opportunity to either catch up with their CPD or complete it over a shorter period of time.
- 13.5 The GOsC has continued to implement and evaluate the impact of its CPD scheme this year. We have seen that the GOsC increased the level of support offered to assist registrants to engage in CPD during the pandemic in order that they continue to meet the requirements of the scheme and remain fit to practise in challenging circumstances. We are satisfied that this Standard is met.



# Fitness to Practise

**Standard 14: The regulator enables anyone to raise a concern about a registrant.**

## Guidance for Screeners

- 14.1 Last year, the GOsC commissioned an audit of the initial stages of its process. This identified that Screeners' written reasons in their decisions could be improved, that a consolidated Guidance for Screeners should be produced which could be combined with the Initial Closure Procedure (ICP) guidance to create a single 'Guidance for Screeners' document. The GOsC included the ICP as an annex to the Guidance for Screeners and added a report template to the draft Guidance for Screeners.
- 14.2 The draft Screeners guidance was approved by Council in May 2021, outside of this review period. The delay was a result of the pandemic. The following key changes were highlighted:
- A separate section on the application of the ICP
  - A section on 'regulatory concerns' and the documents that will be considered by the Screener
  - A separate section on interim orders
  - A Screener decision-making flowchart
  - Added appendices on the ICP, the Threshold Criteria, and an amended template Screener's Report
- 14.3 We will monitor the progress of this work in the next performance review.

## Initial Closure Procedure

- 14.4 In our 2017/18 performance review report, we reported that the ICP guidance did not clearly outline how the GOsC deals with cases which have insufficient evidence to progress to the next stage of the fitness to practise process but potentially raise public protection issues. In our view the guidance should clearly state that the substance of the complaint as well as the evidence provided in support will be considered by the Screener. We note that the GOsC added an explanatory note to its guidance in January 2020.

## The GOsC's approach to advertising complaints

- 14.5 As noted under Standard 5 above, we received concerns from the GTS about the GOsC's handling of complaints about registrant advertising. We have considered this matter in previous performance reviews.
- 14.6 The guidance to Standard D1 of the GOsC's OPS says: 'Your advertising and promotional material, including website content, is legal, decent, honest and truthful as defined by the Advertising Standards Authority (ASA) and conforms to current guidance, such as the UK Code of Non-broadcast Advertising and Direct and Promotional Marketing (the Committee of Advertising Practice, CAP code)'.
- 14.7 The GOsC's position is that it is for the ASA 'to issue determinations as to whether there has been a breach of the Advertising Codes'. It considers that it is not 'in a position to judge whether an osteopath's advertising is in prima facie

breach of the CAP Code, as this expertise sits with the ASA'. The GOsC told us that this reflected the ASA's position.

- 14.8 The GOsC therefore normally takes concerns forward only if the ASA has upheld a complaint. If the ASA has not considered a complaint, the complainant is signposted to make a referral to the ASA and informed that their concern will be closed if further information is not received within 42 days. This approach means that the onus is on the complainant to refer the concern to the ASA. However, the GOsC told us that it reviews and risk assesses every case, and will refer concerns directly to the ASA itself in certain circumstances, such as if the complainant is anonymous. We asked the GOsC how it determines when it should refer a matter to the ASA and if there are any criteria used to support this decision. It told us that it monitors risk throughout the life of each case, and makes decisions based on the facts of the case, rather than having set criteria. We understand that the GOsC will close the case if no ASA ruling has been provided.
- 14.9 The GOsC provided an example of a case in which it had contacted the ASA to track a concern that had been raised with both itself and the ASA. The GOsC monitored the outcome of the concern raised with the ASA. This relied on the complainant themselves contacting the ASA. It is not clear if the GOsC would always monitor whether a complainant had contacted the ASA if they had not done so at the point of submitting their concern to the GOsC.
- 14.10 We understand that the GOsC has in some cases informed registrants of advertising concerns, but does not do so routinely. The GOsC told us that registrants have normally amended their advertising when notified that a concern has been raised.
- 14.11 The GOsC reports it has only received two advertising concerns in the review period. The low number of concerns received by the GOsC makes it difficult to identify any trends. We have not seen any evidence of harm from registrant advertising.
- 14.12 The GTS provided us with examples of 16 advertisements from osteopaths in 2020 which it judged not to be in line with the ASA/CAP Code guidance. It also provided details of its findings from 2015 to 2017. We do not know whether the low numbers of concerns that reach the GOsC give us an accurate idea of the extent of the broader risk around registrant advertising.

## Conclusion

- 14.13 We will monitor whether the updated Screeners guidance addresses the concerns raised in the independent audit about the adequacy of Screeners' written decisions.
- 14.14 We understand the concerns raised by stakeholders about how the GOsC manages advertising cases. We accept that there may be cases which are genuinely complex and where the ASA will need to make a ruling. However, we are concerned that the GOsC does not have a formal process in place to refer complaints to the ASA where a complainant does not do this themselves. We are also not assured that the GOsC has a process in place to ensure it is informed about the outcome of cases considered by the ASA.
- 14.15 We recognise that the GOsC receives low numbers of concerns about advertising. We agree that some cases can involve difficult decisions, but are aware that other regulators take a different approach to the GOsC. We think

that this is an area that would benefit from further work and guidance for regulators. Over the coming months, we will gather further evidence from the regulators and other stakeholders with a view to providing further guidance. On the basis of the low number of concerns and that we have not seen evidence of harm, we are satisfied that the Standard is met this year. We will undertake further work and continue to monitor this area.

**Standard 15: The regulator’s process for examining and investigating cases is fair, proportionate, deals with cases as quickly as is consistent with a fair resolution of the case and ensures that appropriate evidence is available to support decision-makers to reach a fair decision that protects the public at each stage of the process.**

### Timeliness of FTP proceedings

15.1 Last year we reported that the GOsC changed its Key Performance Indicators (KPIs) and that it will ‘frontload’<sup>24</sup> its investigations from 2020.

|   | 2017/18<br>Annual | 2018/19<br>Annual | 19/20<br>Q4 | 2019/20<br>Annual | 20/21<br>Q1 | 20/21<br>Q2 | 20/21<br>Q3 |
|---|-------------------|-------------------|-------------|-------------------|-------------|-------------|-------------|
| Median time taken from receipt of an initial complaint to a final decision by the IC (weeks)                | 34                | 20                | 26          | 28                | 21          | 28          | 35          |
| Median time taken from final IC to the final FTPC determination/or other final disposal of the case (weeks) | 32                | 29                | 38          | 39                | 76          | 30          | 41          |
| Median time from receipt of initial complaint to the final FTPC determination or other disposal (weeks)     | 58                | 59                | 193         | 65                | 92          | 60          | 63          |

15.2 The quarterly data shows that the median time from receipt of a referral to final IC decision has increased from quarter one to quarter three 2020/21. This is not surprising given this period covers the pandemic, and we know that the GOsC

<sup>24</sup> In cases that when screened clearly meet the IC threshold for there being a case to answer at IC, expert reports, supplementary statements and any additional information as necessary are obtained to ensure the case is ready for a hearing at the point of referral to the IC.

continued to prioritise high-risk investigations throughout the whole period. Given the circumstances, we do not have concerns.

- 15.3 There was an increase in the median time taken from IC to final fitness to practise determination in quarter one 2020/21; to 76 weeks from 38 weeks in the previous quarter. We have, however, seen the medians in this measure improve in quarter two and quarter three.
- 15.4 The median time from receipt of the initial complaint to the final fitness to practise determination increased significantly in quarter four 2019/20, which is at the start of this review period, to 193 weeks from 52 weeks in the previous quarter. However, that median of 193 weeks in this quarter represents the conclusion of two linked older cases and these were the only cases concluded in that quarter. The median remained high in quarter one of 2020/21 but has since declined to similar to pre-pandemic levels. The small case numbers in the GOsC's fitness to practise process can mean that fluctuations in the median figures are expected.
- 15.5 Overall, it does not appear that the GOsC's timescales have been more than temporarily affected by the pandemic.
- 15.6 We have not seen an identifiable impact on the data this year from the introduction of frontloading investigations. However, the disruption to investigations and hearings throughout the pandemic is likely to have affected this. Furthermore, these new approaches were introduced at the start of the review period so it may take time to see their effect. We will continue to monitor the data in this area.

#### Covid-19 and remote hearings

- 15.7 At the start of the pandemic, the GOsC published a statement about its fitness to practise activities, which was updated in June 2020.<sup>25</sup> It outlined that it would continue to triage concerns and manage risk, would prioritise high-risk investigations and planned to run IC meetings, interim order hearings and review hearings online. It said it would postpone all final hearings that had not commenced, until 3 July 2020, but those that had been part-heard would be reviewed on a case-by-case basis.
- 15.8 The GOsC used feedback from its Patient Focus Group to help develop its interim Remote Hearings Protocol, which was approved in July 2020. The protocol sets out what to expect and how to participate in remote hearings.
- 15.9 The GOsC arranged test calls for those participating in remote hearings to test the technology and asked participants for feedback about any adaptations needed to ensure the hearing goes ahead. The GOsC reported in November 2020 that it had continued to manage urgent hearings remotely. It also reviewed all cases awaiting a hearing to establish those that could be heard remotely and proceeded to schedule them. The GOsC facilitated blended hearings, where some attended virtually and others were present at the hearings centre, to accommodate for those who do not have the technology to participate virtually.

#### Other developments

- 15.10 The pilot for 'Caselines' was concluded in August 2020. Caselines is an electronic evidence preparation and presentation system for fitness to practise

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<sup>25</sup> <https://www.osteopathy.org.uk/news-and-resources/document-library/fitness-to-practise/covid-19-fitness-to-practise-statement/>

hearings, which enables confidential hearing documents to be prepared, shared, and accessed securely. The GOsC reported in February 2021 that Caselines was being used by all parties in meetings and hearings.

- 15.11 The GOsC developed a practice note on questioning witnesses following a High Court judgment.<sup>26</sup> The progress of the practice note was paused due to the pandemic and had undergone several revisions to include feedback from pre-consultation activity. An interim practice note on questioning witnesses was approved to be used from 13 July 2020 with remote hearings in mind. A period of consultation on the final version was planned, although we have not yet seen any indication of when this is due to launch.
- 15.12 The information we have seen does not raise concerns about the fairness, proportionality or efficiency of the GOsC's fitness to practise process and we are therefore satisfied that this Standard is met.

**Standard 16: The regulator ensures that all decisions are made in accordance with its processes, are proportionate, consistent and fair, take account of the statutory objectives, the regulator's standards and the relevant case law and prioritise patient and service user safety.**

### Investigating Committee decisions

- 16.1 In our 2018/19 review, we reported that the GOsC consulted on and introduced amended [Investigating Committee decision-making guidance](#). The GOsC updated the guidance to improve the quality and consistency of decisions made by the IC. We said in our 2018/19 review that we would consider the impact of the guidance. Last year, the number of 'no further action' decisions remained relatively stable and the proportion of case to answer decisions had increased slightly. The data suggested that the introduction of the guidance did not affect case outcomes.
- 16.2 In this review period, 47% of decisions resulted in no further action and 47% resulted in referral to a fitness to practise committee. Adjournments made up 4% of cases and 2% resulted in advice. When compared to last year's review period, we can see that the proportion of cases resulting in no further action has increased from 37% to 47% and the proportion of cases referred to a fitness to practise committee has decreased from 61% to 47%.
- 16.3 We were interested to see if there were any reasons for this change, including whether the change could be attributed to the IC decision-making guidance introduced in August 2018. We also wanted to understand whether the GOsC has any measures in place to monitor the impact of the guidance.
- 16.4 The GOsC told us that it has not identified any specific reason for an increase in no further action decisions by the IC. The GOsC reviewed each no further action case and suggested that the increase may be linked to the decrease in severity of the cases, but rightly highlight that this analysis is not conclusive due to the low number of cases. No further factors were identified by the GOsC. The GOsC's July/August 2019 audit did not identify any concerns with decision making, which provides further assurance against this Standard.
- 16.5 We recognise that the small numbers of cases that go through the GOsC's processes mean that the overall proportions of no further action decisions and

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<sup>26</sup> The case of Beard v the General Osteopathic Council [2019] EHC 1561

referrals are prone to fluctuation. We have not seen any information to indicate an issue with decision-making, nor that the change is the result of the change to the IC decision-making guidance.

- 16.6 The GOsC confirms that it will monitor the impact of the guidance through its usual range of activities, including internal and external audits, peer reviews and the inter-regulatory decision review group. It plans to revisit the initial stages of decision making in 2022.

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

- 16.7 Last year we reported that following consultation, a practice note for Rule 19 of the Procedure Rules 2000 came into effect in July 2019. Rule 19 provides for the GOsC or the registrant to make an application for the PCC to conclude a case without a final hearing. We reported last year that we would continue to monitor the impact of the practice note; we understand that no Rule 19 decisions were made in this review period.

### **Feedback from hearings**

- 16.8 In the Council papers in January 2020, the GOsC reported that based on feedback it received from outcomes at hearings, it has identified that updates and amendments need to be made to two practice notes; the duty to act in public interest and the admission of good character evidence. We have not seen any further information about this, but it is encouraging that the GOsC has used feedback from hearings to identify areas for improvement.

### **Section 29**

- 16.9 We were notified of 26 final decisions in this review period. We did not lodge any appeals but sent learning points in relation to two cases.
- 16.10 In this review period we also saw the decision of a High Court case where the registrant successfully appealed a finding of an admonishment. The GOsC has sought leave from the Court of Appeal to appeal the judgment and this was lodged on 4 January 2021. We will consider the outcome of this, and any subsequent steps taken by the GOsC in next year's performance review.

### **Expert witnesses**

- 16.11 We reported last year that the GOsC is doing some work to develop its expert witness competences and the pool of eligible experts. We reported that it had held workshops and would continue the work in 2020.
- 16.12 At the PEC in October 2020, the Committee were presented with and agreed to the following recommendations:
- that the advice set out in guidelines by the Academy of Royal Medical Colleges (AoMRC) for expert witnesses is consistent with GOsC standards and guidance
  - to agree to a review of the GOsC's existing guidance.
- 16.13 The GOsC's 2019-20 Business Plan stated that it would update and develop expert witness competences and eligible pool of expert witnesses; the paper to the PEC confirms that this also features in the Business Plan for 2020-21 and that the workstream stems from the recommendations of the Williams review.

### **Expert witness working group**



- 16.14 The GOsC has introduced an Expert Witness working group, which first met in September 2020. The group will advise on the production of guidance for expert witnesses and whether there is a requirement for additional guidance specific to the osteopathic context. The group has recommended that the GOsC should endorse AoMRC guidance.
- 16.15 The GOsC reports that it will review its existing guidance, taking into account feedback from the working group, and engage with stakeholders further. We will monitor this work.

### Sexual misconduct cases

- 16.16 In relation to work considering the context of fitness to practise concerns involving allegations of sexual misconduct and inappropriate touching, we asked the GOsC for some further information about the handling of such cases.
- 16.17 The GOsC told us that of the 19 cases alleging sexual misconduct received by the GOsC in this performance review period, eight were awaiting a PCC hearing and two are at the IC stage. The remaining nine were closed; as a Removal order by the PCC (one), as no case to answer by the IC (one), under the Threshold criteria (two), and under the ICP (five).
- 16.18 The GOsC uses a range of sources to inform its considerations as to the prevalence of the types of allegations it receives against its registrants, including National Council for Osteopathic Research (NCOR), the Institute of Osteopathy and insurers. The GOsC considers that although the number of overall complaints is down, the prevalence of concerns involving sexual impropriety, as well as concerns in communication, consent, and professionalism, has increased and that the 'Me too' movement may account for concerns which relate to alleged events dating several years back. The GOsC's fitness to practise report to Council which covers the period from 1 October 2019 to 31 December 2020 showed that cases related to sexually motivated behaviour, breaches of boundaries and professionalism remain an issue.
- 16.19 It is encouraging to see the GOsC is addressing the prevalence of such allegations through the CPD scheme and its emphasis on communication and consent, and the updated section on boundaries within the OPS. The GOsC has published information on its website and in *The Osteopath* magazine to communicate the boundaries section in the OPS to its osteopaths.
- 16.20 The GOsC has provided panel members with a range of training and guidance, including questioning witnesses and vulnerable witnesses, and situational awareness training. Staff regularly receive training on victim support and other relevant areas that should enhance the quality of experience and outputs in such cases. Further, the Regulation Manual for the GOsC Regulation Department is updated periodically to take account of legal and regulatory developments. This contains guidance on identifying risk, assessing, and prioritising serious concerns, identifying and supporting witnesses and vulnerable complainants, and the GOsC's safeguarding responsibilities to their welfare.
- 16.21 It is also encouraging to note that the GOsC has taken the initiative to commission an external review of its IC and PCC interim order decisions and is proposing the inclusion of guidance within the Hearings and Sanctions guidance for Committees.



16.22 In this review period the GOsC has continued to develop its processes and provide training for decision-makers. We have not identified concerns about the quality of decisions and are satisfied that this Standard is met.

**Standard 17: The regulator identifies and prioritises all cases which suggest a serious risk to the safety of patients or service users and seeks interim orders where appropriate.**

**Timeliness of interim orders**

17.1 The GOsC’s data on the median time it takes to progress cases from receipt to interim order decision, and from the time that information indicates the need for an interim order to interim order decision is set out below.

| Median weeks  | 2017/18 annual | 2018/19 annual | 2019/20 Q4 | 2019/20 annual | 2020/21 Q1 | 2020/21 Q2 | 2020/21 Q3 |
|---|----------------|----------------|------------|----------------|------------|------------|------------|
| From receipt to IO decision                                   | 3              | 5              | 12         | 8              | N/A        | N/A        | 6          |
| From decision that information indicates possible need for IO | 3              | 3              | 5          | 5              | N/A        | N/A        | 3          |

17.2 We were concerned about the significant increase in the median time from receipt of complaint to the decision in quarter four 2019/20. This is the highest figure we have seen for this measure for the GOsC.

17.3 Three cases contributed to the median of 12 in quarter four 2019/20. One case progressed to interim order within five weeks of receipt, which is in line with the GOsC’s performance against this measure in other quarters. The second and third cases took 12 and 19 weeks. The GOsC provided details of the actions it took in those cases, and we have not identified any concerns about how it managed the cases.

17.4 The median time from information that indicates a possible need for an interim order to an interim order decision was five weeks which is consistent with previous timeframes. The median for the first quarter of the next review period (quarter four 2020/21) is six weeks. This provides some assurance that the increase seen in quarter four 2019/20 is isolated. The data relates to just three cases in which circumstances reasonably explain the increase in time, so we do not consider that this raises concerns about the GOsC’s performance against this standard.

## Risk assessment and prioritisation during the pandemic

17.5 As reported under Standard 15, the GOsC released a statement about fitness to practise activities during the Covid-19 pandemic. This included assurance that patient safety remained the top priority and risk management activities would remain a focus. It confirmed that some activities would be undertaken online and that in order to satisfy public protection duties some hearings would take precedence:

- IC meetings
- interim order hearings
- review hearings.

## Conclusion

17.6 The increase seen in quarter four 20/21 appears to be an outlier. We were assured that the GOsC prioritised high risk cases during the pandemic. We are satisfied that this Standard is met.

## Standard 18: All parties to a complaint are supported to participate effectively in the process.

18.1 We reported last year that the GOsC contracted Victim Support to provide services to witnesses involved in its fitness to practise proceedings. This is open 24 hours a day, seven days a week. The GOsC reported to its Council in May 2020 that this service is also available registrants. Training was delivered to all Victim Support call handlers who operate the service on 12 February 2020.

## Response to pandemic

18.2 The GOsC made adjustments in response to the pandemic, such as running remote hearings and taking steps to ensure attendees could participate. As noted at Standard 15 above, in July 2020 the GOsC Council approved the Remote Hearings Protocol, which sets out what to expect and how to participate in remote hearings. When developing the protocol, the GOsC obtained feedback from its Patient Focus Group, from those participating in the hearings, and following test calls about any adaptations needed to ensure the hearing goes ahead.

18.3 The General Osteopathic Council (Coronavirus) (Amendment) Rules Order of Council 2020 was approved in May 2020. This amendment order allowed the GOsC to serve documents electronically. The GOsC stated that the email address used to serve documents would be the one provided by the registrant as an address for communication, and where there were issues that relate to lack of internet access or similar issues, postal service would be used.

## Practice note on questioning witnesses

18.4 The GOsC developed its practice note on questioning witnesses following the outcome of a High Court judgment, and introduced an interim version so that guidance was place whilst hearings progressed prior to the introduction of the final version.

18.5 We are satisfied that this Standard is met.

# Useful information/links

## Useful information

The nature of our work means that we often use acronyms and abbreviations. We also use technical language and terminology related to legislation or regulatory processes. We have compiled a glossary, spelling out abbreviations, but also adding some explanations. You can find it on our website [here](#).

You will also find some helpful links below where you can find out more about our work with the 10 health and care regulators.

## Useful links

Find out more about:

- [the 10 regulators we oversee](#)
- [the evidence framework we use as part of our performance review process](#)
- [the most recent performance review reports published](#)
- [the Standards of Good Regulation](#)
- [our scrutiny of the regulators' fitness to practise processes, including latest appeals](#)

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