

Fitness to Practise Report

15 June 2004-14 June 2005

**General
Chiropractic
Council**



**Protecting patients
Setting standards
Promoting the profession**

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Chairs' foreword

This report of the General Chiropractic Council's (GCC) fitness to practise committees covers the period 15 June 2004 to 14 June 2005. It sets out how our regulatory committees have handled the cases brought before them. It shows how we have used the range of available sanctions to protect the public, while helping chiropractors, whenever possible, to improve their performance.

From October 2004 the Professional Conduct Committee applied new guidelines on indicative sanctions. The main purpose of the guidance is to support consistency in the Committee's decision making while ensuring that it retains proper autonomy. Transparency is also aided because respondent chiropractors and their legal representatives are aware of the factors that the Professional Conduct Committee will typically take into account when considering what would be a proportionate sanction.

Given that the GCC's primary responsibility is to protect the public, the information in this report can feed into all aspects of the GCC's work including: keeping the Register of chiropractors; setting standards of education, proficiency, conduct and practice; our fitness to practise procedures.

The complaints and concerns considered by the committees, and the decisions taken, provide an invaluable resource. It enables the whole chiropractic profession to learn the salutary lessons arising from the misjudgements and misconduct of a few individual chiropractors. This may contribute to the prevention of similar incidents.

Information about the cases heard by the Professional Conduct Committee, our *Indicative Sanctions Guidelines* and the GCC's *Code of Practice and Standard of Proficiency*, can be accessed on our web-site www.gcc-uk.org or obtained on request from the GCC's offices.

Rita Lewis

Chair, Investigating Committee

Brian Mouatt

Chair, Professional Conduct Committee

Summary of the GCC's work to date

The GCC does not receive any public funding – it is financed by the chiropractic profession through the payment of registration fees. Under the Chiropractors Act 1994 it is a criminal offence for anyone to describe themselves as a chiropractor in the UK unless GCC registered.

The GCC delivers holistic, proactive and comprehensive regulation – the model that best protects the public.

In the six years since its formation the GCC has developed and implemented

- Patient-centred standards of practice and conduct
- Learning outcomes for pre-registration education and training that deliver 'safe to practise' graduates
- Initial and annual registration processes that ensure chiropractors are 'fit to practise'
- Mandatory Continuing Professional Development (CPD) on an annual cycle
- Competence-based assessment for all Chairs and members of fitness to practise committees (Investigating, Professional Conduct and Health)
- The GCC has never been subject to an application for judicial review
- No decision of the GCC has been referred to the High Court by the Council for Healthcare Regulatory Excellence (CHRE)
- The only appeal to date by a respondent chiropractor was comprehensively dismissed by the High Court

At a glance analysis of complaints and hearings

A more detailed analysis of these facts and figures commences on page 21. It provides further background information on the work of the Committees.

Table 1 Outcomes of complaints considered by the Investigating Committee

Complaints considered	2004-5	2003-4
Total complaints considered	39	22
● Complaints received in previous years	17	11
● Complaints received in current year	22	11
Outcomes		
Withdrawn by complainant	1	0
No case to answer	14	11
Referred to Professional Conduct Committee	14	9
Referred to Health Committee	0	0
Decision pending at year end	10	2

Table 2 Number of complainants and number of respondent chiropractors

	2004-5	2003-4
Number of individual complainants	36	20
Number of individual respondents	32	20
Individuals making complaints against more than one respondent	1	2
Registrants against whom more than one complaint was made in year	6	2

Table 3 Source of complaints

	2004-5	2003-4
Patient/Relative of patient	28	13
Public (non-patient)	3	2
Other chiropractor	3	4
Other health professional	1	1
Registrar	4	0
Other source*	0	2
Total	39	22

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

Table 4 Outcomes of cases considered by the Professional Conduct Committee

Date Number of days	Respondents name	Finding	Sanction imposed
June 2004 1 day	Glenn II , Garland Dwain	Guilty of UPC ¹	Suspension Order (18 months)
July 2004 5 days	Gage , Warren Martin	Guilty of UPC	a) Suspension Order (3 months) b) Pass Test of Competence
September 2004 3 days	Respondent X	Not guilty	
October 2004 1 day	Gibbon , Gus	Guilty of UPC	Admonished
November 2004 2 days	Green , Simon	Guilty of UPC	a) Admonished b) Conditions of Practice Order
November 2004 3 days	Jacobs , Dafna	Guilty of UPC	a) Suspension Order (9 months) b) Pass Test of Competence
December 2004 1 day Not resolved	Watson , Michael Courtney	(No finding²)	No sanction³
January 2005 4 days	Respondent Y	Not guilty	
April 2005 3 days	Greig , Andrew Donald Anderson	Guilty of UPC	a) Conditions of Practice Order b) Pass Test of Competence
May 2005 6 days ⁴	Respondent Z	Not guilty	

Table 5 Costs of cases heard by the Professional Conduct Committee

Case name	Amount
GCC v Glenn (June 2004)	£6,555
GCC v Gage (July 2004)	£31,593
GCC v Gibbon (October 2004)	£13,817
GCC v Green (November 2004)	£20,243
GCC v Jacobs (November 2004)	£77,086
GCC v Greig (April 2005)	£40,895
Case not found X (September 2004)	£30,260
Case not found Y (January 2005)	£48,715
Case not found Z (May 2005)	£27,642
Total	£296,806

¹ Unacceptable Professional Conduct

² Interim Suspension Order originally imposed by Investigating Committee extended

³ Referred to Health Committee

⁴ Including one day for Preliminary Matters Hearing

Table 6 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 (2004-5)	Number of cases (2003-4)
Abuse of trust of public/mislead the public	4	0
Undermining public confidence in the profession/bringing the profession into disrepute	4	0
Failure to maintain adequate records	3	3
Failure to communicate adequately/appropriately with the patient	2	4
Failure to gain appropriate consent for examination/treatment	2	3
Failure to carry out appropriate initial consultation/examination	2	3
Failings relating to publicity material	2	0
Inappropriate use of ionising radiation/failings relating to IR(ME)R	1	3
Undertaking unnecessary or inappropriate treatment	1	2
Undue influence	1	2
Unjust criticism of another health professional	1	2
Criminal convictions	1	0
Improper relationship with patients	1	0
Alcohol use	1	0
Claims to specialisation or expertise	1	0
Claims to superiority	1	0
Cessation of prescribed treatment	1	0
Failure to review/reassess treatment	0	2
Failing to respect the dignity and privacy of the patient	0	1

Learning points

Introduction

Having reviewed the cases considered by the GCC's statutory disciplinary committees during June 2004-5 the General Council has identified the following learning points for the profession. Of these, items two to seven are recurring themes from last year's report and they bear repeating.

- 1 Improper relationships with patients
- 2 Abuse of trust or exploitation of lack of knowledge
- 3 Communication with patients
- 4 Consent to examination and treatment
- 5 Record keeping
- 6 Review of treatment
- 7 The use of X-rays

This section of the *Fitness to Practise Report* may be a particularly useful learning tool for chiropractors who want to be aware of how problems can arise in everyday practice and how to avoid them.

It also can't be emphasised enough that chiropractors should be familiar with the principles contained in the GCC's *Code of Practice and Standard of Proficiency* and chiropractors must understand and observe them. To do so will mean that chiropractors will know how to identify, think through, and resolve potentially difficult issues in day to day practice.

The GCC's new Code and Standard came into effect on 1 June 2005 and it can be accessed on our web-site on www.gcc-uk.org.⁵ This document was sent to all chiropractors in May 2004 and further copies can be obtained free of charge from the GCC.

The GCC's Code and Standard sets out for patients the quality of care they're entitled to receive from chiropractors. For chiropractors it represents the benchmarks of conduct and good practice against which they are content to be measured.

⁵ The new GCC Code and Standard replaced the earlier *Standard of Proficiency and Code of Practice* published in May 1999. The core principles remain unchanged. Generally speaking, references were updated and sections of the document reordered for clarity.

‘...maintenance of appropriate professional boundaries between chiropractors and patients is essential...’

1 Improper relationships with patients

A case before the Professional Conduct Committee highlighted how essential it is for chiropractors to recognise professional boundaries with patients. Health professionals, including chiropractors, are in a position of power and trust and because of this patients are vulnerable. This is why the GCC's Code of Practice emphasises the principle that chiropractors must never 'abuse their professional standing'.

The establishment and maintenance of appropriate professional boundaries between chiropractors and patients is essential if public confidence in the profession is to be upheld.

The onus is always on the chiropractor to ensure that no improper personal relationship is developed with a patient, even if the patient makes the first approach.

Remember, your relationship with your patients is a professional one. It is based on trust. To fulfil this role you need to apply your professional judgement impartially.

Chiropractors also need to apply their good sense. This includes using your understanding and insight to identify professional boundaries. Clearly, chiropractors must not use their professional position to pursue a relationship with a patient (or a patient's close relative) to do so is an abuse of your professional position and your patient's trust.

If you find yourself facing these, or similar circumstances, you'll probably recognise the signs and you will have a responsibility to end the professional relationship and arrange alternative care for the patient.

2 Abuse of trust or exploitation of lack of knowledge

The Professional Conduct Committee heard several cases concerning publicity and advertising materials. The charges found proved related to conduct that was a clear breach of the GCC's Code of Practice.

In these cases chiropractors, within their promotional material, have gone far beyond what any reasonable person would regard as acceptable. They have played on the fears people may have about future ill-health and have also suggested that they can treat, or cure, serious diseases. Most alarmingly they may have put the public at risk by suggesting that people should not seek appropriate medical attention.

The GCC's Code of Practice makes clear that chiropractors must act with integrity and never abuse their professional standing. 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.

‘...chiropractors must act with integrity...’

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

Chiropractors may publicise their practices and, of course, the benefits of chiropractic provided that it is consistent with the law and Advertising Standards Authority guidance. This means information

- Must be factual and verifiable
- Must not be misleading or inaccurate in any way
- Must not, in any way, abuse the trust of members of the public nor exploit their lack of experience or knowledge about either health or chiropractic matters
- Must not put pressure on people to use chiropractic, for example by arousing ill-founded fear for their future health or suggesting that chiropractic can cure serious disease

The public as well as patients must be able to trust what chiropractors say when publicising their practice or when expressing views about any matters relating to health.

Any abuse of trust or exploitation of lack of knowledge undermines the foundation of respect for the profession. More importantly it may pose serious risks to the health of people who are deterred from seeking the most appropriate medical care.

3 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?

‘Consent is an ongoing process between chiropractor and patient...’

- 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 *Code of Practice and Standard of Proficiency*, which provides a clear framework to enable chiropractors to implement good practice.

4 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.

5 Record keeping

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”.

Record keeping is an integral part of chiropractic practice and the care process. Complete, comprehensible records protect the interests of the patient and the practitioner.

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.

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

6 Review of treatment

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.

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.

7 Use of X-rays

Typically, complaints and findings against chiropractors for breaches of the Ionising Radiation Regulations 1999 and the Ionising Radiation (Medical Exposure) Regulations 2000 IR(ME)R have been because they have taken X-rays when there has been insufficient reason to do so.

The use of X-rays in the United Kingdom is subject to statutory regulation, through 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.

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.

Case summaries

Introduction

This section of the report contains a summary of each of the cases heard by the Professional Conduct Committee during 2004-5. Details of the Professional Conduct Committee hearings, including the charges and decisions in full, are available upon request or can be read on our web-site www.gcc-uk.org.

GCC v Garland Dwain Glenn II

Suspension Order (18 months)

The allegations

The Professional Conduct Committee considered allegations concerning Dr Glenn's publicity materials and stationery as follows

- That Dr Glenn's use of initials on his business card and leaflet were liable to mislead members of the public into believing that he held a qualification that he did not
- That Dr Glenn's use of a specialist qualification had been found by the ASA not to be in compliance with the British Code of Advertising Practice and Sales Promotion and thus contrary to the Code of Practice
- That a statement within Dr Glenn's publicity materials was alarmist and exploitative

The Committee's decision in brief: Dr Glenn was found guilty of unacceptable professional conduct. Sanction: Suspension Order imposed (18 months).

Summary of the hearing and outcome

The Professional Conduct Committee sat for a day to consider this complaint. Dr Glenn chose not to attend at the hearing and not to be legally represented; instead he chose to submit a number of documents in support of his position. Dr Glenn did make a number of admissions in relation to the allegations against him and these allegations were found proved by the Professional Conduct Committee. The Committee went on to find proved the remaining allegations faced by Dr Glenn.

The Committee was very conscious of the fact that it had not had an opportunity to hear evidence from Dr Glenn in person and noted that the respondent had made it abundantly clear that he was neither going to attend nor be legally represented. In fairness to the respondent, the Committee considered with the utmost care his written submissions and explanations to identify matters of mitigation.

The Committee was cognisant of the overall cumulative effect of the charges found proved and was clear that taken together they amounted to unacceptable professional conduct.

Having considered the sanctions available to it, the Committee instructed the Registrar to suspend Dr Glenn's registration for a period of 18 months.

GCC v Dafna Jacobs

- a) Suspension Order (nine months)
- b) Pass Test of Competence

The allegations

A total of twenty-six allegations under eight “Heads of Charge”, concerning two patients, were before the Professional Conduct Committee and related to

- Failure to maintain proper records (Patients A & B)
- Failure to take adequate history and to carry out appropriate examinations prior to treatment (Patients A & B)
- Failure to record a working diagnosis or clinical impression (Patients A & B)
- Failure to explain diagnosis/clinical impression and proposed treatment plan and thus to gain informed consent (Patients A & B)
- Failure to ensure patients were aware of fees and in particular at which stage liability was incurred (Patients A & B)
- Failure to ascertain the extent or severity of a concurrent condition (Patient A)
- Permitting a minor to be involved in a professionally related interaction (Patient A). Dismissed (insufficient and/or no evidence adduced)
- Extracting payment in an inappropriate manner (Patient A)
- Attempting to unduly influence a patient to undergo treatment or further treatment (Patient B). Dismissed (insufficient and/or no evidence adduced)
- Unfairly criticising another health professional (Patient B)

The Committee’s decision in brief: Mrs Jacobs was found guilty of unacceptable professional conduct. Sanctions: a) Suspension Order imposed (nine months) b) pass the Test of Competence.

Summary of the hearing and its outcome

The Professional Conduct Committee sat for three days to consider two complaints which were joined at the Professional Conduct Committee hearing. It heard evidence from the two complainants, the respondent and two independent expert witnesses.

Mrs Jacobs admitted a number of allegations, including that her conduct amounted to unacceptable professional conduct, at the beginning of the hearing. She made further admissions during the proceedings and the close of evidence. At the end of the GCC evidence, Mrs Jacobs’s barrister made an application for a number of allegations to be dismissed, either as no evidence or insufficient evidence had been adduced by the GCC. Four allegations were dismissed at this time.

At the end of all submissions the Professional Conduct Committee was left to decide on five allegations, of which one was found proved and four were dismissed. In total Mrs Jacobs was found guilty of unacceptable professional conduct in relation to seven “Heads of Charge”.

The Committee regarded the totality of findings in this case to be very grave and was mindful of its primary duty to protect the public. Of particular concern was Mrs Jacobs’s failure to show insight into her failings in relation to the fundamental aspects of patient assessment and care. For these reasons the Professional Conduct Committee determined that only a significant sanction would be appropriate.

The Committee imposed a Suspension Order for a period of nine months and indicated to Mrs Jacobs that she should undertake a period of reflection and study to enable her to demonstrate her competence by passing the Test of Competence. The Committee made it clear that it would review⁶ the Suspension Order and at that time it would expect Mrs Jacobs to have passed the Test of Competence.

⁶ The Professional Conduct Committee reviewed this Suspension Order in June 2005. The decision will be reported in the next *Fitness to Practise Report* and can be accessed on the General Chiropractic Council web-site www.gcc-uk.org.

GCC v Warren Martin Gage

- a) Suspension Order (three months)
- b) Pass Test of Competence

The allegations

The Professional Conduct Committee considered multiple allegations relating to Dr Gage's publicity material. In summary, it was alleged

- 1 That the material failed to comply with the provisions and principles of the British Code of Advertising Practice and Sales Promotion
- 2 That it was likely to abuse the trust of the members of the public or exploit their lack of experience or knowledge, in that statements contained within it could be interpreted by members of the public to mean that chiropractic may provide an effective treatment for, or effect a cure for, serious medical conditions such as multiple sclerosis, cataracts or Parkinson's disease
- 3 That it contained statements which could be interpreted as indicating that the services he offers, or his personal qualities and skills, are superior to those of other chiropractors
- 4 That it called into question the role and efficacy of medication and may be construed as advocating the cessation of prescribed treatment and/or exploit the lack of experience of members of the public
- 5 That it contained statements which may abuse the trust of the members of the public in that they may be interpreted as discouraging patients from seeking appropriate medical care

The Professional Conduct Committee's decision in brief: Dr Gage was found guilty of unacceptable professional conduct. Sanctions: a) Three month suspension order to end on 31 October 2004 b) pass the Test of Competence on 25 September 2004. Dr Gage appealed against the Professional Conduct Committee's decision. This appeal was unsuccessful.

Summary of the hearing and its outcome

The Professional Conduct Committee sat for five days and heard evidence from a number of witnesses including two expert witnesses, patients of the respondent and the respondent himself. There was also a substantial amount of written material relied upon by the Council and the respondent.

The Professional Conduct Committee found all the allegations proved except one allegation relating to the cessation of prescribed treatment, as it did not consider that Dr Gage's publicity material breached the Standard of Proficiency as that standard was worded. However the Committee did consider the wording of Dr Gage's publicity material to be most unfortunate and, at least, misleading.

The Professional Conduct Committee referred to the Committee of Advertising Practice (CAP) code in giving its decision and noted that various clauses in the CAP code are intended to avoid raising false expectations and to stop the public being misled.

The Committee accepted fully the right of Dr Gage to hold his beliefs but did not find it acceptable for a "registered health professional to promote his views in such a way as to abuse the trust of members of the public, or exploit their lack of experience or knowledge in matters of health and chiropractic services."

In giving its sanction the Committee stated that it considered what Dr Gage had done in producing the booklet and disseminating it widely to the public to be unacceptable. The Committee was concerned that people suffering from the conditions (multiple sclerosis, Parkinson's disease and cancer) are particularly vulnerable and susceptible to suggestions.

The Committee was disappointed by Dr Gage's consistent "lack of insight". It considered that his "tendency to mislead the public is grounded in his understanding of the practice of chiropractic which is not consistent within the UK context of healthcare."

The Professional Conduct Committee concluded that a Suspension Order should be imposed on the respondent. It advised Dr Gage to reflect on what had been said and how he could demonstrate his understanding of the issues when the Committee came to review his suspension. The Committee considered that the most appropriate way for Dr Gage to demonstrate his understanding was by passing the Test of Competence.

Outcome of Dr Gage's appeal against the Committee's decision

Dr Gage appealed the decision of the Professional Conduct Committee and the decision of the High Court was given in November 2004. The High Court dismissed Dr Gage's appeal on all eight grounds, including the contentions that the Chair should have recused herself because of bias and that the penalty of suspension was too severe.

When addressing Dr Gage's appeal, Mr Justice Jackson concluded that the Professional Conduct Committee Panel had been fortunate to have such a distinguished and well qualified Chair. In respect of the argument that the sanction imposed by the Professional Conduct Committee had been too severe, Mr Justice Jackson noted that a short period of suspension had been imposed and that the Professional Conduct Committee had given sensible and constructive advice as to how the period of suspension should be used. He concluded that it could not be said that the sentence was wrong.

Note: As a consequence of the wording of the Professional Conduct Committee's sanction and of the operation of section 31 of the Chiropractors Act 1994, Dr Gage's period of suspension lapsed before it had started due to his appeal to the High Court.

Dr Gage was subsequently removed from the Register for failing to retain his registration, and is therefore no longer entitled to practise or call himself a Chiropractor in the United Kingdom.

GCC v Andrew Donald Anderson Greig

- a) Conditions of Practice Order
- b) Pass Test of Competence

The allegations

Multiple formal allegations under two “Heads of Charge” were considered by the Professional Conduct Committee in relation to

- Failure to comply with the Ionising Radiation (Medical Exposure) Regulations 2000 IR(ME)R
- Failure to maintain adequate records of examination
- Failure to record a diagnosis or clinical impression
- Failure to obtain informed consent for further treatment

The Committee’s decision in brief: Dr Greig was found guilty of unacceptable professional conduct. Sanctions: a) Conditions of Practice Order b) pass the Test of Competence.

Summary of the hearing and its outcome

The Professional Conduct Committee listened to evidence from Patient A, Dr Greig and an independent expert witness during the course of the hearing which lasted for three days.

Dr Greig admitted all but two of the allegations including the two “Heads of Charge” of unacceptable professional conduct. The remaining two allegations were found proved without qualification at the conclusion of the proceedings.

In determining which sanction to apply the Committee considered the findings against Dr Greig to be very grave but noted that he had taken steps to address the areas of concern identified in the allegations.

It concluded that there were clearly identifiable areas of improvement in Dr Greig’s practice and having considered the Indicative Sanctions Guidance, it was felt that the public interest could be protected by the imposition of a Conditions of Practice Order. The conditions imposed were

- *That for a period of one year all patient records made by Dr Greig would be subject to audit by a person appointed by the Professional Conduct Committee*
- *That within one year Dr Greig must pass the Test of Competence.*

This Conditions of Practice Order will be reviewed prior to its expiry.

GCC v Simon Green

- a) Conditions of Practice Order
- b) Admonished

The allegations

It was alleged that

- Mr Green pursued an improper relationship with Mrs W, which he commenced whilst she was a patient or about to become a patient when he sent her a Valentines card (not proved)
- That his conduct, both whilst treating her and subsequently, was such as may be likely to bring the profession into disrepute
- That he failed to maintain adequate records of the examination and treatment provided

The Committee's decision in brief: Mr Green was found guilty of unacceptable professional conduct. Sanctions: a) Conditions of Practice Order imposed and b) admonished.

Summary of the hearing and its outcome

The Professional Conduct Committee sat for two days and heard oral evidence from the patient, Mrs W, the respondent, and another witness.

At the end of the proceedings the Committee determined that there was insufficient evidence in relation to the first allegation that the respondent had pursued an improper personal relationship and found it not proved. However, it found that Mr Green's conduct, both whilst treating Mrs W and subsequently, was inappropriate and concluded in relation to this allegation that his conduct fell short of the standard required of a registered chiropractor (referred to as unacceptable professional conduct).

Mr Green had admitted one allegation relating to record keeping and the Committee found two others proved. The Committee determined that their findings amounted to unacceptable professional conduct. The Professional Conduct Committee found the final allegation, relating to Mr Green's failure to retain a copy of Mrs W's chiropractic records when transferring them to another chiropractor, not proved in the form that the allegations were worded. However the Committee was concerned to note that there was no record of the transfer of the document to another practitioner.

The Committee admonished Mr Green in relation to his inappropriate conduct towards Mrs W and stated that chiropractors have a duty of care to both the public and the reputation of the profession and inappropriate communication with patients does not enhance either.

The Professional Conduct Committee imposed a Conditions of Practice Order on Mr Green in relation to the matters of record keeping. The Conditions of Practice Order was that Mr Green should make available for audit by a person appointed by the Committee all patient records made following the commencement of the order (and any other related information).

This Conditions of Practice Order will be reviewed before its expiry.

GCC v Gus Gibbon

Admonished

The allegations

The Professional Conduct Committee considered the following allegations

- That Mr Gibbon had been convicted of a criminal offence that was deemed to have material relevance to his fitness to practise chiropractic, in that it related to violence against a person in the vicinity of his clinic and the sending of threatening communications
- That this conduct was such as may undermine public confidence in the chiropractic profession or bring the profession into disrepute

The Committee's decision in brief: Mr Gibbon was found guilty of unacceptable professional conduct. Sanction: Admonished.

Summary of the hearing and its outcome

The Professional Conduct Committee met for one day to consider this complaint and evidence was heard from a police officer responsible for dealing with the criminal offences.

As the first allegation related to a criminal conviction, the GCC was not required to adduce further evidence but did outline the circumstances of the offence. The Professional Conduct Committee concluded that Mr Gibbon's conduct was such as may undermine public confidence in the chiropractic profession or bring the profession into disrepute and that he was guilty of unacceptable professional conduct.

The Committee considered the range of sanctions available to them and decided that an admonishment was the appropriate sanction. In reaching this decision the Committee took into account Mr Gibbon's previous good character and the fact that there had been no repetition of the behaviour since the incident for which he was convicted.

GCC v Michael Courtenay Watson

Interim Suspension Order and referred to the Health Committee

The allegations

In this case the Investigating Committee determined that an Interim Suspension Order was necessary. This was because the complaint received was that the chiropractor had been prepared to practise while drunk. The imposition of the Interim Suspension Order was not opposed by Mr Watson.

The Investigating Committee later concluded that there was a case to answer and allegations were referred to the Professional Conduct Committee

- That on the relevant date he was unfit to provide treatment by reason of prior alcohol consumption
- That his conduct was such that may undermine confidence in the profession or bring the profession into disrepute

The Professional Conduct Committee met for a day to consider imposing a further Interim Suspension Order as the first order was due to expire. Again Mr Watson did not oppose the imposition of such an order but representations were made that the allegations would best be dealt with by the Health Committee.

Having concluded that the allegations were not such as would require removal from the Register if proven, the Professional Conduct Committee referred the allegations to the Health Committee and imposed an indefinite Interim Suspension Order⁷ until such time as the proceedings before the Health Committee are concluded.

⁷ Editor's Note: At the time of publishing this *Fitness to Practise Report*, Mr Watson remains under Interim Suspension and the Health Committee is yet to consider this matter.

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.⁸

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

Membership of the Statutory Committees June 2004-5

Investigating Committee

Lay Members

Rita Lewis, *Chair*
Maureen Atkinson, (*Co-opted*)
Martin Caple, *Deputy Chair*
Susan Steward, (*Co-opted*)

Chiropractic Members

Matthew Flanagan
Carla How
Kalim Mehrabi
Imelda Twine, (*Co-opted*)
Stephen Williams

Professional Conduct Committee

Lay Members

Brian Mouatt, *Chair*
Linda Stone, *Deputy Chair*
Judith Worthington,
Deputy Chair

Chiropractic Members

Alan Breen
Peter Dixon
Kevin Grant
Dana Green
Mike Kondracki
Kevin Proudman

Health Committee

Lay Members

Vacancy
Dorothy-Grace Elder
Christopher Stephens

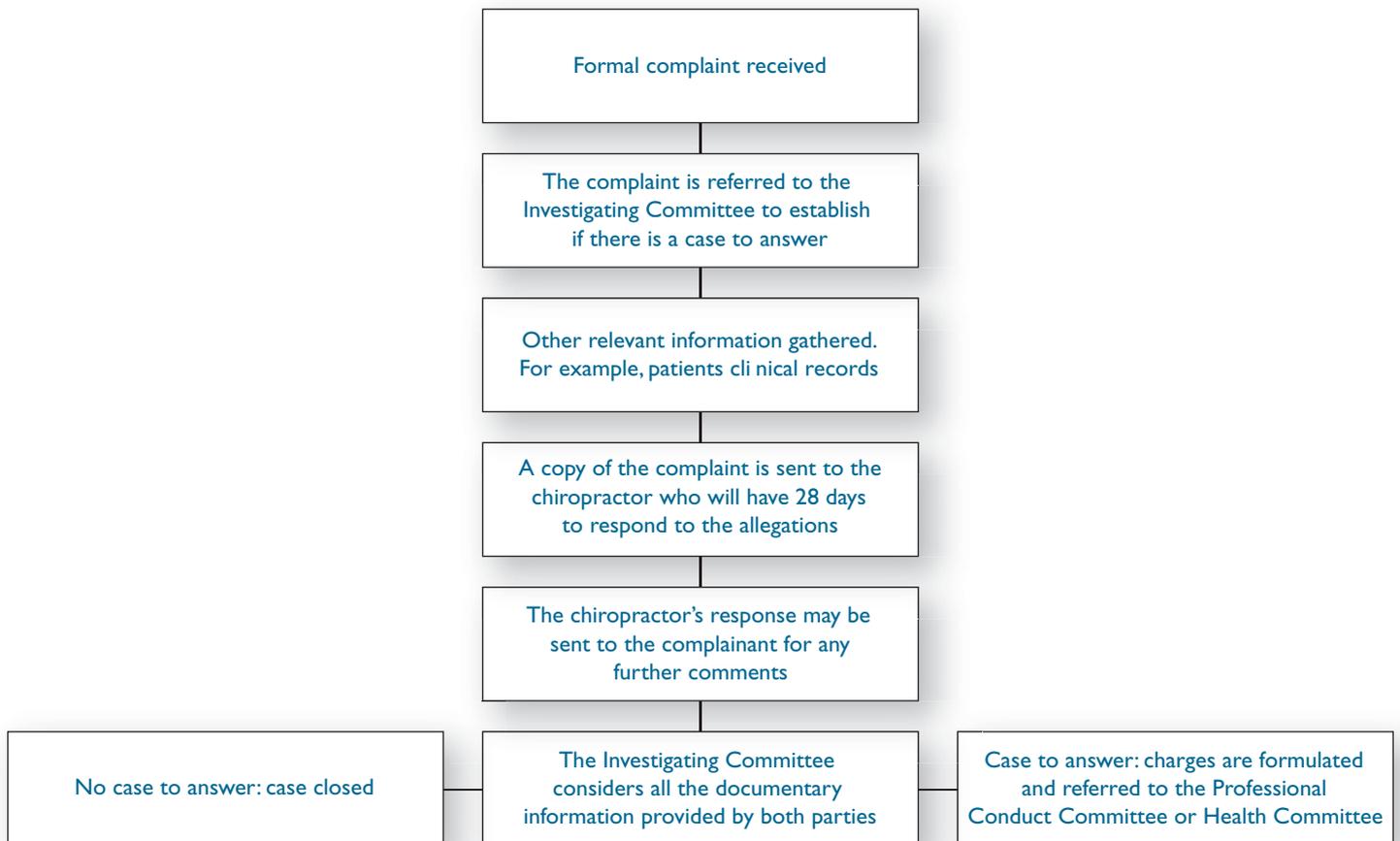
Chiropractic Members

Madeleine Brzeski
David Byfield
Vacancy

⁸ Chiropractors 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

What happens when a complaint is made?

The 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.



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 role is to decide whether or not there is a case to answer.

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 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 referred to 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 2004 and 14 June 2005

The Investigating Committee met seven times to consider 39 cases in total. Of these, 22 were received in the current year, the other 17 had been carried over from previous years. 16 were received in the previous 12 month period (June 2003-June 2004). The other complaint, received in the 2002-2003 period, could not be determined by the Investigating Committee until this current year as the Committee was awaiting the conclusion of a criminal appeal.

Table 1 (Outcomes of complaints, page 4) relates specifically to complaints considered by the Investigating Committee in the period 2004-05. It does not reflect the total number of complaints received by the General Chiropractic Council in the period.

When the GCC receives a complaint it is automatically referred to the Investigating Committee. The need to seek and consider the observations of the respondent chiropractor means that the minimum time it can take the Investigating Committee to investigate a complaint is three months. A case may go before the Committee more than once, depending on the nature of the case and the evidence that needs to be gathered. This can extend the period the Committee takes to conclude whether there is a case to answer.

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 *Code of Practice and Standard of Proficiency* 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 2004-5, therefore, although there were a total of 14 complaints sent forward, these related to only nine chiropractors.

Interim Suspension Hearings

The Investigating Committee met twice in this period for the purpose of Interim Suspension Hearings. One Interim Suspension Order was imposed and the Investigating Committee determined in relation to the other chiropractor that an Interim Suspension Order was not necessary for the protection of the public.

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 have 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 2004-5

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

Outcomes of cases considered by the Professional Conduct Committee

Table 4 on page 5 summarises at a glance all the cases heard by the Professional Conduct Committee between 15 June 2004 and 14 June 2005.

The Professional Conduct Committee met for a total of 29 days to hear new cases against 10 different chiropractors, one day for Preliminary Matters Hearing and one day for an Interim Suspension Hearing. Allegations relating to two chiropractors (Dafna Jacobs and Respondent Y) were based on more than one complaint.

More detailed case summaries commence on page 12. Details of the Professional Conduct Committee hearings, including the charges and decisions in full, are available on request or can be read on our web-site www.gcc-uk.org.

The names of respondent chiropractors are given throughout this report because these findings remain a matter of public record, but the names of the complainants have been anonymised.

We do not provide the names in this report of the three chiropractors who were found not guilty of unacceptable professional conduct. To do so requires the explicit permission of the relevant chiropractors and this has not been given.

Use of indicative sanctions guidance

On 7 October 2004 General Council approved new guidance on 'indicative sanctions' for the Professional Conduct Committee.

The main purpose of the guidance is to support consistency in the Committee's decision making while ensuring that it retains proper autonomy. Transparency is also aided because respondent chiropractors and their legal representatives are aware of the factors that the Professional Conduct Committee will typically take into account when considering what would be a proportionate sanction.

The guidance, which can be read on www.gcc-uk.org, has been circulated to professional associations, insurers and respondent chiropractors.

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.

To date the Investigating Committee has not referred any cases to the Health Committee. The Professional Conduct Committee has referred one case to the Health Committee and this is yet to be resolved.

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
- Notices of Allegations in relation to Professional Conduct Committee hearings are also published 28 days prior to the hearing
- Notices 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 one unsuccessful appeal to the courts.⁹

⁹ Warren Martin Gage, see page 15

Council for Healthcare Regulatory Excellence (CHRE)

Established in April 2003¹⁰, the CHRE 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 CHRE.

¹⁰ Established as the Council for the Regulation of Healthcare Professionals (CRHP) by the National Health Service and Health Professions Act 2002.

Further information

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

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

