



Meeting of Council

**Minutes of the 110th Public meeting of Council held on
Tuesday 2 February 2021, hosted via Go-to-Meeting video conference**

Confirmed

Chair: Dr Bill Gunnyeon

Present: Daniel Bailey
Sarah Botterill
Elizabeth Elander
Caroline Guy
Simeon London
Dr Joan Martin
Dr Denis Shaughnessy
Deborah Smith

Presenting: Fiona Browne, Director, Education, Standards and Development
David Bryan, Regulation Manager
Rachel Heatley, Senior Research and Policy Officer
Sheleen McCormack, Director of Fitness to Practise
Liz Niman, Head of Communications and Engagement
Matthew Redford, Chief Executive and Registrar

In attendance: Marcia Scott, Council and Executive Support Officer

Observers: Maurice Cheng, Chief Executive, Institute of Osteopathy (iO)
Kate Fawcett, Senior Scrutiny Officer, Professional Standards
Authority (PSA)
Professor Ray Playford, Lay Member, GOSc Policy and Education
Committee

Item 1: Welcome and apologies

1. The Chair welcomed all to the meeting. Special welcomes were extended to the observers, Maurice Cheng, and Professor Ray Playford, a lay member of the Policy and Education Committee.
2. Kate Fawcett, Senior Scrutiny Officer for the Professional Standards Authority was also welcomed to the meeting and is taking over the role of Scrutiny Officer to GOSc from Colette Higham. On behalf of Council, the Chair asked that thanks be passed on to Colette for her work with the GOSc.

3. Apologies were received from Deborah Bowman who had fed comments into the meeting through the Chief Executive and Chair.

Item 2: Questions from Observers

4. There were no questions from observers.

Item 3: Minutes

5. The minutes of the 109th public meeting, 18 November 2020, were agreed as a correct record.

Item 4: Matters arising

6. Council noted the matters arising from the meeting 18 November 2020. The following comments were made:
 - a. Item 6: CE Report - Joint communication between GOsC, ASA and Committee of Advertising Practice: It was confirmed that a positive response to suggested wording for the joint communication had been received from the ASA and the work was progressing.
 - b. Item 7. Registration Report: IMI Alerts – Paragraph 18c: Members were informed that the international pathway for overseas applicants who wish to join the register involves a three-stage process which considers an assessment of the applicant’s qualifications, further evidence of practise and an assessment of clinical performance. Previously under the IMI system, which GOsC no longer has access to following the UK’s exit from the EU, all alerts received by the GOsC were checked by the Registration team and to date no action had been required. It is considered that there is no risk to the GOsC by not having access to the IMI alert system. Members were given assurance that the system of verification, assessment and evaluation for international applicants conducted by the Registration team is, and remains, robust and includes controls such as requiring overseas police checks.
 - c. Verification of students by OEIs: It was confirmed that the verification system in place for student applicants is available to all OEIs, but it was too early to report on the benefits of the system.
 - d. It was confirmed that within the Business Plan 2021-22, there is activity which focuses on the international pathway which allows Council’s continuing oversight.
 - e. Amendment Order: Fees Rule: This was with DHSC and the Chief Executive had no further update for Council. Although no delays were envisaged it was noted there could be no guarantee that agreement to the amendment could be inferred.

Noted: Council noted the contents of the matters arising report.

Item 5: Chair's Report: Appointments and reappointments

7. The Chair introduced his report which provided an update on the appointment and reappointment activity being taken in business year 2020-21.
8. The Chair acknowledged and paid tribute to the GOsC staff for their work to ensure and maintain the operation of the organisation during the ongoing challenges presented by the COVID-19 pandemic.
9. The following points were highlighted:
 - a. Institute of Osteopathy (iO): A very useful bilateral meeting was held with the iO, and it is encouraging there is much closer collaboration between the organisations in progressing the development of the profession.
 - b. Regulatory Reform: to date there has been no consultation document published nor has there been any firm commitment to a timeline for regulatory reform. There is a concern that the reforms process could lead to a two-tier system of regulation with some regulators having more flexible legislation while others have outdated legislation. A meeting of the Health Regulator Chairs is to be convened for March 2021 to discuss the issues and possibly bring some influence to ensure commitment and clear timeline for the reforms.

Appointments and reappointments

- c. The Chair acknowledged the work and commitment of Committee members and was pleased to recommend the reappointments as set out in the paper.
10. In discussion the following points were made and responded to:
 - a. Members were informed that Council and Committee members can serve for a maximum of eight years. A reason for the tenures of three-years and four-years is to stagger terms to ensure continuity.
 - b. It was confirmed that although there had been a large number of applications for the recruitment to the fitness to practise Investigating Committee (IC) and Professional Conduct Committee (PCC), as with previous recruitment rounds, the number of registrant applications remained consistently low with an average of eight applications. It was recognised there is a need to consider how registrant applications for governance roles can be encouraged, as well as capturing the learning from the recent recruitment exercise. These questions will be considered as part of the discussions at the meeting of the Remuneration and Appointments Committee in March 2021.
 - c. In taking this objective forward the following would to be considered:

- Working with the iO to educate through an open day.
- The need to use osteopathic voices to encourage registrant participation.
- To develop and promote the Council associate roles and consider how to identify and develop future governance leaders.

d. It was confirmed that the IC interviews had concluded, and Council would be given a further update about this and the PCC recruitment in due course.

11. The Chair offered his congratulations to the reappointed members of the IC, PCC, and the Policy & Education Committees.

Non-Executive and Screeners Fees

12. In December 2020, the Remuneration and Appointment Committee sought Council's agreement by email for the following:

- To recommend no change to Chair of Council, Council members and Chair of Committee's annual allowances.
- To recommend no change to Council member expenses.
- To recommend an increase in the Screeners Fee based on a tiered system (*with effect from 1 January 2021*):
 - Cases closed under the Initial Closure Procedure - £20
 - Cases closed under the Threshold Criteria or referred to the Investigating Committee - £25

13. The Chair confirmed that the recommendations had been approved and implemented as set out.

Noted: Council noted the appointment activity for 2020-21.

Agreed: Council agreed the following reappointments:

Investigating Committee	Professional Conduct Committee	Policy and Education Committee
<i>Four years to 31 March 2025</i>	<i>Four years to 31 March 2025</i>	<i>Four years to 31 March 2025</i>
Sue Gallone	Tom Bedford	Dr Marvella Brown
Catherine Hamilton-Plant	Alastair Cannon	Bob Davies
Linda Hawkins	Colin Childs	Prof. Raymond Playford
Debbie Watt	Helena Greenwood	Nick Woodhead
Tamsyn Webb	Kenneth McLean	
<i>Three years to 31 March 2024</i>	Nora Nanayyakara	
Eleanor Harding	David Propert	

Item 6: Chief Executive and Registrar's Report

14. The Chief Executive introduced the report which gave a review of activities and performance since the last meeting of Council, November 2020, and not reported elsewhere on the agenda.

15. The following points were highlighted:

- a. The International Perspectives in Values-Based Mental Health Practice: congratulations were offered on the publication of a chapter written by GOsC colleagues including Tim Walker, former Chief Executive and Registrar. The publication demonstrates the GOsC's commitment to innovation and development.
- b. PSA Performance Review 2020-21: the performance review process for the GOsC is currently underway, and the outcome of organisation's performance against the Standards of Regulation is expected by the end of March 2021.

PSA Consultation – Performance Review process: the Executive will develop and submit a response to the PSA consultation on the performance review process. The deadline for submissions is 4 March 2021, and the four key areas being considered are:

- Scope of reviews: should all the Standards of Good Regulation be assessed annually for all the regulators?
 - Assessing risk: how can PSA best identify risks to public protection and public confidence through the performance review process?
 - Decision-making: should PSA retain the current binary system - where regulators meet or do not meet a Standard - or adopt a different approach?
 - Supporting improvement: how can PSA ensure that our performance reviews add the greatest value and enhance the work of the regulators in protecting the public?
- c. Meetings with the Allied Health Professions: Successful, useful meetings have taken place with the Chief Allied Health Profession Officers (CAHPOs) for England, Northern Ireland and Wales. There are plans to try and arrange a meeting with the CAHPO Scotland.
 - d. National Council for Osteopathic Research (NCOR) virtual conference: The conference was attended by Fiona Browne and members of the Professional Standards team, Stacey Clift, Rachel Heatley, and Kabir Kareem who

delivered presentations. The conference presented a lot of high-quality research which could contribute to the work of the GOsC.

16. The following points were made and responded to:

- a. PSA Performance Review: The Chair acknowledged the importance and significant work associated with the PSA annual review submission but also with regards to resources emphasised the need for proportionality and balance. The Chief Executive added that he welcomed the consultation but was cautious about some of the proposals such as using Thematic Reviews which had the potential to be resource intensive for the GOsC.
- b. Allied Health Professions: The meetings with the CAHPOs for Northern Ireland and Wales provided them with the assurance that osteopaths have the same level regulation and statutory underpinning as other regulated health professionals. It is not the role of the GOsC to advocate for the status of osteopaths as allied health professionals but GOsC can highlight the challenges for patients and the public in terms of perceived barriers. Both the GOsC, as regulator, and the iO, as the professional body, have in discussions with the AHPs promoted these issues from their respective positions.
- c. AHP England and Osteopaths eligibility for vaccination: It was confirmed that there has been recognition that osteopaths fall under Priority 2 of the Joint Committee on Vaccination and Immunisation guidance. Working with the iO the GOsC has responded to requests for assistance in identifying and locating registrants to ensure they are included in the vaccination programme from regional Clinical Commissioning Groups.

17. Business Plan: The Chair commented that he was impressed how much had been achieved in the Business Plan despite the challenges of 2020 and the COVID-19 pandemic.

18. Finance Report:

- a. UK Practising / UK Non-practising (Para14): It was confirmed that there was an almost direct correlation in the number of registrants moving from practising (-70) to non-practising (+74) due to the pandemic. In a normal year there would be approximately 160 registrants in the non-practising category, and it is unknown whether the current number of 240 will become the new normal or, with the roll out of vaccination plan, whether this number will reduce. This will remain closely monitored.
- b. Designated IT budget: It was confirmed that the designated budget for IT would not be above £75,000 and there might be a small reduction in the planned upgrade work previously discussed by Council.

19. The Chair thanked the Executive team for the delivery of the Business Plan and Budget to date under unprecedented circumstances.

Noted: Council noted the contents of the Report.

Item 7: Fitness to Practise Report

20. The Director of Fitness to Practise introduced the report which gave the quarterly update on the work of the Regulation department and the GOsC's Fitness to Practise committees.

21. The following points were highlighted:

- a. Remote Hearings: to date remote hearings continue to work well. Feedback is being collected from all parties to update the interim protocol on remote hearings prior to consultation.
- b. Caselines: the electronic Cloud based system has been implemented and allows all parties in a remote hearing to access documents confidentially and also enables additional usability for panellists to highlight and make notes on their documents.
- c. Section 32 prosecutions: Due to the COVID-19 pandemic, delays remain across the court system. There is one outstanding prosecution pending for an alleged breach of section 32 which is to be heard at Magistrate's Court but has experienced further delay. It is hoped there will some clarity on when the case will progress in due course.
- d. High Court Appeal Judgement – Wray v the General Osteopathic Council: following the statutory appeal hearing, Wray v General Osteopathic Council which took place on 19 November 2020, the appeal was allowed, and the finding of the PCC quashed for the reasons as set out, based the Judge's interpretation of section 14 Powers of Criminal Court Sentencing Act 2000 (POCCS Act 2000) on professional regulatory proceedings.
- e. The GOsC has sought permission from the Court of Appeal to appeal the decision of the High Court.

22. In discussion the following points were made and responded to:

- a. Members were informed that a rehearing of Wray v the General Osteopathic Council would not be possible due to the rule of "double jeopardy" and be considered an abuse of process.

The threshold for the application, for what is the second appeal, to the Court of Appeal is very high and is rare as the Court is where the law is set or is clarified. There has been no indication as to when the appeal will be considered but once the Court has made its decision this will inform the next steps. Although the GOsC has sought permission to make an appeal it does not mean that if permission is granted the GOsC will appeal but it will determine the next steps that may need to be taken. The issue for the GOsC

is one of clarification but there are other factors to be considered i.e. reputational damage.

- b. It was also noted that if the decision were upheld it would set a precedent for other regulators, where a registrant has been given a conditional or absolute discharge, impacting on the way a case is investigated and presented.
- c. In deciding the appropriate course of action, views may be sought from other regulators and also the PSA.

23. FtP Dataset: the Regulation Manager highlighted the following points:

a. Key Performance Indicators: Due to the challenges posed by the pandemic the number of cases in process slowed in the summer and therefore have had an impact on the key performance indicators. The following were highlighted:

- Screening: The median achieve at the screening stage has increased by two-weeks over Q3 due to a small number of cases taking a greater number of weeks to progress:
 - The complainant disengaging with the process;
 - a lack of engagement from a third party to provide information;
 - waiting for information from the police.

Cases considered in the shortest timeframe were those which progressed to ISO hearings.

- Investigating Committee: There has been an increase in the median by two-weeks. Two of the eight cases considered had a significant impact:
 - One case was severely impacted by the current COVID-19 pandemic making it difficult to obtain information from the police.
 - Liaising with a vulnerable witness engaging and disengaging with the process.

It is evident that the pandemic has had an impact on the KPIs and there will be consideration on how to chase complainants and witnesses for information acknowledging the difficulties of the current situation.

- Professional Conduct Committee: at the beginning of the pandemic all substantive hearings were postponed until July 2020 which has impacted on the KPIs but one of the cases considered by the PCC was considered within 50 weeks and within the KPI.

b. Caselines: The launch of Caselines, cloud-based system allowing parties confidential access to documents, has been very successful and feedback has been positive. The Committee members received training at the end of 2020 and to date the system has been used for four hearing.

- c. The case load for the Regulation team has reduced considerably in the past 12 months and is a credit to the team in maintaining operations during a challenging year. It is acknowledged that the pandemic has had an impact on KPIs, the ftp process and that hearings are taking more time than is usual, but all areas of the ftp process are being kept under continuous review.

24. In discussion the following points were made and responded to:

- a. Referrals to the IC: It was explained that the reduction in the number of new referrals to the IC was linked to the number of complaints received about COVID and Personal Protection Equipment (PPE) but not progressed due to complainants not engaging with the complaints process beyond the initial complaint. It was therefore not possible to take the complaint beyond the initial stages. It was added as there had been an increase in concerns relating to PPE the GOsC will be publishing a statement for registrants to re-enforce the information about infection control and the available guidance.
- b. Interim Suspension Orders (ISO): It has been noted that of the three cases considered by the IC during Q3 no ISOs had been granted. There were a number of reasons for this:
 - The GOsC FtP Committees can only impose suspension orders and cannot impose interim conditions of practice.
 - It is recognised that cases in question are serious, potentially involving sexual impropriety, and have been progressed quickly using prima facie evidence.
 - The findings of the IC are based on the assessment of risk rather than findings of fact, and a suspension would be considered disproportionate in the circumstances.
 - It is being considered whether undertakings can be facilitated with registrants where it is considered that this will meet the risk.
 - This is comparable with other regulators where they may impose conditions allowing the registrant to practise but with restrictions to cover the risk identified.
- c. It was noted that the IC had recently imposed an ISO against an individual (outside of the reporting period presented to Council) and this suggests the IC are being proportionate in their approach.

Noted: Council noted the contents of the Report.

Item 8: Communications and Engagement Strategy

25. The Head of Communications and Engagement introduced the item which set out how the GOsC are reinvesting resources to give effect to the Communications and Engagement Strategy 2021-24. The Strategy is focused on a more balanced approach to engagement as well as communications.

26. The following points were highlighted:

- a. A new draft Communications and Engagement Strategy for 2021-24 was developed following the Council strategy day in September 2020 and discussed at the private session of Council in November 2020.
- b. The strategy presents a rebalancing of activity with an increased emphasis on listening, insight, and the continuation of outward communications.
- c. The draft strategy has been amended in line with feedback from Council and has been shared with stakeholders including patients and osteopaths. The feedback received has been positive and supportive.
- d. The final magazine will be published towards the end of February 2021. All other communication activities will continue while the new strategy is introduced and implemented.
- e. The transitional activity matrix will assist in keeping the varying needs and perspectives of GOsC audience in mind and will act as a tool to bring together shared insights on what is important to stakeholders to improve future messaging and activity. The matrix should provide a helpful overview of activities and be straightforward to maintain.
- f. A two-stream approach (immediate/transitional and longer term) is designed to ensure that the principles of the Communications and Engagement Strategy 2021-24 will be implemented as soon as the Business Plan 2021-22 period commences. That Business Plan includes a focus on the diversity of stakeholders, informing activity and listening.
- g. It is also planned to gradually record and systematise the messages received, the insights derived from these and the next steps to inform future activity. It is intended to evaluate this over a three to six-month period to show activity against each of the aims, and to show how and why the communications and engagement activities will change over time in response to the insight gained.

27. In discussion the following points were made and responded to:

- a. Members expressed how impressed they were with the work completed on the strategy to date, commenting on the overlap and integration of the different aspects of GOsC's work. It was suggested that what has been

achieved should also be included. It was suggested that the Executive should demonstrate and articulate its successes.

- b. Principles: In response to the suggestion that there could be a little more emphasis towards being a little more innovative and creative it was explained that the focus is on the needs and wants of the stakeholder audience. How the need is fulfilled is dependent on what the need is, therefore if a more innovative route is required the need will be addressed.
- c. The Chief Executive indicated the need to ensure resources were used appropriately and effectively but also gave the assurance that creative and innovative approaches are fundamental to the Communications and Engagement Strategy citing the example of a recent and very successful fitness to practice and Continuing Professional Development webinars. With further webinars to follow these would help to demystify many operational processes and put a 'human face' to the organisation.
- d. It was confirmed that a Welsh translation of the strategy is to be taken into consideration in keeping with the aims of equality, diversity, and inclusion.
- e. To ensure the priorities of stakeholders are identified there will be meetings with stakeholders to consider their needs and priorities. Although it was not envisaged the Transitional Activity Matrix would be presented to Council, developments could be presented, for example, as a communications insight report to articulate the priorities. It was emphasised that in moving forward there was a need to build trust when implementing the strategy.

Agreed: Council agreed the Communications and Engagement Strategy 2021-24 subject to including an emphasis on innovation and creativity.

Agreed: Council agreed the approach to implementation

Item 9: Equality, Diversity and Inclusion

- 28. The Chief Executive introduced the item which presented Council with the key finding of the independent audit of the GOsC approach to Equality, Diversity and Inclusion (EDI) completed in 2020.
- 29. The paper set out the key finding of the audit and the initial actions the Executive propose in order that there can be a focus on implementation of identified recommendations.
- 30. The following points were highlighted:
 - a. The audit did not find any breaches of the Equalities Act 2010.
 - b. It is important to act in order to refresh current Equality and Diversity policy. The draft framework 2021-24 presented sets out the legal responsibilities, intended actions and the EDI governance.

31. The following points were made and responded to:

- a. Members were pleased with the document and noted the interconnectivity between aspects of the GOsC's work and its values. Members also commented that the implementation of an EDI staff group was encouraging.
- b. It was acknowledged and agreed that there would be wider engagement on the EDI policy with stakeholder groups.

Although the audit did not identify any breaches relating to the Equality Act 2010 areas of improvement were highlighted and these are indicated in the actions to be taken. It was confirmed that how success is to be measured will be included in the next phase of work.

32. In summary the Chair:

- a. Advised that there is a need to be realistic in relation to timescale and implementation which must be considered in terms of the number of initiatives planned and what can be achieved.
- b. Encouraged members to provide any further feedback to the Executive.

Noted: Council noted the content of the Equality, Diversity, and Inclusion audit.

Noted: Council noted that there would be further discussion on the Equality, Diversity and Inclusion policy at the meetings of the Audit and Remuneration & Appointments Committees.

Item 10: Patient Engagement

33. Rachel Heatley, Senior Research and Policy Officer, introduced the item which set out the patient engagement strategy and future plans to embed the patient voice across all work of the GOsC.

34. The following points were highlighted:

- a. The thinking for the Patient Engagement Strategy has been informed by a wide stakeholder consultation. The consultation was conducted over four-months and included other regulators and patients and stakeholder groups.
- b. In benchmarking against other regulators, the GOsC is found to be leading in its approach and the thinking has been tested and influenced by patient experts in the health sector.
- c. The action plan looks to ensure that patients can have a positive experience in a safe space, that a detailed supportive and empathetic induction to the GOsC and that there is a dedicated point of contact.

35. In discussion the following points were made and responded to:

- a. Members commended the excellent work which had been undertaken and it was good to see the GOsC at the forefront in an important piece of work. It was asked that it be ensured that the work and findings from the initiative are shared across the profession and with stakeholders.
- b. It was noted that osteopaths are open to learning and keen to learn more about the patient experience and engagement as demonstrated at a recent seminar.
- c. It was confirmed that the work on the Patient Engagement initiative would continue as part of the Business Plan for 2021-22 with an increase in resources as outlined in the Budget for 2021-22.

Noted: Council noted the Patient Engagement Strategy and the plans envisage to progress the initiative.

Item 11: Business Plan and Budget 2021-22

36. The Chief Executive introduced the item which provided Council with the draft Business Plan and Budget for 2021-22.

37. The following points were highlighted.

- a. The Business Plan 2021-22 demonstrates the ambition of the GOsC as highlighted at paragraph 8 of the report (below) but it is also considered to be realistic in terms of resources:

“The Business Plan describes how we wish to empower and support our registrants, for example through the delivery of the continuing professional development scheme; it describes collaboration with our partners across the regulatory sector; it strengthens our approach which is to place the patient at the heart of what we do; but importantly, the plan does not deviate from delivering our core statutory functions.”

- b. Specific areas which demonstrate the ambition, emerging thinking and values include:
 - Support of CPD programme.
 - The ongoing Communications and Engagement activity supported by the Communications and Engagement Strategic Plan 2021-24.
 - The demystification of fitness to practise processes and other aspects of GOsC business through webinars and online forums.
 - The Council associate programme to identify future governance leaders.

- c. Although the Business Plan is ambitious, due to the current environment and some of the unpredictability the environment presents, there is a limit to the number of new goals.
- d. The concept of the 'value proposition', is being developed which articulates the GOsC's regulatory activities adding value in the areas of:
 - Supporting patient health and wellbeing
 - Supporting the development of the profession
 - Maintaining integrity and organisation leadership
- e. A tight budget is forecast for 2021-22 recognising the financial circumstances of the organisation considering the ongoing pandemic situation. There is a small surplus position of £14,000. The Budget has been prepared against core budget principles and ensures that what has been highlighted in the plan the underpinning resources are available to deliver. It is recognised there is a level of uncertainty but the agility and flexibility of the organisation to meet the challenges have been demonstrated in the past year.

38. In discussion the following points were made and responded to:

Business Plan and Budget Report

- 39. Members commented that the value proposition is good. It will be an easy and positive way in showing how registrants fees are spent and may help to enhance the registrant/regulator relationship.
- 40. Members suggested that that third 'Values proposition pillar' be split and 'unpacked' a little more and that some of the terminology and wording might be simplified.

The Executive acknowledged and welcomed the comments which would be considered by the Audit Committee.

- 41. In response to the comment as to whether the stress test was adequate the Chief Executive responded that he was comfortable that the test meets requirements for the current climate. The GOsC has experienced a very challenging year and could take confidence in its flexibility and agility to deal with the challenges. The Chief Executive commented that he did not feel compelled to stress test the budget beyond what is set out but this could change as the organisation moves forward.

Business Plan 2021-22

- 42. Corporate Social Responsibility: Members were pleased that Corporate Social Responsibility has been featured in the business plan. The Chief Executive commented that it was too soon to provide any further details on activities at this point but the initiative will link to the GOsC's role as a charity and also work

to ensure procurement is sustainable, will look at ways of reducing the GOsC's environmental footprint, and engaging with the local community. Further discussion and input from members on the CSR activities would be welcome.

43. It was agreed that an endpoint for all activities should be included as part of the business plan in order to make timeframes and envisaged delays clear.

Budget 2021-22

44. It was confirmed that the CRM upgrade which the GOsC is eligible for is included in financial year 2020-21.

Agreed: Council agreed the draft Business Plan 2021-22

Agreed: Council agreed the draft Budget 2021-22

Item 12: Policy and Education Committee: minutes of the additional meeting 7 December 2020.

45. The Director of Education Standards and Development made the following additional comments:
- a. The additional meeting focused on the Mott McDonald interim Quality Assurance Handbook and discussion of two visits.
 - b. The final version of the QA Handbook is to be considered by the Committee at a future meeting.

Noted: Council noted the minutes of the Policy and Education Committee meeting 7 December 2020.

Item 13: Any other business

46. There was no other business and no further comments from the observers.

Date of the next meeting: 20 May 2021 at 10.00