

Fitness to Practise Report

15 June 2003-14 June 2004

**General
Chiropractic
Council**



**Protecting patients
Setting standards
Promoting the profession**

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Foreword by the chairmen of the regulatory committees

This report of the General Chiropractic Council's (GCC) fitness to practise committees covers the period 15 June 2003 to 14 June 2004.

The primary aim of the GCC is to protect the public. We do this by

- Keeping a register of chiropractors
- Setting standards of education, proficiency, conduct and practice
- Dealing with complaints

We currently regulate just under 2,200 registrants.

When we say that someone is fit to practise we mean that they have the skills, knowledge, character and health to practise safely and effectively. We also mean that they must act always in the best interests of their patients. Issues involving chiropractors' fitness to practise are an integral part of the GCC's duty to regulate the profession and thereby protect the public and the reputation of the profession.

This report sets out how our regulatory committees have handled the cases brought before them. It will give an insight into how we have used the range of sanctions available to us to protect the public, while helping chiropractors, whenever possible, to improve their performance.

Removal from the Register effectively means removal from the profession because the professional title 'chiropractor' is protected by law; it is a criminal offence for anyone not registered with the GCC to describe themselves as any sort of a chiropractor. Striking off is the ultimate sanction, which will be used only in the most severe cases.

The information contained in this report provides a valuable resource to chiropractors and the public on the high standards of conduct and proficiency required to maintain registration as a chiropractor. The decisions of our Professional Conduct Committee outlined in this report demonstrate that the GCC's *Standard of Proficiency and Code of Practice* is standing the test of time and is 'fit for purpose'. The requirements of the Standard and Code were agreed

following consultation with the profession and other interested parties. Had respondent chiropractors adhered to these requirements they would not have been required to defend their actions before our fitness to practise committees.

Our commitment to openness and transparency in our regulatory procedures is illustrated by our published *Disclosure Policy* which is summarised on page 9 and accessible, in full, on our web-site www.gcc-uk.org.

Rita Lewis

Chairman, Investigating Committee

Peaches Golding

Chairman, Health Committee

Brian Mouatt

Chairman, Professional Conduct Committee

The GCC's statutory committees

The regulatory committees are the Investigating Committee, Professional Conduct Committee and Health Committee. All three committees are established by the Chiropractors Act 1994 with specific constitutions and terms of reference.¹

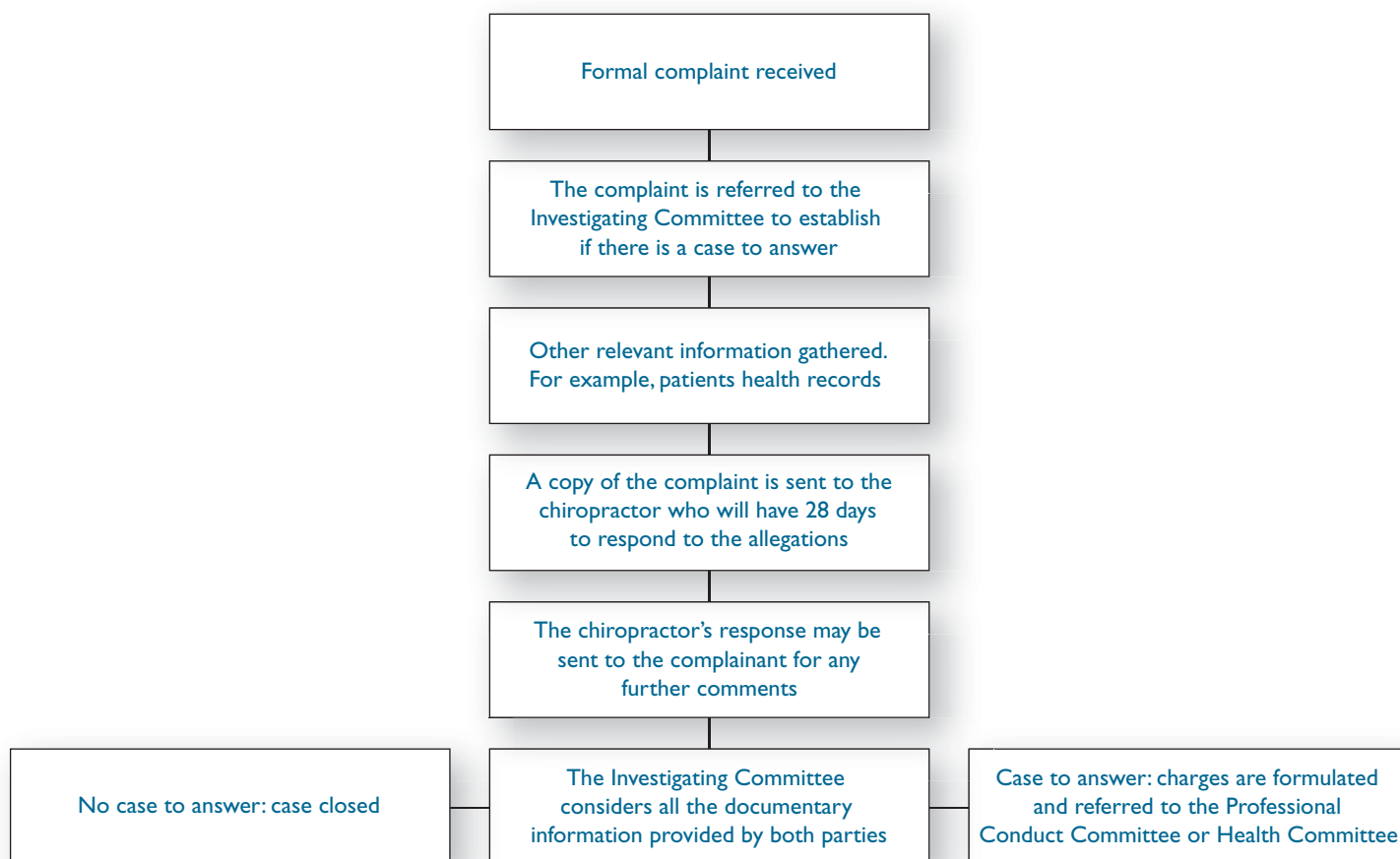
What type of complaints do we consider?

We investigate every complaint we receive about chiropractors, across the full spectrum of

- Personal conduct
- Professional conduct
- Competence
- Health
- Criminal conviction

What happens when a complaint is made?

The flow chart below illustrates the procedures we follow when a complaint is made about a chiropractor. If the complaint raises an immediate concern for the protection of the public, the chiropractor's registration may be suspended almost immediately while the case is investigated – the chiropractor must be given 10 days' notice of the hearing and of his right to argue his case.



¹Chiropractors Act 1994 ('the Act') Sections 20-28

The General Chiropractic Council (Investigating Committee) Rules 2000

The General Chiropractic Council (Professional Conduct Committee) Rules 2000

The General Chiropractic Council (Health Committee) Rules 2000

The Investigating Committee

The Investigating Committee is made up of chiropractic and lay members of Council and additional members who are co-opted onto the Committee. Its primary role is to decide whether or not there is a case to answer.

Membership of the Investigating Committee June 2003-4

Lay members	Chiropractic members
Robin Hodgson, <i>Chairman</i>	Kalim Mehrabi
Maureen Atkinson (<i>Co-opted</i>)	Imelda Twine (<i>Co-opted</i>)
Helen Peston (<i>Co-opted</i>)	Matthew Flanagan
Susan Steward (<i>Co-opted</i>)	Carla How
Rita Lewis, <i>Deputy Chairman</i>	Stephen Williams

Interim Suspension Orders

The Investigating Committee has the power to impose an Interim Suspension Order, if that is considered necessary to protect the public. This means that the Committee instructs the Registrar to suspend a chiropractor's registration immediately after a hearing, without the chiropractor having a period of time during which to appeal against the suspension. This is a time restricted power and exists to protect the public while the Committee gives full consideration to all available information and reaches a decision as to whether there is a case to answer. The chiropractor and legal representatives have the right to appear before the Investigating Committee to argue against such an order being made. The Professional Conduct Committee and Health Committee have similar powers to impose Interim Suspension Orders, once a case has been referred to them.

Meetings of the Investigating Committee

The Investigating Committee normally meets at least six times per year, although it may meet more often if required. The Investigating Committee always sits with a Legal Assessor, whose role is to advise the Committee on any questions of law that arise.

The Investigating Committee meets in private to consider documentary evidence only; neither the complainant nor the respondent chiropractor is present. The only exception to this is where the Committee holds a hearing to decide whether to impose an interim suspension order, as explained above.

The Investigating Committee is required to notify the complainant and respondent chiropractor of its decision on every complaint in writing and to provide reasons for its decision.

As the meetings of the Investigating Committee are held in private the minutes of such meetings, with the exception of interim suspension hearings, remain confidential.

Outcomes of complaints considered by the Investigating Committee between 15 June 2003 and 14 June 2004

The Investigating Committee met six times to consider 22 cases in total. Of these, 11 were received in the current year, the other 11 were carried over from the previous 12 month period (June 2002-June 2003).

It is often the case that the charges formulated by the Investigating Committee have a broader and/or a different focus than the wording of the original complaint. This is because patients, in expressing their concerns, will not usually have a detailed understanding of the *Standard of Proficiency* and *Code of Practice* to which chiropractors must adhere.

The Investigating Committee, when referring matters forward to the Professional Conduct Committee, may consolidate more than one complaint against an individual respondent into a single set of formal allegations. In 2003-4, therefore, although there were a total of nine complaints sent forward, these related to only eight chiropractors.

Outcomes of complaints

Complaints considered	2003-4	2002-3
Total complaints considered	22	19
● Complaints received in previous year	11	6
● Complaints received in current year	11	13
Outcomes		
Withdrawn by complainant	0	0
No case to answer	11	7
Referred to Professional Conduct Committee	9	8
Referred to Health Committee	0	0
Decision pending at year end	2	4

Number of complainants and number of respondent chiropractors

	2003-4	2002-3
Number of individual complainants	20	13
Number of individual respondents	20	17
Individuals making complaints against more than one respondent	2	2
Registrants against whom more than one complainant was made in year	2	2

Source of complaints

	2003-4	2002-3
Patient	13	7
Public (non-patient)	2	1
Other chiropractor	4	2
Other health professional	1	0
Registrar	0	4
Other source*	2	5
Total	22	19

*For example: professional association, insurers, police, other regulatory body

The Professional Conduct Committee

What happens if a case is referred to the Professional Conduct Committee?

The Professional Conduct Committee considers cases that are referred from the Investigating Committee and relate to chiropractors' conduct, competence or conviction for criminal offence. The Professional Conduct Committee decides whether the allegations made are well founded and this takes place at a public hearing. The respondent chiropractor and his legal representatives have the right to attend the hearing to present their case.

The GCC prosecutes the case against the chiropractor and the complainant will normally give evidence at the hearing as the GCC's witness. After both parties and all the evidence has been heard, the Committee retires to decide if the allegations have been proved. The decision is then announced in public.

If the allegations have been proved, evidence in mitigation can be presented by the chiropractor, or his representative, to the Professional Conduct Committee. At this stage the Committee will also be told of any previous findings against the chiropractor. The Committee will decide in private what sanction to impose on the chiropractor. The Professional Conduct Committee has the following options

- Remove the chiropractor's name from the Register
- Suspend the chiropractor's registration for a set period
- Impose a 'conditions of practice' order on the chiropractor
- Admonish the chiropractor

The Professional Conduct Committee will announce any sanctions in public, giving reasons for its decision either at the time, or at a later date.

Notices of Hearing and Notices of Allegations are published prior to the hearing so that the public are aware that cases are being heard and the nature of the allegations.

Membership of the Professional Conduct Committee 2003-4

We have a pool of nine members, of whom at least four will form the Committee for a hearing. The Chairman of the Committee will always be a lay member.

Lay members	Chiropractic members
Brian Mouatt, <i>Chairman</i>	Mike Kondracki
Linda Stone, <i>Deputy Chairman</i>	Kevin Proudman
Judith Worthington <i>(Co-opted)</i>	Kevin Grant
	Alan Breen
	Peter Dixon
	Dana Green

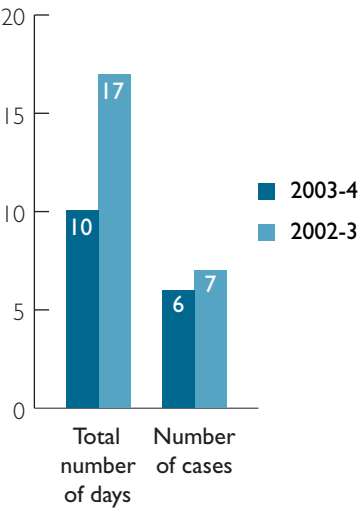
A special Professional Conduct Committee was empanelled for one hearing during 2003-4. This was because established Professional Conduct Committee members knew the respondent chiropractor. The Council members who made up the special Professional Conduct Committee, who had no prior knowledge of the case, were Rita Lewis (Lay Chairman), David Byfield (Chiropractic Member), Norma Morris (Lay Member) and Kalim Mehrabi (Chiropractic Member).

Outcomes of cases considered by the Professional Conduct Committee

At each hearing the Professional Conduct Committee sits with a Legal Assessor, whose role is to advise the Committee on points of law.

Between 15 June 2003 and 14 June 2004 the Professional Conduct Committee met for a total of nine days to hear new cases against five different chiropractors. The Professional Conduct Committee also met for one further day to review a suspension order that had been previously imposed. A breakdown of the cases is given in the table below. Further details of the specific cases heard during the period covered by this Report are given in the Case Review section that starts on page 11. The cases heard during 2002-3 were reported in detail in the Annual Report for that period. An outline of the nature of the charges referred to the Professional Conduct Committee is given in the table on page 8.

Outcomes of PCC hearings



Days per case

2003-4		2002-3	
GCC v Cairns	1	GCC v Broe	1
GCC v Farthing (Review Hearing)	1	GCC v Dupker	2
GCC v Faryna	1	GCC v Farthing (Main Hearing)	9
GCC v Heale	4	GCC v Glenn	1
GCC v Kleinberg	1	GCC v Jacobs	3
GCC v Simonet	2	GCC v James-Hudson	1
		GCC v Robinson	1

The cost to the GCC of bringing a case before the Professional Conduct Committee

There are many factors that influence the cost of each case. They include: the complexity of the case, the number of witnesses involved and the number of days it takes to conclude the case.

2003-04	Total
Cairns	£16,821
Farthing	£13,520
Faryna	£28,639
Heale	£60,196
Kleinberg	£38,325
Simonet	£22,294
Total	£179,795

2002-03	Total
Broe	£33,342
Dupker	£12,694
Farthing	£74,104
Glenn	£5,699
Jacobs	£7,322
James-Hudson	£7,304
Robinson	£2,357
Total	£142,822

Guidance on indicative sanctions

Work is soon to commence to draft guidance on indicative sanctions for the Professional Conduct Committee to aid consistency of decision making.

The GCC's experience to date is that few respondent chiropractors admit the allegations formulated by the Investigating Committee. It's quite natural to fight to defend one's professional reputation. But anecdotal evidence suggests that respondent chiropractors are reluctant to rely on the Committee to come to a reasoned decision that takes full account of mitigation. The fear of the ultimate sanction (removal from the Register) can inhibit respondents who might otherwise be inclined to accept they had made a mistake, and show insight by taking appropriate remedial action prior to the hearing.

Guidance on indicative sanctions will also aid transparency because complainants, respondent chiropractors and their legal representatives will be aware of the factors that the Professional Conduct Committee will typically be taking into account when considering what would be a proportionate sanction.

Nature of allegations referred to the Professional Conduct Committee

(Note: because of multiple charges the number of allegations will be greater than the number of cases)

Nature of allegation	Number of cases (2003-4)
Failing to respect the dignity and privacy of the patient	1
Failure to communicate adequately/appropriately with the patient	4
Failure to gain appropriate consent for examination/treatment	3
Failure to maintain adequate records	3
Inappropriate use of ionising radiation	3
Failure to carry out appropriate initial consultation/examination	3
Undertaking unnecessary or inappropriate treatment	2
Failure to review/reassess treatment	2
Undue influence	2
Unjust criticism of another health professional	2

Health Committee

The Health Committee considers cases referred to it by the Investigating Committee where it is alleged that a chiropractor's ability to practise is seriously impaired because of his physical or mental health. The Health Committee comprises chiropractors and lay members.

The procedures of the Health Committee are similar to those of the Professional Conduct Committee. Although one key difference is that the Health Committee meets in private because of the confidential and personal nature of the medical evidence considered. The Health Committee can however decide that a case should be heard in public should it be in the public interest to do so.

Membership of the Health Committee 2003-4

Lay members	Chiropractic members
Peaches Golding, Chairman	Madeleine Brzeski
Norma Morris	David Byfield
Iain McCall, Registered Medical Practitioner	Vacancy

To date the Investigating Committee has referred no cases to the Health Committee.

Transparency of proceedings

The GCC has always been totally open and transparent in its proceedings. Our *Disclosure Policy: Regulatory Committees and Appeal Tribunals* sets out in detail all disclosures that will be made to the public. In summary

- Notices of Hearing in relation to Professional Conduct Committee, Health Committee and Appeal Tribunal hearings are published 28 days prior to the hearing
- Notice of Allegations in relation to Professional Conduct Committee hearings are also published 28 days prior to the hearing
- Notice of Findings for Professional Conduct Committee, Health Committee and Appeal Tribunal hearings are published as soon as they are sent to the respondent chiropractors

All the Notices are available on our web-site and in hard copy on request. The policy also outlines how long the documents will be available online. All chiropractors have been provided with a copy of the *Disclosure Policy* and it is freely available on www.gcc-uk.org or in a hard copy from the GCC.

Appeals and judicial reviews

Our regulatory committees have clearly defined statutory duties, which must be discharged in compliance with human rights legislation. Any dissatisfaction with the manner in which they discharge those duties is addressed through the wider legal system, where the interests of the chiropractor are protected in two ways

- By an application for judicial review of the process that has been followed at any stage
- By an appeal to the High Court (or Court of Sessions) against a decision of the Professional Conduct or Health Committee which is perceived to be wrong or too harsh

During the period covered by this report there have been no applications for judicial review and no appeals to the courts.

Council for the Regulation of Healthcare Professionals (CRHP)

Established in April 2003², the CRHP is a UK-wide statutory overarching body. It is independent of government and answerable to parliament.

Its main functions are

- To promote best practice and consistency in the regulation of healthcare professionals by the nine UK regulatory bodies, including the GCC
- To decide if a decision by a health regulator's fitness to practise committee is unduly lenient. If so, to lodge an appeal against the decision, to be heard in the High Court (or the Court of Sessions)

During the period covered by this report, no decisions of the GCC's Professional Conduct Committee have been appealed by CRHP.

² Established by the National Health Service and Health Professions Act 2002

Case review

Introduction

This section of the report contains a more detailed review of each of the cases heard by the Professional Conduct Committee during 2003-4 (cases heard in 2002-03 were covered in the relevant Annual Report). The names of the respondent chiropractors are given, as these findings remain a matter of public record, but the names of the complainants have been anonymised.

Removal

Case 1: GCC v Adam Kleinberg

Ms B complained about the fact that following a 'free spinal check' she had undergone at an exhibition, she had initially been treated by Dr Kleinberg while asymptomatic, and had subsequently developed sciatica. Ms B also complained that Dr Kleinberg had failed to address her concerns when she had raised them with him. She also expressed concern over what she felt were Dr Kleinberg's high pressure sales techniques and the lack of privacy during treatments.

Having gathered a large amount of factual evidence and supporting material, including an independent professional opinion, the Investigating Committee was of the opinion that there was a case to answer. Six main charges were referred to the Professional Conduct Committee, which included

- Four counts of breaches of the provisions of the Ionising Radiation (Medical Exposure) Regulations 2000
- Five counts of failing to obtain appropriate informed consent from Ms B
- Provision of inappropriate care
- Four counts of failing to adequately review Ms B's condition
- Four counts of failing to modify his treatment of Ms B despite deterioration in her presentation
- Failure to obtain a second opinion, or to take heed of a second opinion, or to refer Ms B to another health professional

Dr Kleinberg pleaded guilty to five of the six main charges. The GCC offered no evidence in relation to the sixth charge and it was withdrawn.

The Professional Conduct Committee made it clear in its decision that these offences were serious and it was on that basis that it considered the minimum necessary to protect the public was the imposition of the following conditions of practice upon Dr Kleinberg

- 1 *That Dr Kleinberg complete the GCC workshop on the UK context of health care required by his entry on the Register as a 'conditionally registered' chiropractor*
- 2 *That Dr Kleinberg refrain from taking X-rays until such time as he completed, in the UK, an approved programme of training and assessment in chiropractic radiology and radiography*
- 3 *That Dr Kleinberg pass the GCC's Test of Competence within nine months of the date of the Professional Conduct Committee's decision*

Dr Kleinberg failed to meet the first of the conditions imposed upon him by the Professional Conduct Committee. He was removed from the Register on 15 June 2004 because he had failed to meet the conditions required for conversion from conditional to full registration by the statutory deadline.

Suspension

Case 2: GCC v Farthing (Review Hearing)

Dr Farthing had been found guilty of unacceptable professional conduct in June 2003 and a nine month suspension order had been imposed by the Professional Conduct Committee, who had also advised Dr Farthing to examine and rectify particular aspects of his practice. The original charges on which Dr Farthing had been found guilty related to four separate patients and included

- 1 Multiple counts of inappropriate use of X-rays, contrary to the requirements of the Ionising Radiation (Medical Exposure) Regulations (2000)
- 2 Multiple counts of failure to maintain adequate clinical records
- 3 Multiple counts of failing to minimise the need for further care or take appropriate steps to prevent treatment dependence
- 4 Multiple counts of exerting undue influence on patients, including exaggerating the gravity of their conditions and the therapeutic value of care, and the use of inappropriate methods of patient education and payment plans

As is normal in suspensions, the Professional Conduct Committee met to review the suspension order. Dr Farthing had been notified of his right to submit information, to attend the hearing and to be legally represented. The information the GCC intended to rely on at the review hearing had been disclosed to Dr Farthing.

Dr Farthing chose not to attend and it was clear to the Professional Conduct Committee from correspondence received that he had no intention of co-operating with the proceedings. The Professional Conduct Committee determined that there was an overwhelming public interest for the review hearing to proceed in Dr Farthing's absence.

In reaching its decision the Professional Conduct Committee took into account that Dr Farthing has singularly failed to heed its recommendation at the initial hearing that he take appropriate advice on the style of his practice, the use of X-rays and his record keeping, bearing in mind the Standard of Proficiency and the Code of Practice as published by the General Chiropractic Council. The Professional Conduct Committee also noted that Dr Farthing was continuing in practice and using ionising radiation, albeit as a 'spinal specialist' rather than a chiropractor.

The Professional Conduct Committee was of the view that Dr Farthing's continued lack of insight into the matters which had led to the original suspension, and his failure to take steps to address shortcomings in his practice, meant that it had no option but to extend the period of suspension in order to protect the public. A further suspension order for a period of three years was made, to have effect from 16 April 2004.

Admonishment

Case 3: GCC v Graham Stanley Heale

Ms A's main areas of concern were

- She had been required to remove her underwear for the whole of the appointment
- Dr Heale had failed to wear gloves whilst carrying out an examination of her lower abdominal/groin area and, particular, when examining the symphysis pubis
- Dr Heale had failed to explain what he was doing
- Dr Heale had failed to protect her dignity
- After she had cancelled her subsequent appointment, Dr Heale had made a number of telephone calls to her at home

It was noted that an allegation of indecent assault had been made to the police but that no prosecution was forthcoming due to insufficient evidence.

Evidence was gathered from a wide variety of sources, including the police, the chaperone who had been present during the appointment, and Dr Heale's professional association. In addition to Dr Heale's observations on Ms A's complaint, the Investigating Committee had the benefit of an independent professional opinion.

The Investigating Committee concluded that there was a case to answer in relation to some of the aspects of Ms A's complaint and formal allegations were drafted to be considered by the Professional Conduct Committee. These allegations against Dr Heale were

- 1 That he required Ms A to be without her underwear for longer than was normal practice and, in doing so, had failed to protect her dignity and privacy
- 2 That he had failed to communicate clearly with Ms A and thus to treat her with consideration and respect

The Professional Conduct Committee sat for four days to hear this case. Oral evidence was heard from the Ms A, Dr Heale, the chaperone who had been in attendance on 3 August 2000 and from two expert witnesses. A substantial amount of written evidence was also considered.

At the end of the proceedings, the Professional Conduct Committee determined that the first charge was not made out. However, the Committee found that the second charge had been proved and that Dr Heale's failures amounted to unacceptable professional conduct. In reaching its decision the Professional Conduct Committee noted that "proper and appropriate communication with patients [is] of great importance".

When deciding on the appropriate sanction to impose upon Dr Heale, the Professional Conduct Committee took into account the fact that he had taken steps to address deficient areas in his practice, and an admonishment was imposed.

Case 4: GCC v Kenneth Cairns

The complaint against Dr Cairns related to a letter he had written that was published in the journal of his professional association. In this letter Dr Cairns criticised the training and competence of a substantial proportion of the chiropractic profession in the UK. This led to a complaint from the professional association that represented those chiropractors.

The Investigating Committee noted that, although it was argued that the journal was made available only to members of Dr Cairns' professional association, this was not correct as the journal was distributed more widely and often made available to the public and patients. The Committee was particularly concerned about the intemperate language used by Dr Cairns in his letter and the effect this might have on the reputation of the profession. Formal charges were referred to the Professional Conduct Committee.

Having been notified that formal charges were to be referred to the Professional Conduct Committee, Dr Cairns repeated many of the criticisms in his original letter in a communication to an overseas chiropractor who was due to lecture on a CPD course at the McTimoney College of Chiropractic. This correspondence constituted the basis of a further complaint against Dr Cairns.

The Investigating Committee was concerned that, having been notified that he was facing formal charges in relation to the comments in his original letter, Dr Cairns chose to repeat the contentious comments and to do so in a manner that broadcast worldwide the views that he was expressing. Further formal charges were referred to the Professional Conduct Committee.

With the agreement of both sides, the Professional Conduct Committee consolidated the charges and both sets were scheduled to be heard at a single hearing. The charges faced by Dr Cairns were

- 1 Two counts that he had unjustly criticised or discriminated against other professional colleagues
- 2 That he had acted in a manner that could undermine public confidence in the profession or bring it into disrepute

Dr Cairns pleaded guilty to all of the charges and accepted that they amounted to unacceptable professional conduct. The Professional Conduct Committee, in imposing an admonishment, took into account that Dr Cairns had pleaded guilty at the first available opportunity and had expressed his regret at the offence he had caused. However, in the decision and admonishment the Professional Conduct Committee noted:

"We suggest that these regrets should amount to more than an acknowledgement that you simply have been misinterpreted and we take note of your Counsel's submission that, had you been given an opportunity, a public apology would have been appropriate. We recommend that you take steps to arrange for such an apology to appear in print, and we trust that the editor concerned will facilitate this action."

The Professional Conduct Committee later noted that a formal written apology had been published in the journal of the professional association of which Dr Cairns is a member.

Case 5: GCC v David Simonet

Mr C complained to the GCC that Dr Simonet had treated an area of his back that he had expressly instructed Dr Simonet not to treat. Upon further investigation it was found by the Investigating Committee that Dr Simonet had failed to keep proper records of his consultations with and treatment of Mr C, and that he had failed to communicate clearly with him. The Investigating Committee concluded that there was a case to answer and referred the following charges to the Professional Conduct Committee

- 1 That Dr Simonet had failed to maintain adequate in records and, in particular, had failed to record Mr C's dissent to treatment
- 2 Dr Simonet had failed to communicate clearly with Mr C about the treatment he intended to carry out
- 3 Dr Simonet had treated Mr C without his consent and against his wishes

At the hearing Dr Simonet pleaded guilty to the first charge. Having heard oral evidence from Mr C and Dr Simonet, and submissions from counsel on both sides, the Professional Conduct Committee found Dr Simonet guilty of the other two charges.

Substantial mitigation was put forward by Dr Simonet's counsel, particularly that these events had occurred early in Dr Simonet's career and that his mode of practice was guided by a more experienced chiropractor, and this was taken into account by the Professional Conduct Committee in determining that an admonishment was most appropriate in this case. Dr Simonet was strongly advised to review his practice procedures, particularly with regard to record-keeping and to the recording of consent or dissent to treatment.

No Evidence offered

Case 6: GCC v Warren Faryna

Between the referral of formal charges to the Professional Conduct Committee by the Investigating Committee and the scheduled date for hearing the complexion of this case changed quite fundamentally.

The GCC put forward no evidence in respect of the formal allegations and invited the Professional Conduct Committee to dismiss the charges, which it did.

Learning points

Introduction

Having reviewed the cases that were considered during 2003-4 and bearing in mind matters that have arisen in cases heard previously, our regulatory Committees have identified the following recurring issues

- 1 Communication with patients
- 2 Consent to examination and treatment
- 3 Record-keeping
- 4 Review of treatment
- 5 Use of X-rays
- 6 Undue influence
- 7 The provision of information to patients and the public
- 8 The handling by chiropractors of patients' complaints

‘ Good communication is at the heart of any professional relationship...’

I Communication with patients

Many of the complaints we receive about chiropractors contain an element of failure to communicate clearly and appropriately with patients. Good communication is at the heart of any professional relationship because it is essential that patients have the necessary information to make informed decisions about their initial and ongoing care and treatment.

The onus is always on the chiropractor to explain fully and clearly to patients any findings and treatment plan. Practitioners must remember that patients may find some things difficult to understand or remember especially if they are worried, unwell, or in pain at the time. Unfamiliar terminology can be a particular problem.

When it comes to hands-on examination and treatment, chiropractors need to ensure that patients understand which parts of their body will be touched and why. Otherwise there is a real possibility that patients could believe that they had been touched inappropriately, or even complain that they had been assaulted.

We know that the chiropractic profession as a whole takes a thoughtful and holistic approach to healthcare. So why are there examples of chiropractors getting their communication and interpersonal skills so wrong?

Here are some questions for chiropractors to think about

- Before they make an appointment, do patients know how much they will have to pay?
- Do your patients know what to expect during a consultation?
- Is your practice information leaflet or brochure factual and easy to understand?
- After your initial examination and history taking, do you explain clearly to the patient your findings and treatment plan?
- Do you encourage patients to ask questions?
- Do you explain what you're about to do and why, before you do it? And do you give the patient a chance to object?
- As a matter of routine, do you reassess and discuss the treatment/care options with your patients, depending on their changing needs?

If you have replied “no” to any of these questions, then do not be surprised if something happens that gives rise to a complaint. Patient and public expectations may differ widely from those of chiropractors. Your intentions may be good but don't expect patients to know this if you don't communicate clearly – they can't read your mind. We have seen instances of poor communication causing misunderstandings, confusion and deep distress. Please take this opportunity to review your practice in line with the GCC's *Standard of Proficiency and Code of Practice*, which provides a clear framework to enable chiropractors to implement good practice.

‘Records must be contemporaneous, legible, and attributable...’

2 Consent to examination and treatment

Complaints about the examination or treatment of patients without informed consent are often the result of failures in communication. Informed consent is consent given by the patient who has been given all the relevant information.

Chiropractors have a responsibility to obtain the informed consent of the patient to any examination or treatment. Consent is an ongoing process between chiropractor and patient; it is not a one-off event. This means that chiropractors must make sure that, having started an examination or course of treatment, the patient's consent is still valid, particularly if any changes to the treatment plan are proposed. Consent can be withdrawn at any time, even if the patient has previously consented to, or undergone, the proposed examination or treatment.

3 Record keeping

Record keeping is an integral part of chiropractic practice and the care process. The GCC's *Standard of Proficiency* sets out clearly the standards required of chiropractors when making records. Records must be contemporaneous, legible, and attributable and kept together with any clinical correspondence relevant to the case. The records must contain the case history, an accurate record of examination and assessment undertaken, attendance, treatments, advice, observations and a record of consent.

Complete, comprehensible records protect the interests of the patient and the practitioner. The regulatory Committees have seen a number of cases where poor record keeping has been central to their consideration of a complaint. The approach they have to take is “if it wasn't written down, it didn't happen”.

4 Review of treatment

Chiropractors are required to regularly review and reassess their initial diagnosis/clinical impression and the treatment that they are providing to patients. This enables them to

- Determine whether to continue, modify or conclude treatment
- Evaluate the perceived benefits of treatment to the patient
- Determine whether to modify the original prognosis in the light of treatment outcomes

This review and reassessment must be recorded in the patient's notes.

A number of complaints have arisen about the routine prescription of long courses of treatment. It is essential that patients know from the outset that their progress will be monitored on a continuous basis and that treatment will not continue beyond the point of benefit to them.

‘It is essential that patients know from the outset that their progress will be monitored on a continuous basis...’

‘...chiropractors are in a position of trust.’

5 Use of X-rays

The use of X-rays in the United Kingdom is subject to statutory regulation, through the Ionising Radiation Regulations 1999 and the Ionising Radiation (Medical Exposure) Regulations 2000 [IR(ME)R]. The requirements of these regulations are binding on all health professionals, including chiropractors, who use X-rays and other forms of ionising radiation. Specific reference to these obligations is made in the *Standard of Proficiency*.

Typically, complaints and findings against chiropractors for breaches of IR(ME)R have been because they have taken X-rays when there has been insufficient reason to do so.

We have issued specific advice about IR(ME)R to the profession, so that chiropractors can be in no doubt about their responsibilities. The advice can also be read on our web-site www.gcc-uk.org.

6 Undue influence

As regulated healthcare professionals, chiropractors are in a position of trust. Patients will rightly expect that what they are told by their chiropractors will be true and accurate. Many patients would be reluctant, and may find it difficult, to question what chiropractors say or do in their professional capacity.

It is essential that patients are not put under pressure to accept treatment. The regulatory Committees have been greatly concerned by the cases where chiropractors have exaggerated the severity of the patient's condition or the possible outcomes if treatment is refused. Such scare tactics will always lead to a significant sanction.

7 The provision of information to patients and the public

In addition to information provided face-to-face with patients, there have been several cases where misleading and/or inappropriate information has been published more widely by chiropractors, either in leaflets or on web-sites.

Section 8.1 of the *Code of Practice* requires chiropractors to comply with the principles of the British Code of Advertising Practice when publicising and promoting their practices. A key principle is that claims about treatment for health conditions must, where necessary, be backed by evidence.

Chiropractors may well have strong personal views on a variety of health and other issues. It is essential, though, that they do not allow their own beliefs and prejudices to interfere with the provision of accurate and well-founded information and advice to patients and the public.

‘...the *Code of Practice* requires all chiropractors to have a formal complaints procedure...’

8 The handling by chiropractors of patients’ complaints

We come full circle here, to communication. Some complaints to the GCC would probably not have been made if the chiropractors concerned had responded swiftly and appropriately to concerns expressed by patients. Section 2.18 of the *Code of Practice* requires all chiropractors to have a formal complaints procedure within their practice and patients should be told about it in clear and unambiguous terms. Another requirement is for chiropractors to provide patients and clients with the GCC’s contact details and let them know that they also have a right to complain to the GCC. So this is not about sweeping concerns under the carpet – it is recognition that there are some matters that can be best dealt with at local level.

Further information

Copies of all GCC publications are available on our web-site or by contacting us at:

General Chiropractic Council
44 Wicklow Street
London WC1X 9HL

www.gcc-uk.org

Full details of our fitness to practise hearings can be found on our web-site.

