

GENERAL OSTEOPATHIC COUNCIL

Minutes of the **Public Session** of the 77th meeting of the General Osteopathic Council
Wednesday 10 October 2012

FINAL

Chair: Alison White

Present:

Geraldine Campbell
John Chaffey
John Chuter
Jorge Esteves
Jonathan Hearsey
Nick Hounsfield
Ian Hughes

Kim Lavelly
Brian McKenna
Kenneth McLean
Haidar Ramadan
Julie Stone
Jenny White

In attendance:

Fiona Browne, Head of Professional Standards
Alan Currie, Head of MIS
Matthew Redford, Head of Finance and Administration/Acting Head of Registration
Marcia Scott, Council and Executive Support Officer
Velia Soames, Head of Regulation
Brigid Tucker, Head of Policy and Communications
Tim Walker, Chief Executive and Registrar

Observers

Michael Watson, Chief Executive of the British Osteopathic Association
David Plank, Chair, Professional Conduct Committee

Welcome and opening comments

1. The Chair welcomed Michael Watson, Chief Executive of the British Osteopathic Association, as an observer to the meeting, and David Plank, Chair of the Professional Conduct Committee.
2. The Chair brought to the attention of the meeting the recently published patient leaflets and *Osteopathic Practice Standards* pocket guide. Members were

encouraged to take and use the publications and also bring them to the attention of interested stakeholders.

Apologies

3. There were no apologies.

Questions from observers

4. Michael Watson raised the following questions:
 - a. GOsC budget reduction: whether the suggested budget reduction of 4% was a little low in light of current financial circumstances? Had there been a robust, detailed analysis across the organisation to test if all work undertaken added value and remained pertinent?
 - b. Mortgage costs: following the expected end of mortgage repayments during the financial year 2014-15 and anticipation of the continued growth of the register, would there be a more ambitious use of reserves allowing greater scope for a fee reduction?
 - c. Patient records: following the admonishment of a registrant for passing patient records on to another osteopath, concern was expressed about the continuing lack of guidance on the sharing of patient records. Given the lack of guidance was the admonishment of the individual justified?
5. The Chief Executive responded to the questions as follows:
 - a. There is considerable ongoing work looking at how costs can be reduced across the organisation in the year ahead and beyond.
 - b. The mortgage drop-out will not take place until financial year 2014-2015. While it was believed to be appropriate to use some element of reserves in the next few years this will be for certain one-off items such as revalidation, the cost of implementing new rules post-Law Commission and possible development activities. It would not be prudent to fund day-to-day running costs or fund fee reductions from reserves.
 - c. It was felt inappropriate for the Executive or Council to comment on a decision made by the Professional Conduct Committee. The Executive understood there are difficulties with the transfer of patient records and practice lists (which are separate matters) and this area is under review.

The *Osteopathic Practice Standards* are clear that osteopaths must practise within the law, including the Data Protection Act 1998, which is very clear about the sharing of personal data. It was noted that in other professions, such as dentistry, the professional association had provided information and guidance relating to data protection. The GOsC would discuss and work with the BOA on this issue.

Minutes and matters arising

6. The minutes of the public session of the Council meeting held on 17 July 2012 were **approved** subject to the correction of a small number of errors and to the following amendments:
 - a. Page 9, 22c, sentence 2 – it was thought that there is little clinical leadership with the profession and, if this could be built on, it would address some of the problems.
 - b. Page 13, 33a, sentence 1 – it was recognised that the organisation and Council were still developing, and also that it was a requirement under legislation to have membership from the four countries of the UK.
7. There were no matters arising.

Chair's Report

8. The Chair gave an oral report to Council. The main points were:
 - a. The Chair had spoken at the Scottish Osteopathic Society Annual Conference, attended the BCOM Research Conference and visited the British School of Osteopathy where she met with the management team.
 - b. An explanation of changes to the structure and content of the Council agenda, as a result of feedback from members. The changes were in order to create opportunity for more input and discussion by Council at an earlier stage of the decision-making process, not only by use of seminar discussion sessions, but also in the main body of the agenda. Other matters arising from appraisal discussions and general feedback were: competencies; a review of the appraisal system; our approach to research; the fitness to practise process; and the development of the profession. All these issues will be brought to Council during the next few months.
 - c. The involvement of members in a number of activities including: appointments to Council and other statutory and non-statutory committees; and meetings such as that coming up in early November to discuss the development of the

profession. The Chair is heavily involved in these meetings and is trying to spread the load among members whose flexibility and support is appreciated.

- d. There will be a modest celebratory reception for osteopaths who participated in the London 2012 medical team later in the month. This will be preceded by a meeting to discuss action to build on the success of the osteopaths' involvement.
 - e. A letter has been written to the Private Secretary of the Patron, His Royal Highness The Prince of Wales, to apprise him of the appointment of the Chair. A copy of the Annual Report has also been sent to update him on the progress of the organisation. The term of HRH's patronage is due to expire in 2013, and, as the GOsC has enjoyed his patronage for some 15 years, it is doubtful that another extension would be granted and there are no plans to request one.
9. The following comments were made in response to the Chair's report:
- a. Members questioned whether it was necessary for the GOsC to have a patron. It was agreed that as the organisation was now well established the support of a patron was less important and also that, as a public body, it may not be appropriate.
 - b. It was agreed that valuable lessons had been learned from the interaction between health professionals supporting the London Olympic and Paralympic Games. Members asked that during planned discussions preceding the London 2012 reception whether the agenda could include an item on the 2014 Commonwealth Games and the profession's involvement.
10. The Chair then sought Council's endorsement of the appointment of Ian Muir as the external member of the Remuneration Committee following the resignation of Vivian Murch.

It was agreed to appoint Ian Muir as an external member of the Remuneration Committee for four years.

Chief Executive's report

11. The Chief Executive provided additional information not included in his report.
12. Following a meeting with Nick Clarke, the Deputy Director for Professional Standards, Department of Health, Council was advised of the following:
 - a. Fees changes – it was agreed that the proposed changes to fees can be taken forward.

- b. Changes to GOSc Governance – the Department of Health wanted a better idea of how other health regulators were taking this forward and were also waiting for the outcomes of the Law Commissions’ Review. It was thought the proposed changes might take place in 2014 but not by 1 April as we might wish.
- 13. GOSc lay vacancies: it was reported that to date there had been 20 applications for Council with 3 for the Education Committee’s Chair role, and 53 applications for the fitness to practise committees. The closing date for applications is 16 October and panels are in place to review the applications.
- 14. CHRE review of costs: a draft report had been received from the CHRE and the Executive are in the process of finalising a response.
- 15. IT: problems had been experienced recently with e-mails and the GOSc website but these had now been resolved and the system fully restored. The Head of MIS gave an update of the situation and confirmed the difficulties had arisen when the osteopathy.org.uk domain name had been deleted by the service provider, which should not happen again. The Chair advised members they should check their spam files as it had been found that some GOSc messages had been delivered to these files as a consequence of these difficulties.
- 16. Development of osteopathy meeting: members asked what might be included on the agenda for discussion at the cross-organisational meeting and whether the regional groups had been invited. Members were advised the content for the agenda was currently under discussion with those attending. Representatives of the regional groups had not been invited.
- 17. GOSc Business Plan monitoring: members asked whether, given the statistics on the number of recent graduates who did not attend regional meetings, was there a need to do more through the ‘transitions into practice’ work to encourage them to attend. The Chief Executive advised that we already encourage students to join regional groups on joining the register and this issue is also included in the draft Corporate Plan.
- 18. Key Figures: following a recent news report on employee ‘presenteeism’ and the appearance of a sharp fall-off in sickness absence, members asked for reassurance that undue pressure was not being brought on staff to be present at work when unwell. The Chief Executive assured members that staff are encouraged to stay at home if unwell and the organisation took a positive stance on ensuring a balance between work and family life.

The Chief Executive’s report was noted.

Fitness to practise report

19. The Chair advised members that the Investigating Committee (IC) Annual Report would be presented by the Chair, James Kellock, at the meeting of Council in December. The Professional Conduct Committee Chair, David Plank, and the Head of Regulation were invited to present the Fitness to Practise Reports.
20. Fitness to Practice Report – the Head of Regulation highlighted the following:
 - a. The CHRE Initial Stages Audit Report has now been published and was positive. The main area for improvement was a need for the IC to give fuller reasons for decisions and work had already begun on this. The report commended the IC for decisions being reasonable and focused on public protection and also the GOsC for the handling of FtP cases, and the very good levels of assistance to complainants and other parties involved in the process.
 - b. The appeal of Dr Peter Spencer has taken place but judgement was reserved. Both sides presented strong arguments and it is believed that when the judgement is made it will be quite detailed.
21. Professional Conduct Committee Annual Report – the PCC Chair introduced the Committee’s Annual Report 2011-12 highlighting the following:
 - a. There has been further analysis showing a significant number of facts alleged are being found not proved. The Chair did not want to speculate on the reasons for this but wanted to draw to attention of Council as something which they may want to address.
 - b. The need for changes to PCC rules although it was understood that these are unlikely to be considered soon.
 - c. Difficulties in extending ISOs which present a potential risk to patient safety and which are part of a Section 60 Order request.
 - d. The need for Council to consider the role and conduct of the PCC and its relationship with Council.
22. Fitness to Practice Policy Committee Annual Report: the Chair of the Committee had no additional comments on the Annual Report.
23. The following issues were raised in discussion:
 - a. Detailed allegations – members asked why the number of detailed allegations had increased. The Head of Regulation advised that during 2012 there had

been fewer allegations. However, there had been an increase in the number of clinical allegations and the detail ensured the registrant fully understood the charges being brought against them. It is understood this is a problem for the PCC, which is obliged to review and make findings from the detail submitted to them. Ways of reducing the amount of detail are being looked at but the legal advice has suggested this is the correct way to conduct proceedings.

- b. The Head of Regulation advised that the General Medical Council has had a number of judicial reviews relating to detailed allegations and the Chair of Council supported this saying it was a difficult issue for all regulators.
- c. The Chair asked the PCC Chair for the Committee's assistance with gaining a better understanding of its processes, especially how hearing time is utilised, to help with cost savings. It was also suggested, if helpful, Council members – especially the newer Members – could discuss issues relating to the hearings process and how it works with members of the Regulation Department.
- d. Members asked about the reasons for allowing witnesses to read statements. The PCC Chair advised the Committee had considered not allowing witnesses to read statements. There had been consultation about the reading of statements and the agreement was for the reading of statements to be retained.
- e. Members asked how the process for the selection of expert witnesses worked as it appeared the pool was very small and lacked transparency. The Head of Regulation explained there was a pool of eight individuals who met the criteria and expertise expected to give evidence to the committees. If the chosen experts were unsatisfactory, this would be reflected in feedback from the committees.
- f. Members felt the concerns raised by the PCC Chair about the role and responsibilities of the Committee were important and asked for his ideas on resolving some of the issues. The PCC Chair explained that in light of the legal changes which separated functions within regulators the PCC were exploring and developing views on being an effective adjudicator. It was felt that some mutual exploration would be beneficial to the GOsC.

The Chair agreed that clarification would be helpful and a discussion was required and would happen in due course. Council were advised to bear in mind that there were unlikely to be major changes in legislation before the new Act was in place.

- g. Members asked for clarification over concerns about a decrease in skills of panel members not sitting frequently. It was explained the concerns were

raised by PCC members through feedback from the appraisals process. The response had been to ensure there was adequate training and sharing of experience amongst the committee members.

- h. The Chief Executive assured members the reappointments process for existing PCC members was underway and was ahead of schedule.

24. The PCC Chair was thanked for his report and contribution to the meeting.

The Fitness to Practice Report, the Professional Conduct Committee Report and the Fitness to Practice Policy Committee Report were noted.

Draft Consent Guidance

25. The Regulation Manager presented the report which was supplementary guidance to the *Osteopathic Practice Standards* which came into effect in September 2012. It was intended, after consultation, to bring the final version of the guidance back to Council for approval in March 2013. The Chair reiterated the importance of the guidance with the additional complexity of the different requirements for the different countries of the UK.

26. In discussion the following points were raised and responded to:

- a. There was a need for expansion in areas of the document to ensure it would be understood by osteopaths who might not fully appreciate the law relating to Power of Attorney. It was agreed the language was very technical and the Executive should be aware there could be communications issues for registrants. There was some concern about the difference in language in the columns relating to each country and it was agreed that this would be amended.
- b. There were questions on determining and defining an individual's capacity but it was agreed this was dependent on the cases.
- c. It was agreed there was a need to emphasise the importance of record keeping. It was also suggested that reference should be made to 'parental responsibility' rather than 'parents'.
- d. There was some concern the consultation was planned for only two months and that this might not be long enough. Members were advised there was no legal requirement over the length of consultations but it was accepted that three months was the gold standard.

- e. It was suggested that the concept of 'assent' should also be introduced into the document.
- f. It was suggested there should be a proviso within the guidance advising that it was not completely comprehensive and, where in doubt, osteopaths should seek further advice from the GOsC or elsewhere.

Council agreed to issue the draft for consultation subject to the proposed amendments and assurances on the length of the consultation. It was agreed the final guidance would be received by Council at the meeting in March 2013.

Revalidation Pilot Progress Report/CPD Review Update

- 27. The Head of Professional Standards introduced the report highlighting in particular the submissions of the revalidation pilot portfolios.
- 28. To date the number of revalidation portfolios received represented 6% of the profession and this is considered a great achievement. Tribute was paid to the members of the profession who had completed and returned their documentation. Council were reassured that the portfolios represented a wide cross-section of the profession including the style and content, and differing opinions about the revalidation pilot. There had also been a high level of response to the CPD discussion document particularly through the regional conferences.
- 29. In discussion the following points were raised:
 - a. Members asked if the evaluation would provide information about the demographics of those submitting portfolios. It was confirmed that the demographic information would be available in the final report.
 - b. Members wondered if, out of interest, it might be possible to attend the moderation meetings. However, it was not thought appropriate for members to attend and that the process should be allowed proceed as agreed.
- 30. The Chair thanked the Head of Professional Standards for an excellent report and Council would look forward to further updates on revalidation and CPD.

The Report was noted.

Registration: Six-month Statistical Review

- 31. The Acting Head of Registration presented the report highlighting the additional information relating to osteopaths who had resigned from the register and which

showed the majority of those resigning appeared to be moving overseas, although the reasons for this were unclear.

32. The Chair suggested that resignations from the register should be kept under close review especially in light of the CHRE's proposed voluntary register scheme which could impact on the GOsC. The Chief Executive reminded Council that representations had been made to CHRE that the voluntary register scheme should not be seen as a substitute for statutory registration where this route was available.
33. The Acting Head of Registration thanked the Senior Registration Officer, the Registration Assistant and the Head of MIS for their assistance in bringing the statistics together for the report.

The report was noted

Non-practising Osteopaths

34. The Chief Executive presented the report explaining the current lack of clarity between non-practising osteopaths and those eligible for a fee reduction, which although only affecting a small number of registrants is something which needs to be clarified. He reported the CHRE had been advised of the issue and were supportive of the recommendation.
35. It was made clear that non-practising status did not impact on CPD which was still required. It was also noted that this should not impact on clinical tutors as they should be practising osteopaths to undertake their roles.
36. Members raised the concern GOsC could be seen as discriminatory as non-practising status impacted on women more than men, particularly women on maternity leave. Members were advised they should not focus on the reasons for requesting non-practising status as the position was about being explicit about eligibility for a reduced fee.
37. It was noted that some women may wish to continue to be described as practising while on maternity leave but while claiming a discount and this should be accommodated.
38. Members were advised that there should be no impact on an individual's insurance cover as the rules require non-practising osteopaths to retain 'run-off' cover.

Council agreed the following recommendations:

- a. That non-practising status should no longer automatically be given to osteopaths who pay a reduced fee in accordance with the Fees Rules.**
- b. That osteopaths who indicate that they do not intend to practise at all (which means they would have no patient contact) should be designated non-practising on the register.**
- c. To agree that osteopaths who are entitled to a reduced fee under the Fees Rules, but do intend to practise for up to nine months of the year should be described as practising.**

Draft Corporate Plan 2013-16

- 39. The Chief Executive introduced the draft plan including the draft aim and high level objectives proposed by the Executive.
- 40. He also highlighted the reduction in the number of objectives compared to the current plan. In developing the plan the organisation need to be mindful of resources so there maybe goals and activities that need to be scaled down. He also believed that to build and strengthen partnerships there should be consultation on the plan with the BOA, the OEIs and other stakeholders.
- 41. In discussion the following issues were raised:
 - a. Overall it was agreed the content of the draft Corporate Plan was very good and members were pleased to see the concept of partnership included.
 - b. It was suggested the aims and objectives needed to be clearer and also link more directly to the GOsC's statutory duty.
 - c. Care should be taken over the use of the terms 'promote' or 'support'.
 - d. It was suggested that ongoing and specific activities should be separated.
 - e. Council should be given assurance that there were no ongoing activities from the current plan that have been missed out.
 - f. The theme of professionalism should be strengthened.
 - g. The transitions to practice work should focus on clinical aspects of practice.
 - h. Reference should be made to sources of assurance including the CHRE.

- i. Clarification was required on the key performance indicators and the balanced scorecard; it should be clear how the performance measures interact and also that value for money needs to be incorporated.
- j. The principles appeared to be overlapping and could be simplified.

Council agreed the recommendation for a short, limited consultation on the plan subject to the suggested amendments and for the final plan to be considered at the December Council meeting.

Budget Strategy

- 42. The Head of Finance introduced the report and also asked members to reflect on the activities featured in the draft Corporate Plan. Members were also advised in reviewing the four financial scenarios option A should not be considered as it was not politically tenable. Members were reminded that the GOsC needed to be consistent in its direction and also understand the impact the decisions might have on external stakeholders.
- 43. Members asked whether there was an alternative strategy for paying off the mortgage on Osteopathy House earlier. Members were advised that repaying the mortgage early would have little impact on the revenue budget, the more important matters were by how much does Council want to cut the fee and how much to take from reserves?
- 44. Members were advised that no targets had been set for future efficiency gains but there were continuing efforts to identify savings including through long-term measures such as cloud computing.
- 45. In considering the scenarios in the paper the Chair reminded members of the importance of the development of the profession and the potential use of some reserves for funding new one-off initiatives. This needed to be balanced against the potential for making smaller or larger reductions in fees in 2013 and beyond.
- 46. After discussion Council favoured Scenario C in the paper which suggested a reduction in the headline fee of £75 to £600 or slightly lower reductions across the range of fees. The consultation would include two options: a reduction in the highest rate or reductions across the board. The consultation would also make reference to the decision made in the previous year to favour a reduction in the highest rate only.

Council agreed there would be a further fee reduction in 2013-14 reflecting Scenario C in the paper and to undertake a consultation on how the reduction should be applied.

Governance Review

47. The Chair introduced the report and suggested the addition of an explicit duty for interaction between the two policy committees and also noted that while it was the aim to hold policy committee meetings on the same day this would be reviewed if it was found not to work effectively.
48. Concerns were raised about committees synchronising their work given they were meeting on the same days and minutes of meetings not being available which could lead to delays in the decision making process. Members were assured that difficulties and delays were not envisaged as there would be careful management of meeting agendas with the assistance of the Executive. It was agreed there would be challenges but it was reiterated if there were problems the scheduling could be changed.
49. It was agreed to change the wording in the terms of reference of committees from 'undergraduate' and 'postgraduate' to 'pre-registration' and 'post-registration'. It was also noted that as discussed under item 5, changes to Council would be unlikely to come into effect by April 2014.
50. The Chair thanked the Chief Executive and the Head of Regulation for their assistance in finalising the details of the Governance Review.

Council approved the final recommendations of the governance review as set out in the paper subject to the amendments above being made.

Council noted that the revised Governance handbook will be presented to Council in March 2013 and not December as previously agreed.

GOsC Performance Measurement

51. The Chief Executive introduced the report and explained this was the first review of the pilot balanced scorecard introduced in the previous year, and invited comments on whether it was useful and should be incorporated into the new Corporate Plan.
52. Members agreed that this was a useful approach to performance measurement and should be carried forward. It was suggested that a measure was needed around performance against Council's agreed principles for patient and public involvement. It was also felt that the outcome measures around staffing required more refinement.

53. Members asked about the inclusion of performance relating to CPD. It was advised that while data was available more work was needed on the qualitative aspects of what could be reported.
54. The Chair also suggested that Council effectiveness measures should be implemented following discussions in Council seminar.

Council endorsed the continued use of this approach to performance measurement for the period of the 2013-16 Corporate Plan.

Character References

55. The Chief Executive introduced the report and explained that there could be difficulties for members if they provided character references for registration applicants in the event that it later became apparent that the reference had been obtained fraudulently. Members welcomed the advice acknowledging the difficulties that could be caused.

Council endorsed the recommendation of the Registrar that Council Members should avoid providing character references for registration applicants.

Registrants Opinion Survey 2012

56. The Chair introduced the paper highlighting that while members had the opportunity to review the results at the recent strategy day, there was additional commentary which was very helpful and instructive. The Head of Policy and Communications highlighted the following aspects of the report:
 - a. The survey would be published on the GOsC website in order to ensure transparency.
 - b. Following some of the suggestions from respondents to the survey, action already undertaken to begin improvements in communications.
 - c. An updated Communications Strategy would be brought to Council in March 2013.
57. Members were advised that the use of language was already being explored with the assistance of osteopaths. The GOsC were looking to shift the emphasis to ensure there was a focus on professional development.

- 58. A follow-up survey would take place at some point but there needs to be a balance on frequency and cost, and also to ensure that we did not lose sight of the survey's purpose.
- 59. It was suggested that the outcomes could be published in a peer review journal given the high response rate.
- 60. Members were advised that statistics relating to age and time in practice were being reviewed to gain a greater understanding of the best ways to communicate with different categories of registrants.

The report was noted.

Committee minutes

- 61. The minutes of the Education Committee 20 September 2012 were **noted**.

Any other business

- 53. There was no other business

Dates of next meeting: Thursday 13 December 2012 at 10.00.