

What happens if a complaint is made about me?

GCC Registrant Information

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About this guide

This guide tells you what will happen if you have had a complaint made about you. It explains:

- how the General Chiropractic Council (GCC) deals with complaints
- the process a complaint will go through
- the possible outcomes.

This is only a guide to the GCC's procedures, and you should not rely on it as a statement of the law. It is not a substitute for your getting legal advice or support from your professional association.

The GCC cannot give you legal advice or tell you how to respond to a complaint. You should contact your professional association and professional indemnity insurer immediately if we tell you there has been a complaint about your conduct or practice.

About the GCC

The GCC is a UK-wide statutory body, independent of government, set up by Parliament to act in the public interest by regulating chiropractors. We do this by:

- setting the standards of chiropractic education, conduct and practice in the UK
- keeping a statutory register of appropriately qualified chiropractors
- developing the profession through improvement of practice.

The Code of Standards of Performance and Ethics for Chiropractors, published by the GCC, sets out for patients the quality of care they are entitled to receive from chiropractors. For chiropractors, it represents the benchmarks of conduct and practice against which they are measured.

The GCC's statutory fitness to practise committees

The GCC has three statutory committees concerned with chiropractors' conduct, proficiency and physical and mental health.

Fewer than half the complaints we receive go further than the Investigating Committee (IC) stage.

The Investigating Committee investigates all complaints made to the GCC about a chiropractor's conduct, proficiency or health, to establish whether there is a 'case to answer'. A case to answer means that it would be possible for a Health Committee or Professional Conduct Committee (PCC) to decide that the allegation is proved. If there is a case to answer, the IC will refer the complaint to the Health Committee or the PCC.

The PCC considers and makes judgments on any cases of concern about a chiropractor's conduct or proficiency referred to it by the Investigating Committee.

The Health Committee considers and makes judgments on any cases of concern about a chiropractor's health referred to it by the Investigating Committee. Rarely, the Health Committee and the PCC can refer cases to each other while they are considering an allegation.

The GCC is accountable to Parliament and scrutinised by the Professional Standards Authority (PSA). See page 17 for more information about the PSA's role.

What types of complaint can we consider?

Our main statutory duty is to protect the public, thus maintaining public confidence in the profession we regulate. If a complaint is made about you, we will treat you fairly. We will give you information at each stage of the investigation and explain how the process may affect you.

The GCC must investigate any complaint made about a registrant. Once an investigation is under way, we will not normally allow a registrant to voluntarily remove themselves from the Register.

We investigate:

- a. unacceptable professional conduct
- b. incompetence
- c. criminal convictions
- d. concerns about a physical or mental condition that has the potential to impact on a registrant's ability to treat patients.

Because one of the main duties of the GCC is to protect the public, we may consider complaints about events that happened some time ago, or at a time before you were registered.

Who can complain?

Anyone can make a complaint about a chiropractor. We receive complaints from patients, their families, other members of the public, other health professionals and the GCC's Registrar. We also receive and consider information from other regulators and the police. If a complaint is made about you, we refer to the person making that complaint as the *complainant* and to you as the *respondent*.

Self-referrals

You should tell us if you have any important information about your conduct, competence or health. In particular, you must let us know immediately if:

- you are convicted of a criminal offence or receive a caution or
- your health changes so that your ability to treat patients may be affected by a physical or mental illness.

What action will the GCC take?

Our procedures are divided into two stages:

- Investigation: the Investigating Committee investigates cases to decide whether there is a case to answer that must be referred to the PCC or the Health Committee for adjudication
- Adjudication: this stage involves the PCC or Health Committee reaching a determination (decision) about the allegations referred to it by the Investigating Committee

The GCC is responsible for presenting the allegation to the Health Committee or the PCC and it acts as the 'prosecuting' party. You are the other party to the proceedings.

Once an allegation is referred by the Investigating Committee, the complainant does not take an active part in the presentation of the allegations, though the complainant may appear as a witness.

What happens when a complaint is made?

The way we investigate complaints is set down by law to make sure that everything is fair, open and done in the public interest. Therefore, once the complaints procedure starts, everything must be done in a set way.

The flow chart on page 6 shows the procedure the GCC follows when a complaint is made about you.

When investigating a complaint, we may need to get:

- a further documentary evidence from the complainant or other parties.
This may include a patient's chiropractic or other health records, or information about the taking of x-rays in your clinic
- b witness statements
- c independent professional opinions on chiropractic matters
- d an assessment of your health, if this is relevant.

We will show you any information we get and give you an opportunity to comment on it.

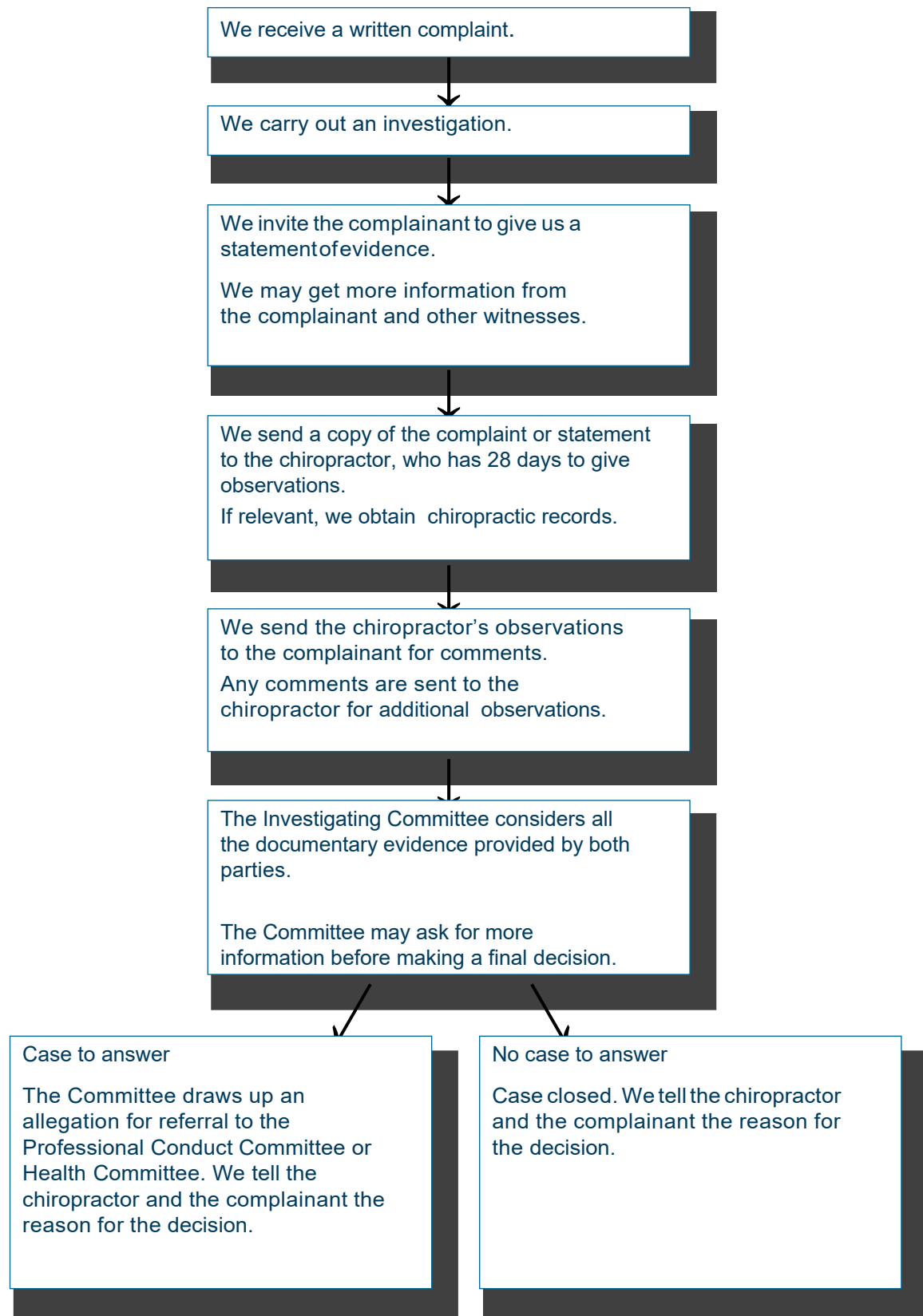
How long will the investigation take?

We understand that it can be stressful when a complaint is made about you or your practice. We will complete the investigation as quickly as possible and will keep you and other people who are directly involved up to date on our progress.

We will give you an idea how long our enquiries will take at each stage of the process.

We have service standards for dealing with complaints, and you can see these online in our Regulatory and Annual Reports. So far, we have consistently met these service standards.

How the GCC handles a complaint



Interim Suspension Orders

If the complaint raises an immediate concern for the protection of the public, the Investigating Committee will hold an 'interim suspension' hearing to consider whether it should suspend your registration while the complaint is being investigated. We will give you at least 10 days' notice of this hearing. You have the right to attend this hearing and to be legally represented. However, you would have to arrange and pay for legal representation yourself.

Below is a list of the types of complaints for which we may hold an interim suspension hearing. This list does not cover every situation.

- a. An allegation that your ability to practise as a chiropractor is seriously affected because of a physical or mental condition
- b Allegations of a sexual nature
- c Certain criminal convictions (for example, convictions for crimes motivated by racial or sexual discrimination)
- d Dishonesty
- e An inappropriate relationship with a patient
- f Inappropriate use of x-rays
- g Misuse of alcohol or drugs
- h Practising without the necessary professional indemnity insurance
- i Verbal or physical abuse of patients or the public.

If the Investigating Committee decides that it needs to suspend your registration to protect the public, the order cannot last longer than two months and will be in place while the complaint is investigated. If granted, the Interim Suspension Order is effective immediately. The Committee has no power to revoke an order once it has been made.

The Investigating Committee's meeting

The Investigating Committee has chiropractic and non-chiropractic ('lay') members. There must be at least three members on the Committee and this must include one chiropractor and one lay member. The panel is chaired by a lay member.

The Committee sits with a Legal Assessor. The Legal Assessor is there to advise the Committee on points of law and procedure, but has no decision-making role. There is also a Committee Secretary to help the Committee. Like the Legal Assessor, the Committee Secretary does not have a part in the decision-making process.

The Investigating Committee meets in private and considers each complaint to decide whether or not there is a case to answer. Neither you nor the complainant can attend meetings of the Investigating Committee.

The Committee's job is to:

- look at the information available to it
- decide whether the information supports the complaints made
- decide whether, on the evidence it has, an allegation (for example, of unacceptable professional conduct) could be found to be proved by the Health Committee or the PCC.

Decisions the Investigating Committee may make

If the Investigating Committee decides that an allegation could be found to be proved, then there is a case to answer. The Investigating Committee does not decide whether the allegation is proved; it only decides if the allegation *could* be proved. If there are substantial conflicts of evidence, it is not the Investigating Committee's role to resolve these. However, it is unlikely that the Committee will find that there is a case to answer if there is no supporting evidence.

When it is considering the information before it, the Investigating Committee may decide that the information raises concerns that are not part of the complaint made against you. For example, the Committee may decide that your chiropractic records do not appear to comply with *The Code : Standards of Performance, Conduct and Ethics for Chiropractors*. The Investigating Committee will ask you for your observations if it discovers an area of concern that did not form part of the original complaint.

If the Investigating Committee decides that there is a case to answer, it will draw up and refer an allegation (for example, of unacceptable professional conduct or incompetence) to be considered by either the PCC or the Health Committee.

Occasionally the allegation referred by the Investigating Committee may only cover matters it decides are of concern, and not the matters that formed the initial complaint.

If the Investigating Committee decides that the information before it does not support the complaint, or that an allegation could not be proved at either the Health Committee or PCC, it will conclude that there is no case to answer. In these cases the complaint will be taken no further.

If the complaint about you is about a criminal conviction you have received, the Investigating Committee may conclude there is no case to answer if it decides that the criminal offence is not relevant to your fitness to practise chiropractic.

We will write to you and the complainant to tell you the outcome of the Committee's investigation and the reasons for it.

Appeals against decisions of the Investigating Committee

There is no provision in the Chiropractors Act 1994 for an appeal against decisions of the Investigating Committee. However, you may apply for permission to apply for Judicial Review¹ of the Committee's decision.

The Professional Conduct Committee

The PCC is formed of chiropractic and non-chiropractic ('lay') members². There must be at least three PCC members present at the meeting, and this must include one chiropractor and one lay member. The panel is chaired by a lay member.

The PCC sits with a Legal Assessor. The Legal Assessor is there to advise the Committee on points of law and procedure, but has no decision-making role. There is also a Committee Secretary to help the Committee. Like the Legal Assessor, the Committee Secretary does not have a part in the decision-making process.

¹ Judicial Review is when a case is considered by the High Court to make sure that the decision is legal and based on good procedure.

² Health Committee panels will also be drawn from this pool of committee members.

Preliminary meeting of the Professional Conduct Committee

When an allegation has been referred to the PCC, it will meet as soon as possible to consider whether the allegation should be considered at a public hearing or at a private meeting, and whether an Interim Suspension Order should be imposed.

Public hearing or private meeting

In deciding whether to hold a public hearing, the PCC will consider the allegation and the severity of any possible sanction that you might be given if the allegation is proved. They will also consider any observations or statements you have given to the Investigating Committee.

If the PCC decides that your case can be heard at a private meeting, we will write to tell you and invite you to sign a 'waiver form'. This means that you agree to waive your right to appear before the PCC. In exchange, the GCC will undertake that any sanction you might receive will not exceed a Conditions of Practice Order³. This might make the PCC process faster.

Interim Suspension Order

Along with the Investigating Committee, the PCC also has the power to suspend your registration. If the PCC decides that the complaint is so serious that the public might need immediate protection, it will hold an interim suspension hearing. We will tell you in advance about this hearing. You have the right to attend this hearing and to be legally represented, although you would have to arrange and pay for legal representation yourself.

If the PCC decides that it needs to impose an Interim Suspension Order to protect the public, the Order is effective immediately, and it lasts until the end of the PCC process. The types of allegations for which an interim suspension hearing may be held are on page 7.

³ A Conditions of Practice Order means that the PCC will decide on conditions that you need to meet to continue to be registered with the GCC; for example, that you undertake some particular training. The different sanctions are discussed in detail in the GCC guidance note *Guidance on Sanctions*.

If a public hearing is not desirable (private meeting)

If the PCC decides that a case may be dealt with at a private meeting, rather than a public hearing, we will let you know. If, however, you want to have your case heard at a public hearing, you must tell us so that we can arrange this. You have 28 days to make this request from the date we tell you that the PCC has decided not to hold a hearing.

During proceedings the PCC may decide, in the light of evidence it has before it, that the case should instead be heard at a public hearing. If the PCC reaches this decision, we will stop proceedings and tell you.

At a private meeting the PCC considers the allegation using the documentary evidence only. The PCC members, Legal Assessor and Committee Secretary would be present, but neither you nor the complainant would attend the meeting. If the PCC decides at a meeting that an allegation is upheld, then the law says that you must be given the opportunity to appear before the PCC to present mitigating evidence regarding any sanction the PCC may decide to impose. You can decide to waive this right before the meeting by signing a 'waiver form'. We will send you a copy of the waiver form if we think it is appropriate or if you ask for one.

If a public hearing is desirable

If the PCC has decided that a public hearing is desirable, we will write to you to tell you this and the date of the hearing.

The GCC will instruct solicitors to identify witnesses and prepare the statements and documents in the case against you.

You have the right to:

- a attend the hearing
- b be legally represented
- c represent yourself
- d have a 'McKenzie friend'¹ present if you are not legally represented
- e prepare and produce statements and documents in your defence
- f call any witnesses, including expert witnesses in support of your

case

If you do not have legal representation, you will be given the opportunity to meet a Legal Assessor who will explain the PCC process to you and what takes place before and during a hearing. The Legal Assessor cannot give you legal advice.

If you decide not to attend a hearing, the hearing can go ahead without you.

¹ A McKenzie friend can help you by taking notes and by giving moral support and advice. This person does not need to be legally qualified. A McKenzie friend cannot act as a legal representative.

What happens at a public Professional Conduct Committee hearing?

Hearings are generally open to the public. Under our Disclosure Policy, we publicise the allegation and notice of hearing 28 days before the hearing.

Sometimes a hearing, or part of a hearing, may be closed to the public if confidential or intimate information about witnesses is to be considered or if the case involves a child or vulnerable adult.

Who attends the hearing?

- a You, and any legal representatives you have instructed**
- b Members of the PCC (usually three members)
- c A Legal Assessor. The Legal Assessor advises the PCC and other people involved on points of law. The Legal Assessor does not have a part in the decision- making process
- d Legal representatives for the GCC and the GCC's instructing officer
- e A Committee Secretary, who will assist the PCC. Like the Legal Assessor, the Committee Secretary does not have a part in the decision-making process
- f A stenographer (shorthand writer) who records everything said during the proceedings
- g Witnesses. Both the GCC and the chiropractor can call witnesses relevant to their case. They may include the complainant, patients, experts, colleagues of the chiropractor and so on.

What happens?

- a The GCC's legal representative will open the case by reading the allegation.
- b You (or your legal representative) will tell the PCC if you admit to any of the particulars of the allegation
- c The GCC will call its witnesses
- d You may cross-examine the witnesses
- e The PCC may question witnesses

After the GCC has completed its case, you may call witnesses, make representations or give evidence.

The GCC and the Committee are likely to question you and any of your witnesses.

After hearing all the evidence and the closing arguments, the PCC withdraws and discusses the case in private. The PCC will consider whether the particulars of the allegation are proved and, if so, whether it is well founded.

The decision-making process can take some time, depending on how many issues the PCC has to decide on. The PCC members also write full reasons for the decisions they take. The PCC will announce its decision in public.

If the PCC decides that the allegation is not well founded, no further action will be taken. However, if the PCC decides that the allegation is well founded, you may then give evidence in mitigation and suggest a proportionate sanction to the PCC.

The sanction

If the PCC has decided that the allegation is well founded, it must impose a sanction. When deciding on a proportionate sanction, the PCC takes account of the GCC's *Guidance on Sanctions*, which makes sure its decision is fair, consistent and sufficient to protect the public. You can find this document on the GCC's website.

Sanctions available to the PCC are:

- a Admonishment
- b Conditions of Practice Order for a period of up to three years
- c Suspension
- d Removal from the Register

When deciding what sanction to impose, the Committee will always consider the least severe option before considering harsher ones. The sanction that will be agreed and imposed by the PCC is the minimum necessary to protect the public. The Committee will always consider the individual circumstances of each case and take account of the mitigation presented by you before deciding what sanction to apply.

Removal from the Register is an extremely serious sanction. It will only be imposed if the PCC decides it is the minimum sanction necessary to

- protect patients and the wider public
- maintain confidence in the profession
- declare and uphold proper standards of conduct.

The GCC's website includes previous decisions made by the PCC, and these give an idea of the types of sanctions imposed.

Appeals against decisions of the Professional Conduct Committee

There is a right of appeal against a decision of the Professional Conduct Committee. You have 28 days to appeal, starting from the date that the 'notice of finding' (decision notice) is sent to you. You should submit your appeal to the High Court in England and Wales or to the Court of Session in Scotland.

Notification to the Professional Standards Authority

All decisions made by the Professional Conduct Committee are reviewed by the PSA. The PSA promotes best practice and consistency in regulating healthcare professionals. If the PSA thinks the decision is not sufficient (whether as to a finding, penalty or both) for the protection of the public, it can refer the decision to the courts.

As of 1 January 2009, the PSA has 40 days, starting from the end of the appeal period given to the chiropractor, in which to lodge **an appeal against a decision of the PCC.**

Review hearing of the Professional Conduct Committee

If the PCC imposes a Conditions of Practice Order or a Suspension Order on you, it will usually arrange a hearing to review the order. This is known as a review hearing. If your case is to be reviewed, then you will be told about it when the sanction is imposed.

GCC contact details

If you would like to talk to a member of the GCC Regulation staff about our complaints procedures, you may:

- phone the GCC office on 020 7713 5155 from 9am to 5pm, Monday to Friday
- email us on regulation@gcc-uk.org

Useful information

You can find the detailed rules for the Investigating Committee, the Professional Conduct Committee and the Health Committee on the GCC's website: www.gcc-uk.org/publications/legislation

To find a local solicitor, you can search the Law Society's website at www.lawsociety.org.uk or phone 0870 606 2555 during office hours.

To find your nearest Citizens Advice Bureau, go to www.citizensadvice.org.uk or look in your local phone directory.

British Chiropractic Association (BCA)

59 Castle Street, Reading, Berkshire

RG1 7SN Phone: 0118 950 5950

Fax: 0118 958 8946

Email: enquiries@chiropractic-uk.co.uk

Web: www.chiropractic-uk.co.uk

McTimoney Chiropractic Association (MCA)

Crowmarsh Gifford, Wallingford OX10

8DJ Phone: 01491 829211

Fax: 01491 829492

Email: admin@mctimoney-chiropractic.org

Web: www.mctimoney-chiropractic.org

Scottish Chiropractic Association (SCA)

1 Chisholm Avenue, Bishopton, Renfrewshire,

PA7 5JH Phone: 0141 404 0260

Fax: 0141 404 0260

Email: admin@sca-chiropractic.org

Web: www.sca-chiropractic.org

United Chiropractic Association (UCA)

Unit 57, Basepoint Centre,

Metcalf Way Crawley, West

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817 175

Web: www.united-chiropractic.org

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