

# General Osteopathic Council Consultation on the draft Fitness to Practise Publication Policy: response

Dear Jess,

Further to your email of 31 January 2023, please find attached the General Medical Council (GMC)'s response to the General Osteopathic Council (GOsC)'s consultation on the January 2023 Draft Fitness to Practise Publication policy. Whilst we cannot advise on how GOsC should meet its regulatory responsibilities, we have set out relevant considerations from our own approach on questions 2 – 6 which we hope are useful.

## **Q2: Do you agree with our proposal to publish only a summary of the Investigating Committee and Professional Conduct Committee decisions before the final hearing where an interim suspension order has been imposed?**

1. The GMC's Publication and disclosure policy (which can be accessed [here](#)) sets out our general policy on the publication and disclosure of information relating to a doctor's fitness to practise. We publish and disclose information about fitness to practise to help meet our overarching objective of protecting the public.
2. The GMC holds Investigation Committee hearings (IC), and the Medical Practitioners Tribunal Service (MPTS) holds Interim Orders Tribunal hearings (IOTs) and Medical Practitioners Tribunal hearings (MPTs). Interim orders can be imposed by IOTs and MPTs. ICs are only able to issue warnings or refer a doctor to a full hearing, and they can't impose interim orders.
3. In accordance with our publication and disclosure policy, when an IOT imposes a suspension or conditions on a doctor's registration prior to any final hearing, the MPTS publishes the fact that this order has been imposed via a website notice on the *Recent decisions* page of their website for six weeks. The interim order is also published on the GMC's online medical register while it is active. Interim orders imposed prior to any final hearing are an assessment of risk, and the IOT is not a fact-finding panel. Given this, we only publish the existence of the order and do not publish any details of the concerns or the tribunal's reasoning for imposing an interim order.

- 
4. Where an order has been imposed to cover an appeal period after the conclusion of a hearing and imposition of a sanction, which we refer to as an Immediate order, we will publish details of the tribunal's reasoning in imposing the order, as part of the full record of the hearing.
  5. Where an interim order is imposed prior to any hearing, and therefore before any findings of fact, we agree that it is important to consider the risks of publishing information in relation to the impact on the rights of the registrant and the potential for contamination of evidence or other investigations. We therefore support the GOsC's proposed move from publishing full decisions to a summary. However, as indicated above, we do not publish any details about interim orders imposed prior to a hearing other than the fact of the order itself. The interim order is removed from publication when it is no longer active, and if the case has resulted in no finding of impairment or warning against the registrant, any reference to the interim order, for example in the published tribunal decision on the MPTS website, is removed.

### **Q3: Do you consider publishing a summary of the decision would be sufficient to address our overarching objective of public protection?**

6. Our Publication and disclosure policy aims to meet our statutory overarching objective, which is to:
  - protect, promote and maintain the health, safety and well-being of the public
  - promote and maintain public confidence in the medical profession
  - promote and maintain proper professional standards and conduct for members of the profession.
7. In meeting this objective, our publication and disclosure policy is informed by the following principles:
  - We are committed to transparency about our processes and decisions. We believe that being open about the action we take in response to serious concerns about doctors is in the interests of the public and the medical profession.
  - We will take a proportionate approach when displaying this information online or sharing it with those who request it.
8. We meet these principles by ensuring that details of all substantive sanctions and undertakings are published on a doctor's registration record, which is available to the public on the online List of Registered Medical Practitioners (LRMP). We also ensure that a link to the tribunal's full decision is available on LRMP, unless the decision relates to the

---

doctor's health. As set out above, we do not publish details of IOT decisions. In practical terms this means that a member of the public can see when a doctor has an interim order in place on their registration, but not the reasoning behind it. If, subsequently, undertakings are agreed or a sanction imposed at an MPT hearing, members of the public can see any substantive sanction imposed on a doctor's registration, as well as the reasoning behind it. We are satisfied that this approach meets our overarching objective to protect the public in a way that is both transparent and proportionate.

**Q4: Do you agree with our proposal that GOsC will continue to publish a Fitness to Practise decision and sanction for the length of time specified within the publication policy, for those individuals who have been granted voluntary removal by the Registrar?**

9. We support the GOsC's proposal to provide clarity in the publication policy about the length of time decisions will be published where a registrant who has had a sanction imposed is granted voluntary removal from the register. We also agree that it is in the interests of public protection to continue to publish this information for a period after the registrant leaves the register.
10. Where a doctor leaves our register voluntarily while a fitness to practise sanction, undertakings or impairment finding is being published, we continue to publish details of this action on LRMP for a period after they leave. The length of the publication period will depend on the action taken but in general terms, where a registrant has been granted voluntary removal, we publish the information for a shorter period than we would have done had they remained on the register. However, it is worth highlighting in this context that our publication periods where a registrant has had a sanction imposed are significantly longer than those of the GOsC.
11. So, for example, where a doctor has received a suspension of over three months, if they remain on the register, we will publish this for as long as the suspension is active and for a subsequent 15 years. If they take voluntary removal during that time, we will continue to publish details of the suspension for five years after they leave the register, unless there is less than five years of the original time limit left to run, in which case we will publish it for the remaining period of that original time limit.
12. Given the shorter publication periods operated by the GOsC, we consider the proposal to publish information for the length specified in the publication policy where a registrant takes voluntary removal is reasonable and proportionate.

---

**Q5: Do you agree with our proposal that we publish the current Fitness to Practice annual report on our website with reports from the previous five years archived on the GOsC website and those dating further back to be internally archived and available on request only?**

13. We consider that a publication and disclosure policy must strike a balance between maintaining public confidence in regulation, ensuring patient safety and transparency, while also being proportionate in the continued publication of information in light of the impact on the registrant, taking into account the continued relevance of the information in meeting the requirements of public protection.
14. We recognise that different considerations will apply to the length of a publication period according to the purpose which that publication is intended to serve. For example, we have different time limits for publication of recent decisions on the MPTS website and publication of decisions on a doctor's record on LRMP. In the case of the former, as well as any immediate public interest in an ongoing case, being able to access and understand the decisions taken by tribunals can help build public confidence in regulation and promote proper professional standards. However the relevance of specific decisions in this regard will lessen over time, unless an enquirer is seeking information about a particular doctor. For this reason, the publication period for recent decisions on our websites is set at one year, whereas the publication periods for information on a doctor's record on LRMP, while varying according to the action taken, is generally significantly longer. This enables enquirers to continue to access information when they are looking up the details of a specific doctor.
15. We recognise the GOsC's concern that indefinite publication of reports which include fitness to practise decisions has the potential to undermine the approach taken to publication time limits elsewhere and support the proposal to limit that publication. We cannot however comment on the appropriate length of publication as that would be dependent on the purpose that the continued publication of the information in the reports is intended to serve.

**Q6: Do you consider that the approach proposed in this consultation supports our overarching objective of public protection?**

16. As set out above, we cannot advise on how the GOsC should meet its regulatory responsibilities. However, we have aimed to set out aspects of our own approach which are relevant to your proposed changes. We are satisfied that our current publication policy supports our overarching objective of public protection.