
Fitness to Practise Annual Report

2019



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About Fitness to Practise (FtP)

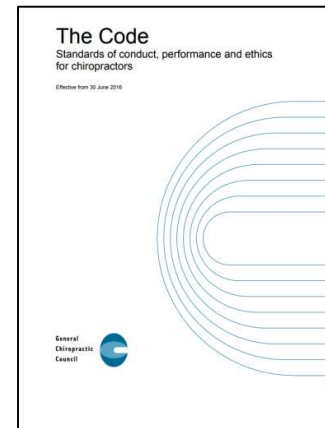
The Code

The Code represents the benchmark of conduct and practice against which chiropractors are measured.

The Code became effective from 30 June 2016 replacing the Code of Practice and Standard of Proficiency (2010).

The Code is arranged around eight principles that require chiropractors to:

- Put the health interests of patients first
- Act with honesty and integrity and maintain the highest standards of professional and personal conduct
- Provide a good standard of clinical care and practice
- Establish and maintain a clear professional relationship with patients
- Obtain informed consent for all aspects of patient care
- Communicate properly and effectively with patients, colleagues and other healthcare professionals
- Maintain, develop and work within professional knowledge and skills
- Maintain and protect patient information



Investigating complaints

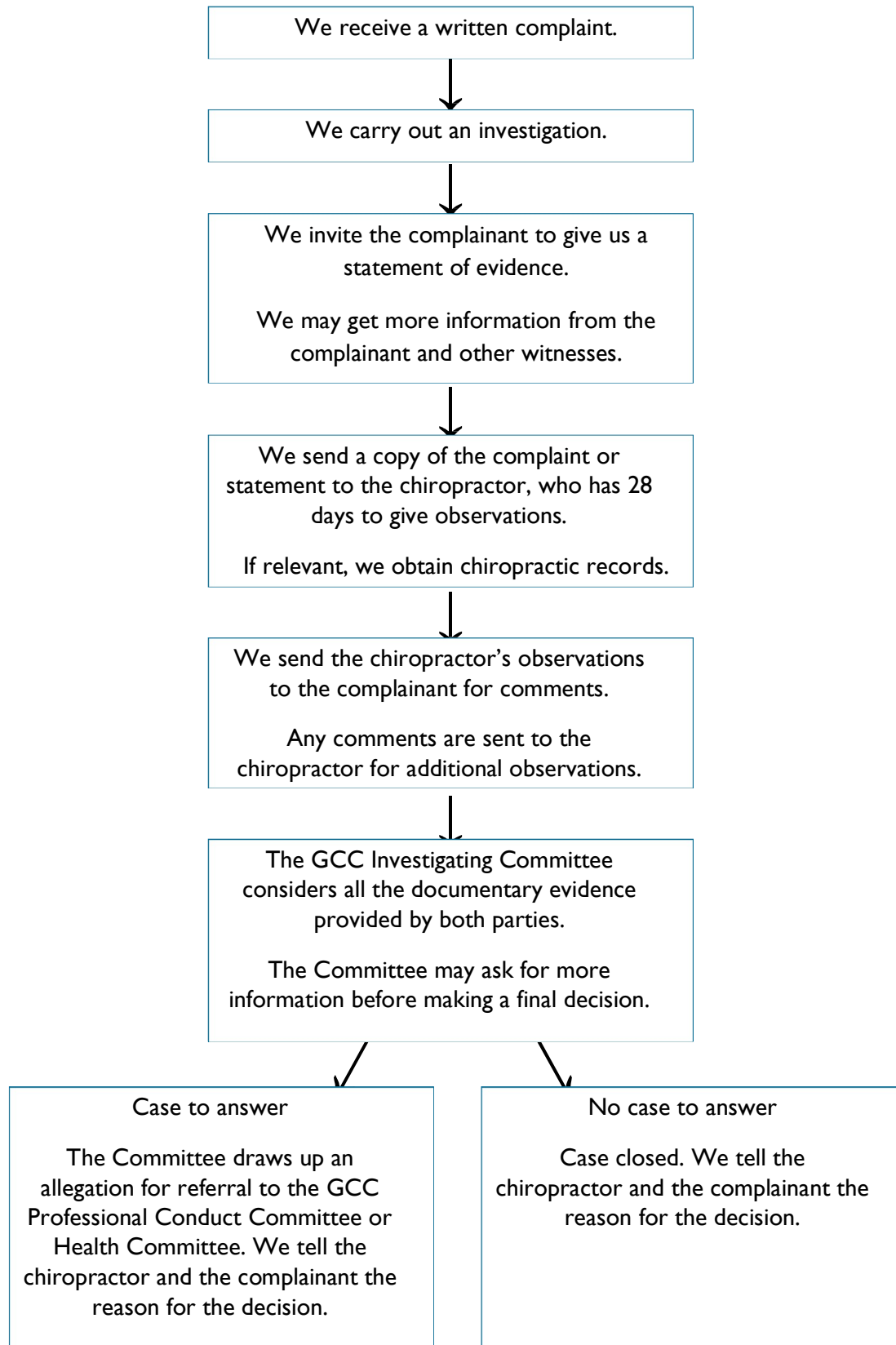
The GCC must investigate any complaint made about a registrant. The types of complaint it can investigate are:

- Treatment, care or advice given by a chiropractor
- The professional or personal behaviour of a chiropractor
- Serious impairment of fitness to practise due to the physical or mental health of a chiropractor

What complaints are the GCC unable to investigate?

- The GCC can only investigate registered chiropractors
- The GCC regulates individual chiropractors and does not accept complaints against clinics
- The GCC cannot resolve matters that relate solely to payment
- The GCC has no power in relation to compensation whatsoever

The investigating process followed by the GCC fitness to practise team is as follows:



Review of GCC Fitness to Practise (FtP) processes

Investigating Committee guidance documents

The GCC's strategic plan and business plan included a commitment in 2019 to undertake a review of FtP processes to ensure a more "right touch" approach as far as possible within the legal framework.

The review proposed introducing Threshold Criteria and Guidance for Investigating Committee (IC) (the guidance documents). In introducing these guidance documents, the intention was to ensure a process for dealing with complaints as proportionate as possible in view of the constraints placed by statute. A further aim was to drive transparency and clarity for all involved in the complaints process: Complainants (patients) and registrants, staff of the GCC, IC decisions makers.

The documents also made clear that all complaints, including advertising matters, were to be investigated in the same way resulting in a proposed change to B3 of the GCC Code, which now specifically references meeting ASA requirements and its current guidance, such as the CAP code.

Following consultation in the summer of 2019, the final guidance documents and the amended Code came into effect in October 2019.

Performance summary

		2019	2018
Number of cases concluded by Investigating Committee		62	58
Number of cases concluded by Investigating Committee with the following outcome:	No Case to Answer	54	47
	Referral to Professional Conduct Committee	8	11
Number of cases concluded by Professional Conduct Committee		7	11
Number of registrants removed ('struck off') from the register		0	1
Number of registrants suspended from the register		0	0
Number of registrants receiving a conditions of practice order		1	2
Number of registrants receiving an admonishment		1	2
Time from receipt of initial complaint to the final Investigating Committee decision (in weeks):	Median	37	27
	Longest case	81	79
	Shortest case	6	5
Number of open cases (at the end of the year) which are older than:	52 weeks	8	6
	104 weeks	2	0
	156 weeks	0	0

Key points

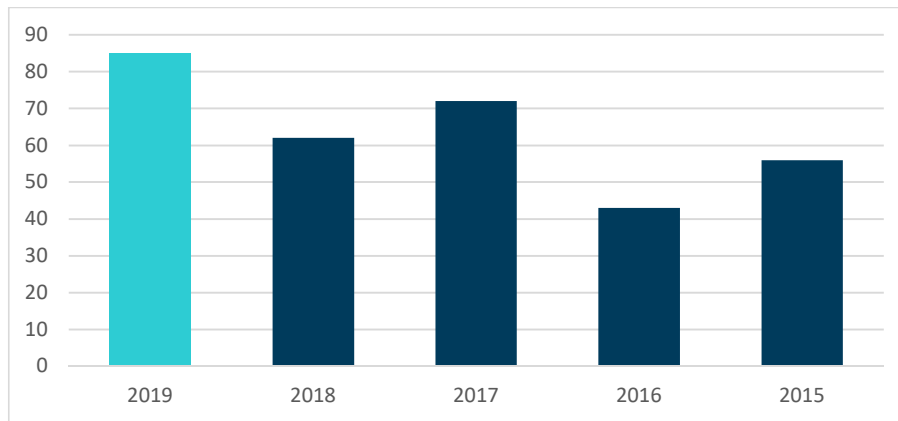
- In 2019 the number of complaints received about chiropractors' fitness to practise increased by 37% from 2018
- Complaints were made about 79 chiropractors.
- Most complaints are received from patients
- Most complaints relate to substandard treatment
- Of the cases concluded by the Investigating Committee 8 of these were referred to a Professional Conduct Committee hearing
- Two chiropractors were found guilty of unacceptable professional conduct by the Professional Conduct Committee

Complaints received

In 2019 the GCC received 85¹ complaints about chiropractors. This is a 37% increase in complaints received in 2018. Over the last five years the average number of complaints received is around 60 per year.

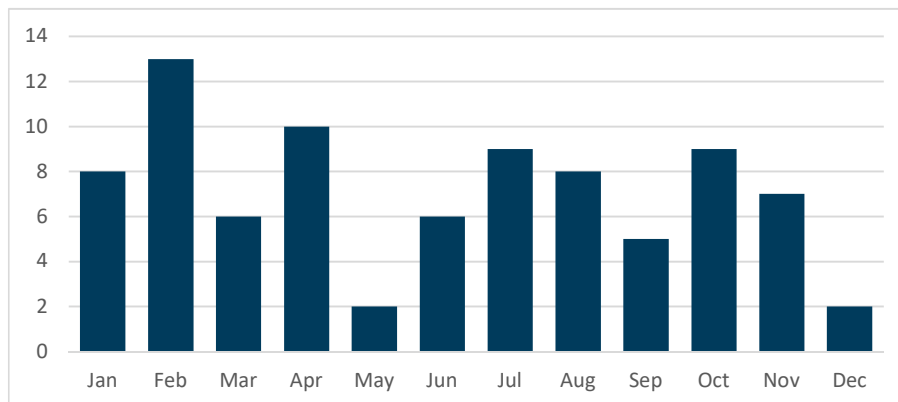
The complaints were about 79 registered chiropractors. Two registrants received two complaints against them, and one registrant received five complaints against them in the year.

	2019	2018	2017	2016	2015
Complaints received	85	62 ²	72	43	56



Complaints received by month

On average we received 7 complaints per month with a peak of 13 complaints received in February.



¹ This number may change as time progresses. Some 'enquiries' that we receive in a year may not be deemed a section 20 'complaint' initially or at all. The date the 'complaint' is received may overlap with the date that we decide it has become a section 20 matter, for example, an enquiry could be received in 2019, but the decision that it should be considered as a section 20 'complaint' may not occur until 2020.

² This figure was reported as 61 in the FtP report 2018. The final figure was 62 for the reason set out in footnote 1.

Source of complaints

Most complaints are made by a patient or a relative of a patient, accounting for 61 or nearly three-quarters of all complaints in 2019.

Source of complaint	Number
Patient/Relative of	61
Member of public/private organisation	6
Other Chiropractor/Clinic where worked	5
Anonymous	4
Other Healthcare Professional	4
Public Sector Organisation (e.g. Police)	2
Registrar	2
Self Referral	1
Total	85

Nature of complaints

Understanding the nature and volumes of complaints contributes to the development of the profession. We want to support the profession by being transparent about complaints and where necessary provide guidance where there are common themes or trends – so that the learning shared informs practise.

Importantly, allegations raised are just that; *allegations*. Whether or not these are proven is not a consideration in this section of the report, and in highlighting serves to aid understanding where complaints have been made.

Our approach

A complaint received by the GCC is reviewed by a member of the fitness to practise team, who completes an initial case report recording the allegation and issues raised by the complainant. This case report records all allegations made, including where more than one allegation is made by a complainant. This explains why the number of allegations (202) is greater than the number of complaints received in the year (85).

Cases are assigned a category and broken down into type and, in some cases, subtype. For example, a complaint concerning injury from treatment is categorised as *clinical care*, the type would be *substandard treatment* and the subtype *rough or aggressive treatment causing injury/pain*.

Category	Type	Subtype
Clinical care	e.g. substandard treatment/inadequate record keeping etc.	e.g. Rough/aggressive treatment causing injury/pain

Nature of complaint by category

Most complaints contain more than two allegations about the chiropractor. The highest number of allegations made in a complaint was nine.

Of the 85 complaints received, 43 alleged a failing relating to *clinical care*.

In 41 separate complaints there was an allegation of a failing in *communication/consent or professional relationships*.

In 20 cases there was an allegation made about a chiropractor's *probity*.

Base: 85 cases

Nature of Complaint	Number of allegations raised
Clinical care	85
Communication/Consent/Professional Relationships	78
Probity	21
Working with colleagues	8
Conviction/Criminality	3
Unprofessional behaviour outside practice	2
Business/employment issues	1
Health	0
Compliance with GCC investigations	0
Other	4
Total	202

Clinical care allegations - by type and subtype

The most commonly occurring allegation relating to clinical care is the patient receiving substandard treatment.

Type	Number of allegations raised
Substandard treatment	81

Inadequate record keeping	3
Breach of patient confidentiality	1
Poor hygiene practice	0

Substandard treatment

This covers a wide variety of concerns raised, for example the patient was injured and there was also no diagnosis.

Subtype (Substandard treatment)	Number of allegations identified
Concern about treatment techniques/approach/dissatisfied with treatment	21
Rough/aggressive treatment causing injury/pain	19
Inappropriate/contraindicated/excessive treatment/lack of clinical justification	15
Lack of further investigation/follow up/review	6
Lack of clinical justification for investigations/x-rays	5
Misdiagnosis/No diagnosis	4
Failure to refer, when appropriate	4
Inadequate assessment/case history	3
Failure to adhere to x-ray guidelines	2
Failure to work within limits of knowledge, skills and competence	1
Failure to examine/inadequate examination	1

Communication/Consent/Professional Relationships by type and subtype

The second largest category of complaint is Communication/Consent/Professional Relationships.

Type	Number of allegations raised
Communication	35
Sexual boundaries	24

Failure to preserve patient's privacy and dignity/not providing chaperone	8
Financial impropriety with patients	4
Consent	3
Intimidation of patient/pressure/undue influence to undergo treatment	3
Failure/delays in providing access to records	1

Communication

Poor communication between patient and chiropractor consistently forms an element of or reason for a referral.

Subtype (Communication)	Number of allegations raised
Rudeness to patient/lack of respect or sympathy/empathy	10
Failure to respond to communication from complainant/comply with patient request	8
Inappropriate comments/language	5
Failure to explain or agree diagnosis/treatment or treatment plan/results	4
Failure to provide adequate information about complaints procedure/poor complaint handling	4
Failure to explain fees adequately/mechanisms for payment	2
Failure to explain refusal to treat	1
Bullying/Harassment/discrimination	1

The most commonly occurring complaint received related to the chiropractor being rude/showing lack of respect or sympathy/empathy.

Sexual boundaries

There were 18 separate complaints alleging sexual behaviour by a chiropractor. While this is an increase from the previous year, more complaints were received in 2019, so, in proportion terms, this is the same as 2018.

Subtype (Sexual boundaries)	Number of allegations raised
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Inappropriate contact with patient's body/intimate areas	8
Indecent/sexualised behaviour	7
Inappropriate personal/sexual relationship with patient	6
Use of sexualised language/comments	3

Probity

In this category, the largest number of allegations related to misleading advertising/claims made on website.

Subtype (Probity)	Number of allegations raised
Misleading advertising/claims made on website	6
Dishonesty/Failure to fulfil duty of candour to be open and honest with all patients	5
False representation of skills/experience/registration/use of doctor title	4
Practising while not registered/Practising on non practising register/Practising without indemnity insurance	4
Improper alteration of records/clinic diary	1
Financial deception/fraud/improper charging	1

Commonly occurring allegations in 2019

The most commonly occurring allegations in 2019 were:

1. Concern about treatment techniques/approach/dissatisfied with treatment
 2. Rough or aggressive treatment causing injury or pain to the patient
 3. Inappropriate or excessive treatment/lack of clinical justification/contraindicated treatment
 4. The patient experiencing rudeness from the chiropractor which may include a lack of respect or sympathy/empathy
 5. Failure to respond to communication from complainant/comply with patient request
- = Failure to preserve patient's privacy and dignity/no chaperone
- = Inappropriate contact with patient's body/intimate areas

It is of note that whilst the most common occurring allegation may relate to substandard treatment, if appropriate or clear communication between chiropractor and patient had taken place, this could have avoided this type of allegation being referred to the GCC.

Investigating Committee

The GCC Investigating Committee (IC) investigates complaints made to the GCC about a chiropractor’s conduct, professional incompetence or health, to establish whether there is a ‘case to answer’. If there is a case to answer, the IC will refer the complaint for consideration by the GCC Professional Conduct Committee (PCC) or Health Committee (HC).

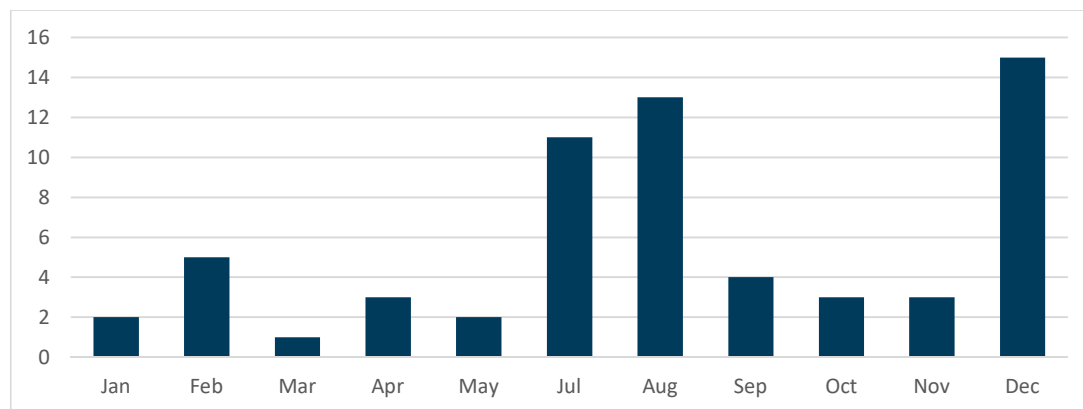
IC meetings are not held in public. The Committee sits with a Legal Assessor to advise the Committee on points of law and procedure, but has no decision-making role.

In 2019, the IC determined 62 cases compared to 58 cases in 2018.

	2019	2018	2017	2016	2015
Cases determined	62	58	67	43	41

Cases determined by month

July, August and December saw a large amount of complaints closed. Fewer cases were determined in comparison to these months.



Decisions of the Investigating Committee

Of the 62 cases that were determined by the IC in 2019, 8 were referred on to the PCC (13%). This is the lowest rate of referral in the last five years.

Decision of the IC	2019	%	2018	%	2017	%	2016	%	2015	%
No Case to Answer	54	87%	47	81%	51	76%	28	65%	25	61%

Referred to PCC	8	13%	11	19%	16	24%	15	35%	16	39%
Total	62		58		67		43		41	

Professional Conduct Committee

The Professional Conduct Committee (PCC) determines allegations about a chiropractor's conduct or professional incompetence referred to it by the IC. Allegations that have been referred to the PCC are considered either at a public hearing. On rare occasions, parts of a hearing may be held in private.

The PCC members are both chiropractors and, non-chiropractic, lay members. At each hearing there must be at least three PCC members present and include one chiropractor and one lay member. The panel is chaired by a lay member. The PCC sits with a Legal Assessor, advising the Committee on points of law and procedure, who has no decision-making role.

If the PCC decides that the allegation against the chiropractor is not well founded, no further action will be taken. However, if the PCC decides that the allegation is well founded, it must impose a sanction.

Sanctions available to the PCC are

- Admonishment
- Conditions of practice order
- Suspension
- Removal from the Register

In 2019 seven cases were determined by the PCC.

Two chiropractors were found guilty of unacceptable professional conduct in 2019. One chiropractor received a conditions of practice order and one received an admonishment.

In five cases the chiropractor was found not guilty of unacceptable professional conduct.

PCC decision	2019	2018	2017	2016	2015
Removal	0	1	1	2	1
Suspension	0	0	2	0	1
Conditions of Practice	1	2	0	1	1
Admonishment	1	2	5	0	5
No UPC	5	4	6	3	8
GCC offered no evidence	0	2	2	7	6
Total	7	11	16	13	22

Review hearings

Where a chiropractor has been either suspended or a conditions of practice order imposed at a previous hearing, a review hearing may be held to ensure the chiropractor is safe to return to the register.

There were three review hearings in 2019 that related to two individuals. In one review hearing the chiropractor's conditions of practice order was revoked. In the other case, the chiropractors' conditions of practice order was extended for a further three months.

PCC Caseload

At the end of 2019 there were 8 cases that were yet to be determined by the PCC. This is an increase by one at the end of 2018.

Health Committee

The Health Committee (HC) determines allegations of serious impairment of a chiropractor's fitness to practise due to ill health.

The HC did not meet in 2019.

PCC cases where the chiropractor was found guilty of Unacceptable Professional Conduct (UPC)

This section of the report is produced in accordance with the Chiropractors Act 1994, Section 22(14), which requires the Committee to publish a report setting out the names of those chiropractors in respect of whom it has investigated allegations and found the allegations to be well founded.

Name and registration number	Date of Decision	Source of complaint	Outcome	Summary of facts found proved and amounting to UPC
AKINDELE, Kolawole 01047	9 May 2019	Patient	Conditions of Practice Order	<p>On or about 5 May 2017 Mr Akindele provided chiropractic treatment to Patient A at the Clinic.</p> <p>In the course of the appointment on that day Mr Akindele applied, and/or caused to be applied, an electro-therapeutic device to Patient A during the course of her appointment.</p> <p>He did so:</p> <ul style="list-style-type: none"> • Prior to conducting an assessment of Patient A, formulating a working diagnosis and/or developing a plan of care; and/or • Without adequately explaining the findings of his assessment, his diagnosis and/or his treatment plan; and/or • Without Patient A's informed consent
SMITH, Simon 00870	13 May 2019	Patient	Admonishment	<p>At an appointment, on an unknown date, Mr Smith said to Patient A, "you look tired", sat on the sofa beside Patient A and began rubbing her upper back and/or neck and/or shoulders around to her shoulder blades; and/or touched Patient A around her shoulders and/or collar bones and/or upper chest. The conduct described was inappropriate.</p>

Advertising cases

At the beginning of 2018 the GCC began to process 293 complaints received from the Good Thinking Society about advertising standards made by chiropractors in marketing their services. Meetings of the GCC Investigating Committee (IC) were scheduled from October 2018 to August 2019.

The GCC committed to provide feedback by way of lessons learned on conclusion of the advertising case load which included gathering feedback from the IC and staff team to inform what worked well, how we might manage such complaints in the future – and what we convey to the profession by way of lessons learned.

The IC found ‘no case to answer’ with regard to the 293 cases. In its feedback, the IC noted its findings should not be equated with the complaints not raising valid concerns. Indeed, in many of the cases the IC found matters which may have been of concern at the time of the original complaint but which had subsequently been fully remedied by the Registrant so it was unlikely to amount to unacceptable professional conduct.

Feedback was compiled on the advertising cases by way of lessons learned and Council agreed to the following recommendations at its meeting in June 2019:

- i. Publication of GCC’s lessons learned report which was circulated to the GCC’s Registrants and stakeholders via the newsletter in November 2019;
- ii. Liaising with the Expert with a view to making the report publicly available;
- iii. Consideration of traffic light system of conditions which chiropractors can claim to treat;
- iv. Consideration of establishing steering group to monitor scientific publications and maintain a profession-wide, up-to-date shared database of level one and other scientific evidence in support of various treatment modalities and conditions treated;
- v. GCC/ASA/CAP guidance on three areas, namely:
 - level/nature of scientific guidance required to substantiate claims of effectiveness
 - use of patient testimonials
 - use of the courtesy title “Dr”
- vi. Engagement with the following:
 - Complainant to provide feedback on complaints closed;
 - ASA/CAP to update list of conditions and agree MOU.

- vii. Consultation on amendments to GCC code B3 and amended from October 2019;
- viii. On completion of current advertising caseload, the March 2015 policy paper setting out previous approach taken to advertising cases to be superseded by operational arrangements in place.

Interim Suspension hearings Investigating Committee

If a complaint received raises an immediate concern for the protection of the public, the Investigating Committee (IC) will hold an ‘interim suspension’ hearing to consider whether it should suspend the registration of the chiropractor being investigated.

If the IC decides that it needs to suspend the registrant 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.

There were ten IC interim suspension hearings held in 2019, an increase of both the number of hearings held and where a suspension resulted compared to 2018.

	2019	%	2018	%	2017	%	2016	%	2015	%
Hearings held	10		3		7		13		3	
Interim suspension ordered	2	20%	0	0	1	14%	3	23%	1	33%
Interim suspension not ordered	8	80%	3	100%	6	86%	10	77%	2	67%

Professional Conduct Committee

If the PCC decides that a complaint that has been referred to it by the IC is so serious that the public might need immediate protection, it will hold an interim suspension hearing. 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.

There was one PCC interim suspension hearing held in 2019, the registrant having been interim suspended by an Investigating Committee earlier in the year.

Section 32 complaints

Under Section 32 of the Chiropractors Act 1994, a person who (whether expressly or by implication) describes themselves as a chiropractor, chiropractic practitioner, chiropractitioner, chiropractic physician, or any other kind of chiropractor, is guilty of an offence unless he/she is a registered chiropractor.

Over the course of a year, we receive a number of complaints that relate to individuals that describe themselves as above.

Following review, the GCC can take several courses of action. These include:

- Issuing advice to make changes to websites, publications and other relevant marketing materials
- Sending a 'cease and desist' letter, instructing inquiry agents to obtain more information
- Recommending that the case is closed.

Where letters have been sent, the GCC checks that appropriate action has been taken.

In cases where the breach or potential breach of section 32 is of very serious concern, the Registrar will consider whether to prosecute. In 2018 the GCC commenced one such prosecution which led to a conviction in 2019 which was subsequently overturned at appeal in late 2019.

During 2019 the GCC focused on clearing a backlog of complaints regarding the misuse of title. 125 complaints were reviewed and closed in 2019.

We aim to clear the remaining backlog of 13 complaints received between 2015-2018 in 2020³.

³ As at 1 March 2020