

*Excerpt from:*

Professional Standards Authority for Health and Social Care

## Annual Report and Accounts and Performance Review Report 2013/14

### Volume II

### Performance Review Report 2013/14

## 14. The General Osteopathic Council (GOsC)

### Overall assessment

14.1 In the performance review 2012/13, we were able to conclude that the GOsC met all the *Standards of Good Regulation*. We consider the GOsC met all the *Standards of Good Regulation* once again in 2013/14.

14.2 Many of the GOsC's activities in 2013/14 were characterised by co-operation and collaboration with registrants and the public, other osteopathic organisations, and other regulators. We set out examples of this under a number of the Standards of Good Regulation below. In particular, the GOsC worked with the British Osteopathic Association (BOA), the Osteopathic Alliance, the National Council for Osteopathic Research (NCOR), and the Council of Osteopathic Education Institutions (COEI) on eight project plans setting out the objectives, scope, and deliverables of a shared agenda for the development of the profession.

14.3 We are supportive of the GOsC's contribution to the development agenda, which we consider to be promising and useful, especially given the relatively small and decentralised nature of the osteopathic register. We note that osteopathy is characterised by a high percentage of practitioners who are not attached to large healthcare organisations such as NHS Trusts; indeed, osteopaths are often sole practitioners. We acknowledge the GOsC's work with its partners to encourage membership of regional osteopathic societies and to incorporate these societies into its planning for continuing fitness to practise (see paragraph 14.17). We consider this has the potential to support continuing fitness to practise (CFTP) and reduce professional isolation by providing forums where osteopaths could draw on the experiences and feedback of their peers.

14.4 We will review the progress made on the shared development agenda in the performance review 2014/15.

### Guidance and standards

14.5 The GOsC met all of the *Standards of Good Regulation* for guidance and standards in 2013/14. It demonstrated this by maintaining the *Osteopathic Practice Standards* and additional guidance and keeping these documents under review. In doing this work, it engaged with a variety of stakeholders. By way of example, the GOsC:

- Produced new guidance addressing issues of significance for registrants; including three pieces of guidance on patients' capacity to give consent (one each for England and Wales, Scotland, and Northern Ireland)
- Worked with partners including the BOA and the NCOR to develop a resource to categorise the types of risks involved in delivering osteopathic care, and the types of complaints made about osteopaths
- Reviewed how effectively its core guidance (the Osteopathic Practice Standards) has been implemented since its introduction in September 2012. We consider it is desirable for regulators to measure the effectiveness of their core guidance periodically, especially where that guidance has recently been introduced. We will ask about the outcomes of that review in the performance review 2014/15
- Promoted its guidance through its monthly e-bulletin, bi-annual fitness to practise e-bulletin and bi-monthly magazine, and developed e-learning resources to help registrants put Osteopathic Practice Standards into practice.

### Effectiveness of osteopathic regulation research

14.6 In December 2012, the GOsC's Council agreed to commission a large piece of research into the effectiveness of osteopathic regulation.

14.7 The GOsC made the following progress on this research in 2013/14:

- In July 2013, the GOsC appointed three academics from the universities of Warwick, Nottingham, and Oxford to conduct the research, each with extensive expertise and experience in the study of professional regulation
- The GOsC Council approved the scope of the work on 27 February 2014 following receipt of the researchers' first report.

14.8 We consider that commissioning this research is an example of innovation and good practice. We expect that the research outcomes will provide insights

into the ways osteopaths interact with the GOsC's regulatory regime, and may help improve their compliance with professional standards, and therefore ultimately patient care.

### Advertising standards

14.9 We consider that compliance with advertising standards is important to maintaining public confidence in osteopathy. From July to September 2013, the GOsC reviewed over 2,800 registrants' websites in order to assess their compliance with advertising standards. The GOsC identified 90 websites that raised potential concerns. This represents a substantial reduction in the number of such concerns by comparison with the results of a similar review in 2010/2011 (that review identified more than 300 concerns). The GOsC was able to resolve the 90 concerns, either through registrants agreeing to make changes to their advertising or by the GOsC directing them to the Advertising Standards Authority (ASA) for advice. The GOsC followed up on these matters until it was content that registrants had removed the advertising and made amendments to its satisfaction, or to that of the ASA.

14.10 The GOsC also promoted registrant compliance with advertising standards by clarifying the information shown on its registrant-only website ('the o zone') about how registrants can obtain ASA advice about their advertising.

### Consultation on new standards

14.11 In 2013, the GOsC consulted on two new pieces of guidance for registrants. The first piece of guidance concerns patients' capacity to give consent, and the second is about the 'Rule 8'<sup>1</sup> procedure for disposal of fitness to practise cases.

14.12 In developing these pieces of guidance, the GOsC engaged with registrants and the public through its Public and Patient Partnership Group and a number of focus groups brought together for specific consultations.

14.13 The GOsC told us that registrant and public involvement was invaluable in developing the guidance. For example, in the case of the 'consent' guidance, the consultations identified the need for more practical scenario-based examples, and less technical/legalistic content.

14.14 We note that the GOsC also engaged independent reviewers to analyse the results of some of its consultations. We consider this to be a prudent

---

<sup>1</sup> Rule 8 is a mechanism which allows a fitness to practise panel to order a case to be concluded by way of an admonishment, without a full hearing taking place. This is only available if the panel considers it appropriate, and if the osteopath accepts all of the allegations (including admitting unacceptable professional conduct and/or professional incompetence).

measure likely to assist the GOsC to improve its consultation processes.

## Education and training

14.15 The GOsC met the Standards of Good Regulation for education and training in 2013/14. For example, the GOsC:

- Evaluated its student fitness to practise guidance and provided additional detail about the information that osteopathic education institutions (OEs) should provide on student fitness to practise matters
- Carried out quality assurance review visits of two OEs and published reports about this work
- Developed tools to measure student osteopaths' views on professionalism, and compared students' views on sanctions with those of faculty members. The GOsC found that these views were mostly aligned except in relation to dishonesty. The GOsC then arranged discussion sessions and good practice seminars with OEs aimed at addressing this disparity between students' and OEs' views
- Drafted and consulted on osteopathic pre-registration guidance following the previous work done in 2012/13 to align education outcomes with the GOsC's core guidance (Osteopathic Practice Standards).

14.16 The GOsC also continued to make good progress in developing its plans for CFTP, as detailed below.

## Continuing fitness to practise

14.17 We noted in the performance review 2012/13 that the GOsC had presented the results of a pilot of a proposed CFTP scheme to its Council early in 2013. Throughout 2013, the GOsC continued its work with stakeholders to develop the scheme, and it published a draft CFTP framework in October 2013.

14.18 The GOsC's proposed scheme involves a combination of registrants' self-reflection, objective evidence, and peer review. This is then assessed in order to decide whether or not the osteopath remains fit to practise and, if not, what support they need in order to reach the appropriate standard. The scheme was partly founded on the principle of 'formative space', based on research suggesting that professionals are more likely to behave in accordance with standards if they have access to a forum in which to discuss the standards and any incidents that may have occurred in the course of their practice. The GOsC has commissioned research to explore this in the osteopathic context (see paragraphs 14.6 and 14.7).

14.19 The GOsC's approach is that the 'formative space' required for the proposed system could be provided by various organisations, including the BOA and the regional osteopathic groups it encourages its registrants to join, as well as employers and OEIs. The GOsC's focus to date has been on the role that these groups might play in its proposed CFTP scheme and the type of quality assurance that would be needed.

14.20 We would encourage other regulators to make use of any lessons emerging from this work that may be relevant to them and their registrants. We look forward to examining the GOsC's further work in relation to the implementation of CFTP in the performance review 2014/15.

14.21 Beyond the GOsC's CFTP work, there are two other activities that we will revisit in the performance review 2014/15. [Student fitness to practise](#)

14.22 The GOsC told us that it has clarified the information it requires from OEIs about student fitness to practise cases. We note that the majority of OEIs have apparently agreed to provide the information that the GOsC requires.

14.23 However, we also note that this clarification was only deemed necessary because in early 2013 the GOsC received a report that a single OEI was destroying student fitness to practise data one year after the conclusion of cases. The OEI in question has subsequently refused to provide the GOsC with any details of findings or sanctions relating to student fitness to practise at all.

14.24 This state of affairs raises concerns about whether or not the GOsC can assure itself of the fitness to practise of graduates of that aforementioned OEI who are seeking registration with the GOsC for the first time. It may also raise a wider concern about whether or not other health and social care regulators can properly assure themselves in relation to the registration of any non-osteopathic graduates of that OEI. We note that, at the date of writing, the GOsC was considering the options open to it. We will follow up on any further action the GOsC takes during the performance review 2014/15.

### [Review of the GOsC's quality assurance process](#)

14.25 Since 2011/12, the GOsC has been reviewing its process for quality assuring OEIs' education programmes and qualifications, in order to make that process more proportionate and less bureaucratic, while maintaining its level of assurance.

14.26 In 2013, the GOsC had an opportunity to test the improvements it had made (in 2012) to the format of the quality assurance visits, the reporting of those visits, and the training provided to those conducting them. The feedback from the two OEIs that were subject to the improved process in 2013 was positive. In February 2014, proposals for further changes to the quality assurance processes

(such as clearer guidance for OEs, and additional ways to gather information about the quality of educational courses from patients, students, and OEI staff) were presented to the GOsC's Council.

14.27 We consider that the objectives and proposed scope of this ongoing review align with the principles of right touch regulation because the review seeks to maintain appropriate levels of regulatory oversight while reducing both the burden placed on OEs and inefficiencies in the assurance process. We will revisit the GOsC's progress in reforming its quality assurance process in the performance review 2014/15.

## Registration

14.28 The GOsC met the Standards of Good Regulation for registration in 2013/14. For example, the GOsC:

- Introduced new tools such as a 'character assessment framework'<sup>2,93</sup> and a new registration manual for GOsC staff, aimed at ensuring that the registration process is managed effectively
- Published detailed information for use by any EU/EEA or Swiss national who wishes to provide temporary and occasional services in the UK. This include guidance for the applicant, as well as a GOsC statement about temporary registration
- Amended its registration application and renewal forms to reflect the changes to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as a result of Legal Aid, Sentencing and Punishment of Offenders Act 2012)
- Improved the content and accessibility of its register by: making its register search feature more prominent on its website; providing clearer guidance about how to search the register; including more information about registrants on the register; and linking register searches to advice about how to report an unregistered practitioner. These changes were implemented as a result of information collected by the GOsC from those using its register<sup>3</sup>
- Monitored the use of the osteopathic profession's protected titles and issued 'cease and desist' notices. The GOsC also introduced a process for

---

<sup>2</sup> A tool to help GOsC staff decide whether applicants meet the GOsC's good character requirements when considering applications for admission to the register

<sup>3</sup> The GOsC did not carry out a public survey of the usability and accessibility of the online register, although it did make changes based on information it had obtained from a variety of means such as its 'contact us' forms.

ensuring that those who report concerns about unregistered practitioners practising osteopathy are informed about the action taken by the GOsC.

14.29 In the performance review 2012/13, we said that we would follow up on the GOsC's planned survey of all registrants who joined the register in 2013. In fact, the survey closed in April 2014, just after the end of the period covered by this review; we will therefore review the survey outcome in the performance review 2014/15.

### Promotion of osteopathy as a regulated profession

14.30 During 2013/14, the GOsC conducted a campaign to raise awareness of osteopaths as regulated professionals. It encouraged osteopaths to display promotional materials, identity cards and registration certificates prominently in their clinics. Upon request, it also supplied registrants with a personalised logo combining the GOsC title with the registrant's registered name and number.

14.31 As osteopaths provide healthcare, mostly independently and outside managed environments such as hospitals, we commend the GOsC's work to raise patients'/service users' awareness that osteopaths are statutorily regulated health professionals who must comply with the GOsC's standards.

### Extension of the time that a registrant's fitness to practise history is published on the register

14.32 The GOsC approved a new fitness to practise publication policy in October 2013, which extended the length of time for which a fitness to practise sanction is shown on the public register. The increases were as follows: admonishments – the length of time has increased from 28 days to 6 months; conditions – the length of time has increased from the order's duration to its duration plus one year; suspension – the length of time has increased from the order's duration to its duration plus two years; and striking off – the length of time has increased from 10 months to 5 years.

14.33 We consider that the GOsC's new policy represents an improvement in practice. It is also consistent with the recommendations we have previously made<sup>4</sup> about the approach that regulators should take to the publication of fitness to practise sanctions.

---

<sup>4</sup> CHRE, 2010. Health professional regulators' registers: maximising their contribution to public protection and patient safety. Available at <http://professionalstandards.org.uk/library/document-detail?id=6375dd8e-8636-4e60-bab7-05a516c572ae> [Accessed 22 May 2014].

## Fitness to practise

14.34 The GOsC met the Standards of Good Regulation for fitness to practise in 2013/14. For example, the GOSC:

- Commissioned an external consultant to audit the decisions made by its Investigating Committee (IC) in order to identify baseline data to be used to monitor the effectiveness of future improvements to its fitness to practise processes. The consultant reported that all the IC decisions reviewed adequately protected the public and that the IC had been provided with sufficient information to come to its decisions. The consultant also suggested some ways in which the IC's reasoning could be strengthened. We will be auditing the cases closed by the GOsC at the initial stage of its fitness to practise process during 2014, and we will look for evidence that these recommendations have been implemented as part of that audit

- Amended its processes for investigating individual cases, in order to ensure that each case is thoroughly investigated and all the evidence obtained. The amendments include standardising the use of 'Particulars of Concern'<sup>5</sup>, chronologies, and evidence grids across the caseload. The GOsC also hopes that these changes will improve the quality of the IC's decision making and reasons. We will look for evidence of consistent implementation of these changes when we carry out our audit

- Introduced a new Notification of Fitness to Practise Investigations and Outcomes Policy in October 2013. As a result, any registrant under investigation is now routinely asked to provide details about their employment and any other arrangements to provide health services (whether paid or unpaid, including activities regulated by another healthcare regulator). If their case is referred by the IC to a formal fitness to practise hearing, the GOsC informs any employer/contractor/other regulator of that referral and of the allegations, as well as of the final outcome. We commend the GOsC for these changes, which we believe will provide better public protection

- Introduced new decision-making guidance for use by the IC, as well as new indicative sanctions guidance (ISG) and a new conditions of practice bank to assist final fitness to practise panels in imposing appropriate, robust, proportionate and workable sanctions

- Introduced new 'suitability criteria' for disposing of cases without a formal hearing under the 'Rule 8' procedure (see footnote 92)

---

<sup>5</sup> 'Particulars of Concern' provide a clear means of setting out the key issues in a case and a structure for a fitness to practise panel to follow when considering the case.

- The median time taken for both investigation and adjudication of cases was within the GOsC's key performance indicators of four and fourteen months respectively
- Organised a focus group for registrants to influence and give feedback on the GOsC's fitness to practise process. The GOsC also used this forum as a means to improve registrants' understanding of and confidence in the process.

### The quality assurance framework

14.35 The GOsC undertook a major piece of work developing a new quality assurance framework for its entire fitness to practise process in 2013/14.

14.36 Part of this framework involves the peer review of its investigations by colleagues at the General Optical Council (GOC). The GOsC and GOC began a pilot of this peer review arrangement in December 2013 in relation to cases where a GOsC fitness to practise panel either found that there was no case to answer or where a hearing was cancelled under 'Rule 19'<sup>6</sup> of the GOsC's fitness to practise rules.

14.37 The GOC reviewers concluded that the decisions they examined in the pilot were appropriate. They also made suggestions for improvements to GOsC documentation, and provided advice on best practice relating to disclosure of evidence. The GOsC told us that it intends to continue the pilot once it has another appropriate sample of cases ready for peer review. At the date of writing, the GOsC had not conducted a reciprocal peer review of GOC cases.

14.38 The GOsC Council considered other aspects of the proposed quality assurance process in September 2013. These included implementing a system of internal peer review carried out by the GOsC professional standards team.

14.39 We consider that the development of a new quality assurance process is likely to improve the consistency of the GOsC's customer service and the timeliness, quality, and rigour of its investigations. The reciprocal peer review arrangements that have been set up with the GOC are novel. We will review the impact of any similar peer review work in the performance review 2014/15 on the GOsC's delivery of its fitness to practise function, as well as assessing whether or not this type of arrangement should be recognised as innovative good practice.

---

<sup>6</sup> Rule 19 provides for cancellation of a fitness to practise hearing in 'exceptional circumstances' where a panel decides a hearing cannot properly take place (for example, for reasons of fairness).

## Information governance and data breaches

14.40 The GOsC told us that it did not have to refer any data breaches to the Information Commissioner's Office during the performance review 2013/14 period. It also told us about a new information governance framework that it began to pilot in September 2013, which includes a new requirement to maintain a log of adverse incidents, regardless of how serious they are. That adverse incident log is reviewed after every incident (including those that may not constitute a data breach) by the GOsC's senior management team, and is also periodically reviewed by the GOsC's Audit Committee.

14.41 The GOsC did not keep a formal log of adverse incidents prior to September 2013, and so it was unable to provide us with any specifics about data breaches that occurred between April and September 2013. While this is a matter of some concern, we are satisfied that, since September 2013, the GOsC has implemented appropriate information governance processes to ensure that information is kept securely and incidents are dealt with appropriately. We will follow up on the GOsC's handling of adverse incidents relating to information governance/data breach in the performance review 2014/15 in order to evaluate the success of the framework that was introduced in 2013.