

2024 Report to the Investigating Panel from the Independent Complaints Moderator for BAAC

This report is my thirteenth one as Independent Moderator of complaints for the British Acupuncture Council (BAAC). It covers the period 1 January – 31 December 2024 under the following headings:

- 1. Background**
- 2. Moderator role**
- 3. The BAAC complaints procedure**
- 4. Complaints this year: summaries and observations**
- 5. Conclusions and recommendations**

Background

The BAAC is a membership body and a professional regulator accredited by the Professional Standards Authority for Health and Social Care under its Accredited Register scheme.

All BAAC member practitioners are bound by a Code of Professional Conduct (last updated in January 2015), a Code of Disciplinary Procedures (last updated in October 2024) and a Code of Safe Practice (revised in 2016). The Guide to Safe Practice is also relevant; it is good practice guidance and is not mandatory. It was last updated in January 2025, but the March 2023 update is the relevant one for the complaints covered in this report. In addition, the BAAC has produced guidance for the Investigating Panel on vexatious and malicious complaints (2019) and on issuing a Letter of Advice (2022).

The Codes are enforced by the BAAC's three Ethics Committees: Investigating Panel (IP), Professional Conduct and Competence Panel (PCCP) and Health Committee (HC). The panels/committees are supported and administered by the Ethics Department of the BAAC and its Professional Conduct Officer (PCO).

Complaints about a practitioner who is a member of the BAAC (the 'registrant') can be made by a member of the general public, professional regulator, patient, fellow practitioner or member of any committee or employee of the BAAC. The PCO considers if a complaint falls within the scope of the BAAC's Code of Professional Conduct and/or the Code of Safe Practice; if it does, then the PCO will notify the registrant and progress the complaint, including referring it to the IP. The PCO has discretion not to refer the complaint to the IP if, for instance, the complaint is 'unspecific or anonymous' and it is not reasonably practicable to obtain any further details of the alleged behaviour.

The IP is made up of three members (one lay person, one acupuncturist and one person who is either lay or an acupuncturist) and is managed and supported by the BAAC's PCO. It is referred to as a filtering panel. Its powers are explained in the BAAC Code of Disciplinary Procedures. The process is intended not to punish a registrant but to

consider if the registrant's conduct has fallen short of the standards expected and is potentially in breach of the Codes.

The IP itself has no power to sanction a member through fines or disciplinary action. Its role is to determine whether allegations should be referred to the PCCP or HC, specifically where it considers there is a realistic prospect of a finding of 'impairment' in relation to any allegation. ('Impairment' is defined in the Information for Complainants leaflet as *'any circumstance which impacts or may impact upon the ability and capability of an individual to undertake safe and effective practice'*.)

Complaints raising significant safety concerns may be identified by the PCO and can be referred, before investigation, to the Interim Orders Panel (IOP), which has the power to place temporary restrictions on registrants (Interim Suspension Order). The IOP does not investigate the complaint and cannot resolve disputes of fact; it makes a decision on whether an interim order is necessary for the public interest or the interests of the registrant. The IP, on the other hand, considers each allegation in the complaint, weighs evidence, and decides if there is a realistic prospect of a finding of impairment. The IP process therefore takes place following the IOP process, where the IOP is involved, and any interim order is only in place for as long as the full BAcC disciplinary process takes to conclude.

If an Interim Order has not already been imposed and the IP considers, following investigation, that the seriousness of the issues warrants temporary suspension of the registrant, the IP will refer the matter to the IOP for a hearing. The IP can also decide there is no case to answer, and it can exercise its discretion not to refer a complaint to the PCCP where it identifies minor breaches of the Codes. In some cases, the IP will provide feedback to the registrant and/or make recommendations for service improvements ('Letter of Advice'). These are disclosed to the registrant's current employer, but they are not published. The Letters are not binding on the registrant, although the Ethics Department reports back to the IP as to whether the registrant has complied with the recommendations, and this can be followed up if necessary. The Letters of Advice are kept on record and may be used to identify patterns of behaviour in any subsequent investigation related to that registrant.

Moderator role

My role as Moderator is set out in the BAcC Code of Disciplinary Procedures, Section 12. I have been appointed to review complaints made to the BAcC which the PCO decided not to refer to the IP and complaints that were referred to the IP but which the IP decided not to refer to the PCCP or HC.

My role is to review those complaints, describe how they were handled, and comment on the way they were handled in terms of communication and consistency. Where possible, I attend one IP meeting per year as an observer. Where appropriate, I can make recommendations for improvements in the way complaints are handled.

The BAcC complaints procedure

The complaints procedure sets out the steps in the complaints process, from the statement and supporting documents submitted by complainants through to the IP's decision. Registrants complained of are required to provide a written response within 14 days of the BAcC requesting this, including copies of relevant patient notes. The PCO then convenes an IP to meet and consider the complaint.

The IP is entitled to ask for further information, including, where it deems it appropriate, to request the complainant's comments on the registrant's response, further relevant registrant's notes and records, and a report from an independent Technical Assessor. The IP is also entitled to seek information and evidence from third parties and to seek advice from a lawyer or doctor. The IP then reviews any further information at its next scheduled meeting.

The IP must decide, following its consideration, whether there is a realistic prospect of a finding of impairment in relation to any allegation. Complainants and registrants are to be informed of the IP's decision and the reasons for it within 14 days of the meeting at which the decision was made, although in practice this is usually done within 7 days of the decision meeting.

A guide to its complaints procedure (Information for Complainants), which clearly explains the role of the IP, the procedure, and what is required to submit a complaint, is sent to complainants and is also available on the BAcC website.

Under the Code of Disciplinary Procedures, there is no right for the complainant and the registrant to appeal against a decision (including a decision not to refer a complaint to the PCCP or HC) made by the IP. However, complainants are invited to submit additional significant evidence, within 14 days of the date of the decision, which the PCO will then consider. It is in the PCO's discretion whether to refer this additional evidence to the IP for consideration.

Complaints this year: summaries and observations

I have reviewed five complaints that were decided by the IP in 2024.

Overall, in 2024 the BAcC received seven complaints. Two of these have not yet concluded, and two were referred to the PCCP. As noted above, the complaints that go to the PCCP are not included in my review. The remaining three were referred to me for review in this report. In addition, I reviewed two complaints that were raised in 2023 but not finalised until 2024.

I observed one IP meeting in 2024. The complaint investigated by the Panel at this meeting was referred to the PCCP and therefore is not covered in this report.

I refer to the cases by the numbering system used by the BAcC. I provide a brief description of the issues only, and do not include any names of the complainant (referred to as 'C') or the registrant ('R'), in order to protect the anonymity of individuals involved.

Case summary 2/2024

Issues: Alleged unprofessional behaviour, failure to take consent, unsafe practice, adverse incident

This complaint involved a number of allegations against the registrant following two treatments with moxibustion. Following the second treatment, C informed R that she had suffered three burns from the moxa cones and that R had not attended her because he had his back turned during the treatment.

C also made a number of allegations of breaches of the Codes in relation to consent, the temperature of the treatment room, inappropriate questions asked by R, poor after care, not informing her how to make a complaint, and confidentiality. C explained that she was suffering from PTSD as a result of the treatment. She had reported the matter to the police and initiated legal action for personal injury against R, but her solicitor had decided to stop acting for her.

R responded via his insurer's solicitor and denied the allegations. The response explained that C had asked about the burns in an email to R three days after the treatment but had not seemed concerned by them. R responded by email the following day and suggested using a cream and asked to be kept informed. R explained that following that, C became abusive in her messages and began harassing him and his partner and her family via social media.

R's response explained that he had reflected on his practice and made changes to the way he obtains consent and responds to a reported injury from treatment. R explained that he had reported the burn injury to the BAcC. R also explained that a settlement had been offered in respect of the burns C had suffered, but this was declined by C. R explained that he had been badly affected by the harassment, and as a result he had stopped his acupuncture practice. He had reported C to the police, and the matter was being investigated.

C requested an extension to the deadline for making comments on R's response. Although this was unusual to grant an extension once the IP meeting had been scheduled, the PCO acknowledged that there was a large amount of material for C to consider in the response and therefore granted an extension of an additional 14 days. She also responded thoroughly to C's questions about an interim order and other issues.

The IP's consideration:

In total, twelve allegations were considered by the IP. Additional allegations made by C were deemed to be out of remit by the IP and therefore not considered. In its deliberations, the IP considered the relevant sections of the Code of Professional Conduct and the Code of Safe Practice.

On eight allegations, the IP determined that no further action was needed. In relation to two of these allegations, involving consent and warning of risk, the IP determined that although there was a realistic prospect of a finding of fact and misconduct, there was no realistic prospect of a finding of impairment because R had taken steps to improve his record-keeping and practice and any breach was therefore unlikely to be repeated. One of these eight allegations – not informing C that R had another job outside of acupuncture – was deemed to be not relevant. In relation to the other five of these, the IP determined that there was not a realistic prospect of a finding of fact.

On the remaining four allegations, the IP decided that a Letter of Advice was appropriate.

The Letter of Advice to R included advice to take full responsibility for moxa before it burns; be clearer in explaining how patients should inform R when the moxa feels warm; and take extra vigilance when using three moxa cones at once. The Letter of Advice also reminded R that in the case of adverse incidents, R should advise patients to seek medical advice, discuss the possibility of infections, invite the patient into the clinic, and proactively check with patients to see how the burn progresses. The Letter of Advice also reminded R of the requirement to inform patients of how to complain to the BAcC.

Observations:

R's solicitor suggested the complaint should be deemed vexatious and/or malicious, citing the behaviour of C toward R following treatment. This complaint involved a great deal of evidence, including posts on social media, photos, and expert reports. It is clear that the IP considered all the evidence and was sensitive to the fact that the allegations were serious and not merely a part of what appeared to be a campaign of harassment against R. The IP noted that although C had made frequent and persistent complaints and her actions had caused distress and anxiety to R and those associated with him, some of the issues raised were serious and it was clear that C had suffered and sought medical treatment. The IP decided that the complaint raised serious issues.

The time between receipt of complaint and the IP meeting was about four months. This appears to reflect time extensions given to R for responding to the complaint.

The letters from the PCO were clear and also sensitive, particularly in acknowledging the time and effort incurred by C in making the complaint and the disappointment she might well feel in the outcome. Following the IP decision, C contacted the PCO to say she wanted to submit further evidence but was unwell. The PCO offered her additional time, but C declined the additional time and did not submit further evidence.

In this complaint, one Learning Point was for the BAcC to remind members about how vigilant to be when administering moxa treatment. Members had been reminded of this in a campaign in 2022, but as a result of this complaint it was reiterated in a talk to members in November 2024. Another Learning Point for the BAcC is to consider clarifying the meaning of 'character' in the Code of Disciplinary Procedures.

Another Learning Point arose from the behaviour of C and her harassment of R. On this occasion, only the surnames of the IP members were given to C to prevent them from being harassed in future. Complainants are now told in the initial letter that if the case is discussed on social media, the confidentiality of the process is damaged and therefore the panel may decline to consider the case.

Case summary 3/2024

Issues: Alleged unprofessional behaviour and manner, unclear pricing

This complaint related to two treatment sessions and included allegations of poor and uncaring treatment and unprofessional behaviour as well as an unclear pricing structure. C had been very upset by R's manner. C said that R had not read her medical history, had asked inappropriate questions while moving her clothing, and had charged her more than was agreed. C said this had triggered her mental health issues, and in her anger she had caused some damage to the clinic's waiting room. C had reported the complaint to the police, who had reported it to Trading Standards.

R's response, via his insurer's lawyers, disputed C's account and expressed R's sadness at C's complaint and her reaction at the clinic, which he had found upsetting. R accepted that some pricing information on display was out-of-date, and since receiving the complaint he had updated this. The response also explained that since the complaint, R had taken steps to improve his communication with patients and carried out targeted CPD.

The IP's consideration:

The IP considered seven allegations. In its deliberations, it considered the relevant sections of the Code of Professional Conduct. On four allegations, it determined that no further action was needed. On the remaining three, the IP decided to issue a Letter of Advice.

This complaint involved a conflict in accounts of the facts, and on three of the allegations – relating to failure to treat in a caring manner, failure to take a full medical history, and failing to record C's symptoms – the IP determined that there was no realistic prospect of a finding of facts being proved. One of the issues noted by the IP is that the clinic offered acupuncture at an accessible cost to the community, and despite the low cost, the appointment was for 50 minutes. The IP found that the time spent on taking the medical history was considered reasonable, as was the level of detail in the patient notes.

On a fourth allegation – that of the clinic being misadvertised as a mental health clinic – the IP determined that the clinic was clearly described as an acupuncture clinic, noting that acupuncture can be used to treat mental health issues.

On the remaining three allegations, the IP determined that there was a realistic prospect of the facts being proved, and of a finding of misconduct, but there was no reasonable prospect of a finding of impairment. This was because R had reflected on the issues raised in the complaint and had shown insight and taken steps to improve, both in terms of updating the pricing structure and improving communication. The IP also took

account of the testimonials submitted by other female patients, which all indicated a caring practitioner. The Letter of Advice reminded R to be mindful of different sensitivities of each patient and to adapt his communication style accordingly.

Observations:

One of the Learning Points arising from this complaint involved a reminder to BAcC members to ensure their fee structures are clear – this reminder was published in the Enews newsletter sent to members at the end of 2024.

An issue arose in that the BAcC did not receive the complaint when originally submitted by C. When she was made aware of the difficulty C was experiencing in submitting the complaint, the PCO offered to phone C and to take down the details of her complaint over the phone. C then checked that the summary of the complaint was accurate before it was sent to R for a response. This issue led to the other Learning Point for the BAcC arising from this complaint, which has now been resolved: to ensure all emails from the Ethics inbox go to the PCO. The PCO showed responsiveness when there were difficulties in the BAcC receiving the complaint, and her offer to take the complaint by phone and check this with C was helpful.

As in case 2 of 2024 above, the time between receipt of complaint and the IP meeting was about four months. This appears to reflect time extensions given to R for responding to the complaint. Where R is legally represented, it appears that the responses can take longer to prepare. This is being addressed in a proposed future change to the Code of Disciplinary Procedures, explained below under Conclusions and Recommendations.

Case summary 4/2024

Issues: Alleged unprofessional behaviour, failure to explain treatment, failure to take full medical record

This complaint involved a treatment session in which C became upset by R's conduct, including what she believed were inappropriate comments and pressure to take a certain type of test before she could receive treatment. She felt R did not give full information when taking consent, did not listen to her, made upsetting comments and behaved in an abusive and controlling manner.

C made a complaint to the clinic where R practised, and was offered and accepted a full refund of the amount she had been charged for the appointment.

R was a registered nurse as well as acupuncturist, and C contacted the Nursing and Midwifery Council (NMC) with her complaint. The NMC considered her complaint but declined to investigate it. In its view, the complaint related to a one-off incident of poor behaviour and should be dealt with at a local resolution stage. The NMC considered regulatory action was not needed.

R responded to the BAcC via her insurer's lawyers and explained that she felt she had been reasonable in the way she took consent and listened to C's medical history. No treatment had been given, and the aim of the appointment was to take a detailed history

and provide recommendations for treatment. R noted that C had become agitated during the appointment, and then had become inappropriate and insulting. She disputed many of the allegations and suggested that the incident was the result of differing communication styles and incompatibility between registrant and patient. However, she also explained that as a result of the complaint she had reflected on her practice and communication and taken steps to improve these.

The IP's consideration:

In its deliberations, the IP considered the relevant sections of the Code of Professional Conduct. The IP considered six allegations. In five of those, the IP determined that no further action was needed. In allegation, the IP decided to issue a Letter of Advice.

In terms of consent, no treatment was given at the appointment, and therefore the issue of informed consent was less of a concern. However, the IP noted that R had reflected on her practice of taking consent. The IP noted that the medical history was long, and therefore it would have been necessary for R to interrupt and redirect the discussion at times. The IP was satisfied that the detail in the patient notes was sufficient. The IP noted that R accepted that she may have been abrupt and that she should have terminated the treatment earlier. The IP was concerned at the level of C's distress, but found no evidence of abusive or controlling behaviour.

On one allegation, regarding inappropriate comments that may have been outside R's professional competence, the IP noted the different accounts given by C and R and concluded that the intention and tone of what was said could not be proved. In any case, R had shown insight and reflected on this, so in the IP's view there was no prospect of a finding of impairment. However, the IP concluded that a Letter of Advice would be appropriate.

The Letter of Advice advised R to be careful about the tone of communication and how her comments might be interpreted. The Letter of Advice also advised R to be careful when using terminology that falls outside the boundaries of an acupuncture consultation and be careful about referring to a patient's (or patient's relative's) possible mental health diagnosis unless such a diagnosis has already been made.

There were no Learning Points for the BAcC arising from this complaint.

Observations:

This complaint was handled sensitively by both the PCO and the IP. A Letter of Advice was a helpful action to take; the IP could not determine the issue of whether inappropriate comments had been made but felt it useful to remind R of the importance of taking care with how her comments might be interpreted.

Case summary 4/2023

Issues: Alleged unsafe practice, adverse incident following treatment, failure to explain treatment, failure to take or record consent

This complaint related to a burn injury sustained after treatment with a heat lamp. C had been a patient of R for about eleven years. R had introduced a heat lamp to her

treatment and used it on a number of sessions. Following one session, C sustained a burn to her abdomen and required specialist medical treatment. C alleged that the heat lamp was used inappropriately on an area of skin that had reduced sensation (as a result of previous surgery), and that it had been used too close to the skin, resulting in a burn. C also said that R had not advised her to protect her skin before the heat lamp was used.

R responded, via her insurer's lawyer, to explain that she was aware of the reduced sensitivity in C's abdomen area but that she had used the heat lamp on C on previous occasions without incident. R said that she followed the manual's instructions on the distance from the skin and on how long the heat lamp treatment lasted. C did not complain of any pain or discomfort at the time, and no damage was visible to the skin. R did not dispute that the burn had resulted from the treatment and suggested that the heat lamp was probably faulty. R noted that no training in heat lamp use is available.

R's response included an undertaking not to use heat lamp treatment while the BAcC was considering the complaint.

The IP's consideration:

The IP in its initial consideration determined that more information was needed from R. The PCO contacted R's solicitor and requested clarification on whether R intended never to use this heat lamp or any heat lamp, and never to use a heat lamp at all or just while the complaint is being considered. The PCO also requested information on R's CPD, what leaflets are given to patients, and what changes R had made to her practice. R's solicitor submitted R's CPD records and confirmed that R had undertaken not to use any heat lamp treatment in future and had changed her consent form for patients.

The IP met again following receipt of this further information. It considered four allegations relating to a failure to use the heat lamp safely, resulting in a burn; and failing to take explicit consent and inform C of the nature and purpose of the treatment. In its deliberations, the IP considered the relevant sections of the Code of Professional Conduct, the Code of Safe Practice and The Complete Guide to Safe Practice.

On allegations 1 and 2, relating to failing to perform acupuncture safely and causing the patient to suffer a burn, the IP determined that there was a realistic prospect of a finding of fact and of misconduct.

On allegation 3, relating to failing to inform the patient of the nature and purpose of the treatment, the IP determined there was not a realistic prospect of a finding of fact. Although nothing in the patient notes showed that an explanation of the heat lamp treatment had been given, the IP was impressed at the quality of the notes. The IP also noted that the complainant had not raised this issue in her complaint.

On allegation 4, relating to failing to take or record explicit consent for treatment, the IP found that there was a realistic finding of fact or of misconduct. Although consent had been taken at the start of C's treatment with R, that was in 2011 and related to moxa and cupping. The IP concluded that it would have expected consent to be taken again after such a long time and with new equipment being introduced to the treatment.

The IP considered whether, in relation to all the allegations, there was a realistic finding of current impairment. It determined there was not. Because of the undertaking that R had made, the likelihood of a repeat incident was very low. The IP also took into account R's shocked response at the severity of the burn, her good clinical notes, and her extensive CPD record, as well as the good relationship between R and C over eleven years of treatment.

The IP decided to issue a Letter of Advice. This noted that although R had undertaken not to use a heat lamp again, it is important to take the utmost care and attention when using any heat treatment, including following safe practice guidelines on any desensitised skin area, monitoring the patient and the touching to skin to see if it has become too hot. The IP also advised R to ensure that consent is not only given but recorded for each new form of treatment, and that the consent form should include information on any risks and these should be explained to the patient.

The IP also noted that no Adverse Incident Report had been filed by R with the BAAC. The Letter of Advice reminded R that she should complete such a report when an adverse incident occurs.

Observations:

The IP took this complaint very seriously, as indicated by its request for further information from R before making a determination. There was no dispute of the fact that C had sustained a serious burn as a result of heat lamp treatment given by R. There was a dispute about some of the facts, including how close the heat lamp was to the skin and whether the heat lamp itself was faulty. IP was unable to determine these but did conclude that if the complaint were referred to the PCCP more investigation would be needed on the disputed facts.

Two Learning Points were identified for the BAAC from this complaint. One is that an undertaking by R not to use a heat lamp until the determination of the complaint is a way of ensuring safety without the need for an Interim Orders Panel and such an undertaking could be used in future. The other Learning Point is for the BAAC to amend the initial letter to registrants to make it clear that full patient notes are required. This has been actioned. In addition, the issue of heat lamps and their safe use will be covered in a Safe Practice webinar in 2025.

I am concerned that the IP gave as one of its reasons for its finding on allegation 3 – failing to inform the patient of the nature and purpose of the treatment – that C had not raised this issue in her complaint. The IP determined on this allegation that nothing in the patient notes, which it noted were extensive, showed that an explanation had been given to C about the heat lamp treatment. The IP noted that it would have expected the form to refer to the risk of burns from moxa and heat lamps, but nothing in the evidence suggested that this risk was communicated to C. Yet the IP concluded that there was not a realistic prospect of a finding of fact. In reaching this conclusion, the IP took into account the quality of the patient notes, the communicative relationship between C and R, and R's significant involvement in C's care and wellbeing. A further reason given was that C had not raised this issue herself.

The BAcC should, and does, consider issues that raise concern about a potential breach of the Codes even if they are not raised specifically by a complainant. For example, the IP has commented in the past on failure to record GP details in a patient's notes, failure to submit an Adverse Incident Report, and other issues of professional conduct and safe practice that had not been identified by complainants. I noted in last year's annual report that it is appropriate that where the PCO identifies an issue that is a potential breach but has not been raised by C, this is added to the allegations to be considered by the IP.

Case summary 6/2023

Issues: Alleged unprofessional behaviour, poor care, causing pain on treatment, failure to keep accurate notes

C had been seeing R for treatment over five years. The treatment was ended abruptly by R via text message, which C found upsetting. The complaint involved allegations of unprofessional behaviour and inappropriate comments as well as concerns about other breaches of good practice and potential unsafe practice regarding cleaning sites before needling. C's partner had also received treatment from R and submitted a statement, although his treatment had ended years before and so his complaint was considered out of time.

R responded via her insurer's lawyer and accepted that she had sent messages to C that were not as professional as they should have been. She said she had reflected on that and made changes to have better professional boundaries. She also accepted that she had given C gifts, but she explained these were reciprocal, and she wanted to remain friendly. She accepted that giving gifts to patients was unwise and has taken steps to avoid being perceived as overly familiar. R disputed the other claims, and she said she ended the treatment relationship in a respectful and professional manner.

R also said that she had had no previous complaints. However, the PCO identified that R had been subject to a complaint considered by the PCCP in 2017-18, and the PCCP had imposed sanctions.

The IP's consideration:

The IP took into account the relevant Codes of Practice, including the Code of Professional Conduct, the Code of Safe Practice, and the Guide to Safe Practice (including its predecessor the Complete Guide to Safe Practice, because some of the treatment took place prior to 2022 when the Guide was revised).

The IP considered if the complaint was malicious and/or vexatious and decided it was not. The IP noted that the complaint was made only after five years of successful treatment was brought to an abrupt end and only after C had read the Code of Professional Conduct. The IP took into account the fact that C had not raised any issues before and had returned for subsequent treatment numerous times after most of the matters alleged had occurred, which suggests that she did not consider them to be problematic at the time. Despite that, and noting that the complaint is likely to have caused R anxiety, harm or distress, the IP thought that most of the allegations were not

of 'little or no merit'. Therefore the IP decided that this was not a malicious or vexatious complaint and that it was appropriate to consider it.

The IP also decided that, although it could consider C's partner's statement as supporting evidence for C's allegations, any complaint by the partner himself would be outside of the three-year limitation period.

The IP considered a total of eight allegations. The first alleged that R behaved in an unprofessional manner to C in being overly familiar to her in person and in text messages, giving and receiving gifts, sharing spiritual views, and ending the treatment without explanation. In relation to the overly familiar behaviour and gift-giving, the IP noted that R did not dispute these, and therefore there was a realistic prospect of a finding of fact. In relation to the allegation about spiritual views, the IP noted that the facts were disputed, but that even if the facts were proved there would not be a realistic prospect of a finding of misconduct. In relation to the way the treatment relationship was terminated, the IP noted that acupuncturists are not required to continue to treat a patient and are not required to provide an explanation if they decide not to. The IP thought that the termination of the treatment could have been handled more sensitively, but this is not a breach of the BAcC codes of practice and therefore there was not a realistic prospect of a finding of misconduct.

The second allegation related to comments by R about C's partner. The IP identified that it appeared from a text message that R had made one of the comments alleged, but that the others could not be proved. The IP concluded that, if proved, these comments were unwise and not what one would expect in a professional setting. However, the IP decided that there was not a realistic prospect of a finding of misconduct.

In relation to the allegation that the treatment had caused stomach pains to C and her partner, the IP could see no evidence that acupuncture had been performed inappropriately. Taking account of the patient notes, the IP found only one date when stomach pains are specifically mentioned the pains could have been attributed to other causes. Taking these factors into account, the IP decided that there was not a realistic prospect of a finding of fact. However, the IP noted that no Adverse Incident Report had been submitted to the BAcC.

In relation to the allegation of unprofessional comments relating to treatment, the IP noted that there was a dispute on the facts, and R denied all the allegations. The IP decided that these comments, if proven, were inappropriate, but there was not a realistic prospect of a finding of misconduct.

On the allegation that R had failed to respect C's modesty or allow her privacy, the IP noted that R must provide a patient with privacy to dress and undress, but is not required to provide a private area. In addition, C continued to attend appointments and did not raise this issue with R. Taking these into account, the IP determined that there was not a realistic prospect of a finding of fact in relation to this allegation.

On the allegation that R had failed to offer a chaperone, the IP noted that this is only required when treating sensitive or intimate areas of the body, which was not the case here. The IP concluded that there was not a realistic prospect of a finding of fact.

In relation to the allegation that R had failed to clean the needle site before needling, the IP considered what is required by the Code of Safe Practice. The IP noted that there was a dispute as to the facts, with C claiming the site was not cleaned before needling and R stating that the site was always cleaned before needling. The Code and Guide require that only skin which is not clean needs to be swabbed, and there is no suggestion that the skin was not clean. The IP therefore concluded that there was not a realistic prospect of a finding of fact.

The final allegation related to R failing to keep accurate case notes by recording incorrect information and failing to mention a specific genetic issue C had raised. The IP found that the patient notes were well kept and informative. Although C had submitted further information as part of the complaint to the BAcC, which differed from that in the patient notes, the IP could not determine if or when these had been shared with R during treatment. The IP concluded there was not a realistic prospect of a finding of fact in relation to that part of the allegation. R could not remember whether a specific genetic issue was mentioned by C but accepted that she did not record it. The IP therefore found that there was a realistic prospect of a finding of fact on this aspect of the allegation. Noting that it is important that all medical information provided by a patient is recorded, the IP concluded that this would not have had any impact on the treatment given and therefore there was not a realistic prospect of a finding of misconduct.

The IP did not find that there was a realistic prospect of a finding of misconduct in relation to any of the allegations. However, the IP thought it was important to acknowledge where R's conduct had been inappropriate and unwise. In deciding to issue a Letter of Advice, the IP took into account R's reflections and the resulting changes made to managing professional boundaries. The IP also took into account that over the course of a longstanding relationship, more informal interactions can take place between patient and practitioner. The Letter of Advice included the following issues and asked R to put new procedures in place to rectify these.

- Reminding R to ensure the relationship with patients is not overly familiar, and to keep physical contact to a minimum, avoiding hugs and kisses, gift-giving, the use of emojis in texts, and comments on a patient's partner.
- Reminding R to take advice from the BAcC when terminating a patient's treatment, and to take care in talking with patients undergoing IVF treatment.
- Recommending that R obtain a screen behind which a patient can change if it is not practical for R to leave the room.
- Reminding R to ensure that all relevant information, including a patient's medical details, are recorded in patient notes.
- Reminding R to complete an Adverse Incident Report form and submit it to the BAcC when a potential adverse incident occurs.

The Letter of Advice also reminded R that all previous complaints and cases remain available for the IP to view, even those which are no longer published publicly or considered relevant to any new matter. Although the IP limited its consideration to the

current complaint, it was made aware of the complaint from 2017 when R had received a fine, conditions of practice order, and admonishment. The IP noted that R's solicitor had stated R had never been subject to any previous complaints.

Observations:

There was a long period between the end of the treatment and the IP meeting. There were several reasons for this. C had initially contacted the BAcC in late 2022. C did not submit a complaint at that time, but the following September she contacted the BAcC about making the complaint. There was communication between C and the PCO clarifying the complaint process and requirements and addressing C's concerns about raising a complaint. The PCO was very clear and sensitive in her responses and she took time to explain the process and to provide reassurances without making unfounded promises.

Furthermore, R requested an extension to the 14-day deadline to respond to the complaint, which the PCO granted. However, the law firm representing R only received the papers shortly before the deadline, so they requested an additional extension. The PCO granted this but explained that under the Code of Disciplinary Procedures, only two extensions can be granted by the PCO, and any requests for further extension must go to the chair of the IP.

The period from September 2023, when C contacted the BAcC again to raise the complaint, and April 2024, when the IP considered the complaint, was therefore not a delay by the BAcC but a combination of requests for further information and requests for extensions.

In this case, C raised concerns about not having legal advice when R did have legal advice. She was concerned this would mean there was not a level playing field. The PCO has proposed changing the initial letter to complainants to inform them that the registrant has access to legal advice via their insurer.

The BAcC collated Learning Points from this complaint that reflected the reminders in the Letter of Advice to R. This meant the reminders in the Letter of Advice could be shared with other registrants.

Following the IP decision, C contacted the PCO to say that she was unhappy with the outcome and the IP's consideration. She felt her comments had not been fully considered and important issues had been missed, including her explanation as to why she had continued treatment. She also repeated her concern that R had been legally represented and the letter from the lawyer would have held greater weight with the IP, so it was difficult for her to disprove the lies told in it. She also asked about who would see the evidence she submitted, in particular very personal information.

The PCO replied with great sensitivity and acknowledged the time and effort C had gone to in submitting a detailed and comprehensive complaint. She explained that she could not comment on the decision but reassured C that the IP had spent a long time deliberating. In terms of the concern about legal advice, the PCO explained that in these complaints the registrant almost always has legal representation, which is their right,

and that this is not only the case at the BAcC but at other regulators. She also provided reassurance about the IP members deleting all documents relating to cases once the decision is issued, and all case information is kept in the PCO's restricted files. Given C's concerns, the PCO said she would contact each IP member to ask them to confirm that it has been deleted.

This response to C's email following the decision was clear and sensitively worded.

Conclusions and recommendations

All the complaints I reviewed were handled correctly and sensitively and followed the BAcC procedure.

Bundles for the IP are often very long, but they are well organised and include the original complaint and responses from C and R as well as any evidence, with an index and a checklist as a prompt for the IP. I have reviewed that the evidence submitted to the IP is complete and that the way the complaint is set out accurately reflects the complaint issues raised.

Complaints can be stressful for both complainants and registrants, especially, as many of the complaints reviewed here were, the circumstances are emotionally charged. I have found that this year, as in previous years, the PCO's communication with C and R is consistently clear and compassionate and is responsive to particular concerns raised. For example, in case 6 of 2023, C's anxieties about making the complaint and her dissatisfaction with the IP's deliberations were addressed promptly and with care.

Letters of Advice appear to be used more frequently by the IP. All of the complaints I reviewed for this report resulted in a Letter of Advice and actions by the BAcC, either to improve its own procedures or to remind registrants of important best practice issues.

A useful practice, introduced last year, is to include a File Note of Learning Points when the complaint has raised an issue for the BAcC to address. This might be an issue where the guidance needs to be clarified or information shared with members on best practice; alternatively, it can be an issue arising in the handling of complaints by the PCO. This is useful to capture particular points from complaints that can improve both acupuncture practice and the way complaints are dealt with. This is a valuable initiative because it ensures that where a complaint indicates that the BAcC could adjust its practice or change wording in its letters, the improvement is recorded and acted upon. Four of the five complaints I reviewed for this report included a file note of Learning Points for the BAcC to act on.

The BAcC's handling of the complaints was timely, and there were no undue delays. Two of the complaints took four months to reach IP consideration, but this was not due to delay by the BAcC. One issue that arises in some complaints is registrants requesting an extension of the 14-day deadline for submitting a response to the complaint. In several of the complaints reviewed, the time for legal representatives to submit a response to a complaint appears to be about four weeks. In one complaint, this was explained by R's solicitor as a process of the paperwork '*winding its way via the insurance broker, insurer and claims handler process*'.

The PCO accepts that, when R is legally represented, the solicitor might not receive the papers until very close to the deadline. Inevitably in such cases, an extension is requested, and this is always granted for reasonableness. However, complainants might interpret this as being overly favourable to the registrant. Therefore, a proposed change to the Code of Disciplinary Procedures for the current year, 2025, is to increase the response deadline from 14 days to 28 days. This will help to manage expectations and also reduce the time needed for the PCO to correspond with R's solicitors about requested extensions.

Another upcoming change is to the initial letter to complainants. Complainants are sometimes concerned to learn that the registrant in their complaint is legally represented. The initial letter will be changed to inform complainants that the registrant has access to legal advice through their insurance.

Recommendations on this year's complaints:

I do not have any recommendations for improvements to make arising from the complaints reviewed for this report.

Action on last year's recommendations:

Last year I made the following recommendations:

- The BAcC should consider whether, when the Code of Professional conduct is next revised, it would be useful to clarify the obligations of interim practitioners in relation to patient notes. **[Under consideration]**
- The BAcC has said it will continue to consider how it can incorporate a mediation offer into its complaint process, and I will continue to engage with them on this. **[None of the complaints I reviewed this year appeared to be appropriate for a mediation approach. No action needed at this time]**
- It would be helpful for the BAcC to explore options for obtaining prior consent from registrants for sharing information on complaints, should they arise, with other regulators with whom a BAcC member is registered. **[In progress]**

In previous years I have noted my concern that the IP does not consider the best practice of registrants completing an Adverse Incident Report (AIR) when after-effects of

treatment are reported. The importance of AIRs has been highlighted in Enews, and the question of an AIR is now included in the checklist prepared with the bundle for each IP. I welcome that Letters of Advice now appear to be highlighting to registrants the importance of submitting AIRs.

Previous recommendations:

Action on one of my recommendations from previous years remains outstanding:

- Produce guidance to address a lack of clarity about the term ‘patient’ and the applicability of the BAcC Codes when informal treatment is provided to a friend.
[Agreed but not yet actioned due to time constraints]

I am confident that the BAcC continues to handle complaints well and to treat both complainants and registrants fairly and with compassion. The correspondence from the PCO to complainants and registrants is clear and sensitively worded. The IP continues to successfully meet and make decisions remotely, and to do so in a timely way. It is clear that improvements are regularly made in the support and information given to IP members to enable them to consider and assess all the evidence.

Thank you for the opportunity to review the complaints made in 2024. I would like to acknowledge the continued support and cooperation of Caroline Jones, the BAcC Professional Conduct Officer.

Margaret Doyle
Independent Complaints Moderator, BAcC
March 2025