

GENERAL OSTEOPATHIC COUNCIL

The minutes of the 67th meeting of the General Osteopathic Council held in public on Wednesday 14 April and Thursday 15 April 2010

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Chair: Professor Adrian Eddleston

Present:

Geraldine Campbell	Kenneth McLean
Jonathan Hearsey	Robin Shepherd
Nick Hounsfeld	Julie Stone
Professor Ian Hughes	Fiona Walsh
Kim Lavelly	Jenny White
Brian McKenna	

In attendance:

Evlynne Gilvarry, Chief Executive & Registrar (CE)
Fiona Browne, Head of Professional Standards
Alan Currie, Head of Registration and MIS
Matthew Redford, Head of Finance & Administration
Velia Soames, Head of Regulation
Brigid Tucker, Head of Policy and Communications

Marcus Dye, Professional Standards Manager
Sarah Eldred, Communications Manager
Jane Quinnell, Governance Manager

1. Marina Urquhart-Pullen, President-elect, from the British Osteopathic Association (BOA), and Francisco Gomez, Osteopath, were welcomed as observers to the meeting.

Apologies

2. Apologies were received from John Chuter and Paula Cook.

Questions from observers

3. Marina Urquhart-Pullen enquired whether the data collected by KPMG, as part of its work in relation to Revalidation, would be shared with the profession. An answer to this question would be provided after the meeting, once the legal position in relation to use of the data collected, had been clarified. A report would be made to the next Council meeting.

Minutes

4. The minutes of the public session of the Council held on 19 January 2010 were signed by the Chair.

Matters arising

5. Scope of Practice It was confirmed a Scope of Practice document drafted by various osteopathic specialist interest groups and the British Osteopathic Association would be discussed at a meeting with the GOsC on 10 May 2010. .

Chair's report

6. The Chair presented his report.

CHRE Symposium The symposium had discussed the value of healthcare regulators using common data sets and the potential of a single regulatory framework for all healthcare regulators. It was noted that a single regulatory framework, whilst likely to be resisted by some regulators, was worthy of discussion; it could, for example, have the effect of streamlining the processes of amending legislation. The Council agreed that the issue should be the subject of a periodic review to ensure readiness to respond should such a measure become a firm proposal in the future.

7. The Chair reported that several of the healthcare regulators had experienced problems arising where Fitness to Practise (FtP) panellists held portfolios of appointments with FtP committees of other regulators. Smaller regulators were particularly at risk of struggling to make up panels where their FtP panellists were already committed to the often more lengthy hearings of larger regulators. The Chairs had invited the Chief Executive of the Appointments Commission to their next meeting to explore the legality of not appointing panellists who held other similar appointments likely to lead to problems of availability. The Council noted that whatever approach was proposed, it would be important not to lose out on the experience and the skills that FtP panellists brought from their other appointments.
8. GOsC/BOA meetings To date, meetings between the BOA (President and Chief Executive) and GOsC (Chair and Chief Executive) had been conducted on a confidential basis. In future, with the agreement of both bodies, business discussed would be the subject of a report to the respective Councils, except in the case of items of extreme sensitivity.

Chief Executive's report

9. The Chief Executive (CE) presented her report.

Section 60 Order A Section 60 Order which was expected to include a list of many important legislative changes for the GOsC had been postponed until after the General Election. It was now expected to be published in July and likely to come into effect between 18 months and 2 years later. A further Section 60 Order, to deal with Fitness to Practise issues, was expected later in the year. .

10. Mystery Shopping Results of the CHRE initiative to test the effectiveness of handling of calls from individuals who felt they had a cause for complaint showed the GOsC in a very

favourable light. This pilot initiative by the CHRE had been carried out by an independent company. The feedback reports included full transcripts of calls taken from mystery shoppers.

11. CHRE Performance Review The GOsC had just received the draft report on performance for 2009/10 which was favourable. The final report would be published in the July 2010.
12. Osteopathic International Alliance (OIA) The Chief Executive presented a report of the recent OIA Board meeting; the GOsC has a seat on the board. A key point of discussion was the imminent publication by the World Health Organisation of a Benchmark on Basic Training and Safety in Osteopathy. The content of this much delayed publication had been agreed by a range of osteopathic organisations, including the OIA and the GOsC, in 2007. The delay in publication had been due to the WHO's decision to refer the draft document to a special committee for a view on whether it should attract the title 'Guidelines'. The decision of that committee finally emerged in December 2009; it concluded that there was insufficient evidence in relation to osteopathy to justify the label 'Guidelines'. The replacement label of Benchmark was chosen following consultation with the drafting organisations and the publication is due to be published in the early Summer. The WHO had ruled out circulating a final draft prior to publication. However, it had offered its assurance that the content was that agreed in 2007. At that stage the GOsC had succeeded in securing necessary changes to the document.

Stakeholder engagement report

13. The Head of Policy and Communications presented the report which detailed engagement with all stakeholders since January 2010.
14. Highlights included:
 - a. The Regional Communications Network meeting scheduled for 21 May 2010 where nearly all of the 33 Societies would be attending.
 - b. An analysis of student feedback from the GOsC presentations to those in their final year at Osteopathic Educational Institutions. The feedback was overwhelmingly positive.
 - c. Publication of e-bulletins – one dealing with regulatory news, the other with Fitness to Practise issues as a new way to reach the profession.
 - d. A draft Public and Patient engagement strategy would be presented for debate at the next Council meeting.
15. The Chair noted that at the private session before the Council meeting, it had been agreed to establish a working group, chaired by Robin Shepherd, to develop a strategy for engagement on regulatory issues with the profession.
16. In response to a question on the inability of regulators to test the languages of applicants from other EU countries, the Communications Manager confirmed that the Alliance of UK Health Regulators on Europe (AURE) was exploring the development of a joint statement to the Department of Health pressing for a change to the legislation. This issue had been brought to light with the prominence of the Ubani case (involving a German doctor who administered a fatal overdose to a patient whilst on a locum in the UK) and the report from a cross-party committee of MPs calling for a move to

compulsory competence and language testing of all health professionals coming into the UK. A review of the EU directive on recognition of professional regulations was currently underway and AURE would also use this opportunity to lobby the European Commission. The GOSc, through FORE, had already made representations to the European Commission on this directive and would continue to feed into the Commission's review.

17. A Council member requested that feedback from the meeting with the Advertising Standards Authority, led by representatives of the NCOR and the BOA, be included in the agenda for the next Regional Communications Network meeting scheduled for 21 May 2010.

Equality and Diversity

18. The Head of Regulation presented a paper which reported on progress made in implementing activities relating to the GOSc's Equality Scheme. It was noted that the new Equality Act had just been passed and would come into force in October 2010. Council member Jenny White reported that the Act was very long and complex with many Schedules and that the language was quite opaque in parts. She recommended that a budget adequate to ensure training for staff and non-executives on the implications of the Act be set aside.
19. A request was made that the recently published CHRE Report on the health regulators' role in healthcare for people with disabilities be shared not only with the OEIs and other relevant organisations but also the profession.

INTERNATIONAL AFFAIRS

Reciprocal registration arrangements with Australia and New Zealand

20. The Chief Executive and the Communications Manager presented the paper which updated the Council on the progress of GOSc talks with the osteopathy regulatory bodies in Australia and New Zealand to identify and agree registration arrangements that would enable each regulator to meet their statutory duties, whilst removing unnecessary obstacles to the migration of osteopaths. A Memorandum of Understanding had been agreed setting out the commitment of the three regulators to work together to identify and agree appropriate arrangements for registering osteopaths from the three countries. It was noted that a key element in the talks aimed at agreeing reciprocal registration arrangements would be the need to share full, relevant information on registrants. Other issues to be taken into account would be CPD cycles, and in due course, Revalidation. In addition, the position of non-UK graduates emanating from EU countries would also have to be considered in framing reciprocal arrangements. The aim was to have the arrangements in place by January 2012.
21. **Agreed** the Chair of Council had authority to sign the Memorandum of Understanding on behalf of the GOSc.

FINANCE/ GOVERNANCE/SECRETARIAT

Finance & General Purposes Committee

22. The Head of Finance presented the minutes of the last meeting of the Finance & General Purposes Committee (F&GP) on 22 February 2010 and highlighted the following points:

- a. Investment Strategy A tender exercise to appoint a firm to deal with the GOsC's investment strategy was completed in March 2010; Newton Investment Management had been selected.
- b. Business Plan 2010-2011 The draft Plan had been considered and, subject to a number of amendments since incorporated, approved by the F&GP.
- c. Reserves Policy The F&GP agreed to abolish the Fixed Asset fund and reappropriate those funds back into General Reserves.

Business Plan and budget for 2010/11

23. The Chief Executive presented the draft Business Plan and budget for 2010/11 which was to be read in conjunction with the risk analysis and the budget report attached. She confirmed that the Business Plan was fully costed and reports on its implementation would be made to the Council at each meeting.
24. The Business Plan and budget for 2010/2011 was discussed and the following points and suggestions for amendments were made:
 - a. The risk of failing to dispose of Fitness to Practise cases within time targets should be added to the risk analysis document
 - b. Adequate provision should be made in the budget to cover training in the Equality Act 2010
 - c. Page 19, last two bullet points under 4.1 duplicate – remove one entry.
 - d. There was some scope to refine the Risk Analysis attached to the Business Plan further as most links to the top level register were top level risks 1 and 2. This would be taken forward by the Audit Committee.
25. Council **approved** the Business Plan and Budget for 2010/2011 subject to the changes listed above.

Financial matters

26. Council **noted** the paper which identified the main features of the Management Accounts for the 11 months ended 28 February 2010. It was **agreed** that for further clarity, future reports would note the expenditure of all departments against budget forecast.

Remuneration Committee

27. Minutes of last meeting Council **noted** the minutes of the last meeting of the Committee on 24 February 2010. The Chair of Council (also Chair of the Remuneration Committee) reported that an external member would be appointed to the Committee. A suitable candidate had been identified and his CV would be circulated to Council for approval.
28. Revised Terms of Reference A paper proposing an addition to the terms of reference of the Remuneration Committee to include responsibility for considering and making recommendations to the Council on remuneration of the GOsC's governance structure, was considered by the Council. The Council **approved** the revised terms of reference.

29. The importance of succession planning in relation to non-executive and executive members of the GOsC was highlighted by one member of the Council. **Agreed** that a paper would be brought back to the Council with proposals for succession planning in both circumstances.
30. The Council was informed that the Senior Salaries Review Body's annual report (the Body whose recommendations would be taken into account in reviewing non-executives remuneration) had just been published and therefore the annual review of remuneration and expenses allowances for members of the governance structure could get underway.
30. Transparency of costs of Governance and Senior Executives The Chief Executive presented a paper proposing that the GOsC should adopt the practice of annually publishing details of remuneration of and expenses reimbursed to non-executives. It also proposed that the Chief Executive's salary, pension and national insurance contributions should also be published. The proposals had been approved by the Remuneration Committee and the Council was invited to approve them in turn. A number of members expressed the view that, in the interests of complete transparency, the expenses of individual members should be published, rather than a cumulative sum as agreed by the Remuneration Committee. The amounts should be accompanied with a description of the rules for claiming expenses.
31. It was confirmed that the Remuneration Committee had considered the issue of publishing the remuneration of the senior management team, in addition to the Chief Executive, but had decided against this at this stage. A question was raised about whether others such as the Regional Communications Network representatives who received a daily rate for attendance and expenses should be included in the annual report. It was agreed that this question should be remitted to the Remuneration Committee.
32. **Agreed** the Remuneration Committee's recommendation that the following information should be published in respect of non-executives and the Chief Executive:
 - a. Annual fee of Chair of the Council
 - b. Annual fee of Council members
 - c. Annual fee of Chair of the Finance Committee (Treasurer), Audit Committee and Chair of Education Committee;
 - d. Daily rates paid to non-Council committee members;
 - e. Amounts paid in expenses to individual Council members and committee members;
 - f. Total employment costs of the Chief Executive, i.e. salary, pension, National Insurance.

Accountability and Governance

33. The Chief Executive presented a paper, jointly developed with the Treasurer, setting out proposals to enhance accountability and governance of the GOsC. The proposals had been approved by the F&GP and the Council was now invited to give its approval to them. The key element of the proposal was the provision of specific management information - or key indicators - on a regular basis as a means of assuring the Council that the GOsC is fulfilling its statutory objectives. The Council **approved** the proposals.

Governance documentation Review

34. The Chief Executive presented a paper inviting the Council to approve the revised Governance Handbook and associated documentation. All governance documentation had been reviewed to coincide with the establishment of the new governance structures. The review involved a complete overhaul of existing documentation and the drafting of new Standing Orders. All Council members were consulted.
35. The Executive was asked to re-draft the following::
- a. Para. 50 of the Standing Orders – it was felt that this sentence on ‘recording’ meetings required rephrasing.
 - b. Chairing non-statutory committees – it was felt that some re-drafting was required to make it clear that a suitable qualified professional member (an osteopath) could be Chair of the Audit Committee.
36. Subject to the above two revisions, the Council **agreed** the new governance documentation.

RESEARCH STRATEGY

National Council for Osteopathic Research (NCOR) – Annual Report 2008-2009

37. The Head of Policy and Communications presented NCOR’s Annual Report for 2008-09, which included an overview of the status of key current projects, along with research reports from each of the Osteopathic Educational Institutions (OEIs).
38. It was noted that the NCOR website, which includes a searchable database of published osteopathic research, is embedded in the University of Brighton University’s website; members were concerned about the implications of this, in the event that in the future NCOR is relocated outside of the University of Brighton University
39. It was confirmed that the GOsC did know about the British College of Osteopathic Medicine’s study that was similar to the OPEn project when the tendering took place for the OPEn project.
40. Members expressed concern about the lack of consistency in the presentation of OEI research reports and recommended that in future NCOR should provide OEIs with a template for the required information. The presentation of common data would afford stakeholders a clearer sense of the quality of research activity in each institution
41. Council **noted** NCOR’s Annual Report for 2008-09.

4.00pm – Kim Lavelly left the meeting.

Future relationship with National Council for Osteopathic Research (NCOR)

40. The Head of Policy and Communications presented the paper which reported the conclusions of the Research Strategy Working Group (RSWG) review of the GOsC's relationship with the NCOR in light of the GOsC's own research priorities. It was noted that the GOsC had provided the bulk of the NCOR's operational funding in its first 5 years, along with smaller contributions from the other stakeholders, on a year by year basis for the last 3 years. It was also noted that the NCOR was also undertaking a review of its future and the work involved in this would be advanced further at a meeting arranged for 7 May 2010. In light of this a decision by the Council was timely. The Council was invited to accept or reject the conclusion of the RSWG that funding of the NCOR should be discontinued; and if accepted, to choose between the following options:
 - a. that funding should be discontinued at the point of expiry of the current NCOR Chair's tenure;
 - b. that funding should be phased out over a 3-5 year period.
41. In the course of the debate the following points were made:
 - a. 2012 was a watershed as it coincided with the expiry of the current Chair's appointment and would then lead on to whether NCOR would remain at Brighton University.
 - b. It was accepted that the GOsC could not continue to finance the NCOR's operational costs indefinitely. The Council considered a range of options including progressively reducing financial support of the NCOR and offering funding on a matched basis with another funder(s).
42. After a lengthy discussion, the Council **agreed** that it should discontinue funding in the future and that the point at which funding would cease should coincide with the expiry of the term of appointment of the current Chair, Professor Ann Moore. The Council remitted to the RSWG the task of developing proposals for how the GOsC could have input to the work of the NCOR in the run up to 2012. It also looked to the RSWG to liaise with the NCOR on the amount of operational support required for 2011/12.
43. A letter would be sent on behalf of the Council to the NCOR to explain the rationale behind the Council's decision. A draft of the letter would be approved by the Council in advance of being sent to the NCOR.

4.30pm – Geraldine Campbell and observer, Francisco Gomez, left the meeting.

National Council for Osteopathic Research – application for funding for 2010/2011

44. The Head of Policy and Communications presented a paper which invited the Council to approve a recommendation of the F&GP that the GOsC should fund the operational costs of NCOR for the financial year, 2010/11.
45. **Agreed** to accept the F&GP's recommendation to fund the operational costs of NCOR for the financial year 2010/2011.

Patient Expectations Research

46. The Head of Policy and Communications presented a report on progress of a research project commissioned by the GOsC into patient expectations of osteopathic care. The OPEn Study project, begun in February 2009, was in its final phase, with a report of the findings expected in May 2010. To date, 1,606 questionnaires had been returned (1 from Northern Ireland, 99 from Scotland, 37 from Wales and 1,469 from England). The data was currently being entered and following analysis, a full report would be submitted to the GOsC. This was likely to be later than the original April deadline but the Council accepted the need to ensure time to produce a comprehensive report.
47. The Steering Group on the OPEn project were thanked for their assiduous monitoring of the project, which had encountered significant challenges along the way.

PROFESSIONAL DEVELOPMENT

Education Committee (EdC)

48. The Chair of the Education Committee presented the minutes of the Committee's meeting on 18 March 2010. He highlighted the debate on dispensing with the use of Lay Observers for recognised qualification matters and the decision made by the EdC to canvass OEIs' opinion by email on the issue. It had been agreed that if no objection was raised, the Lay Observer role would be discontinued immediately.

Revalidation

49. Evaluation and Impact assessment of the draft Revalidation Scheme The Head of Professional Standards introduced the paper which updated the Council on progress in evaluating and undertaking an impact assessment of the draft revalidation scheme. KPMG had won the tender to undertake the evaluation and impact assessment. Council **endorsed** the appointment of KPMG to carry out the work. The KPMG team led by Senior Partner, Ashley Steel, attended the meeting and presented their proposal.
50. Revalidation Standards and Assessment Group (RSAG) The Head of Professional Standards presented a paper which updated the Council on the work of the RSAG, including the recruitment of external experts to develop assessment criteria for revalidation.
51. A discussion about the process of the recruitment of the external experts ensued. It was noted that, due to a conflict of interest affecting 2 members of the original recruitment panel, changes had to be made at short notice and this had given rise to some concern. Questions were raised as to why only 3 appointments were made and the proposal to co-opt additional external experts. It was confirmed that the 3 external appointees, were the only ones from amongst the interviewed candidates who were considered appointable by all members of the recruitment panel. The proposal to co-opt was aimed at giving the assessment team, through its leader, flexibility to seek out additional expertise and experience as the need arose. It was noted that there was a need, in co-opting further members of the team to ensure that they reflected a range of osteopathic experience and approaches. It was also noted that Council Members would benefit from more detailed guidance on conflict of interest, particularly given the nature of the osteopathic profession where close relationships were a commonplace. It was confirmed that a more detailed policy on conflicts of interest would be drawn up as soon as possible

particularly to cover instances of interview panels and candidates where conflicts were likely to lie as the professional was such a small profession. The Council **endorsed** (by vote of 9 for and 1 abstention) the appointment of the following individuals to the Revalidation Assessment team:

- Caitrian Guthrie as Team Leader
- Simeon London
- Judith Neaves

and **confirmed** that co-option should be considered by the RSAG and the Team Leader to ensure that overall, the team was appropriately balanced in terms of osteopathic experience and approaches. Additionally, in the future, short CVs of candidates would be provided where the Council was asked to endorse appointments.

5.12pm – Kenneth McLean left the meeting

52. Progress Report on other matters relating to the revalidation programme of work The Council **noted** the paper which updated the Council on the progress of other aspects of the revalidation work programme not covered elsewhere on the agenda.

REGULATION

Fitness to Practise Committees' Reports

53. Investigating Committee (IC) The Chair of the Investigating Committee (IC) presented a written report. It was confirmed that there was no statutory power to issue letters of advice but there was nothing to say that the IC could not issue letters of advice. It was noted that the CHRE's position was that letters of advice were useful in circumstances where, whilst the IC might find no case to answer, nonetheless felt that advice should be given.
54. The IC had had decided that there should be a presumption in favour of sending the registrant's response to the complainant for comment. Guidelines had been drawn up, outlining the circumstances in which the response would not be sent – either in whole or in part - to the complainant, and these had been put into effect from 1 March 2010. A copy of the guidelines would be circulated to the Council members.
55. The IC chair was thanked for his report and he left the meeting.
56. Professional Conduct Committee The Chair of the Professional Conduct Committee (PCC) presented a written report which covered the first year of the existence of the PCC appointed in April 2009.. He confirmed that the work load of the PCC was on a par with the previous year. He also noted that the PCC, through more frequent hearings, were making inroads into the backlog that had arisen early in its term. In response to a question, it was confirmed that PCC decisions, where found against an osteopath, are published on the GOsC website.
57. The PCC Chair confirmed that the smaller panels of 3 members, rather than 5 members, was working well.
58. The PCC chair was thanked for his report and he left the meeting.

Fitness to Practise Policy Committee

59. The Head of Regulation presented a paper proposing the establishment of a new committee to act as a forum for consideration of fitness to practise policy. The Council was invited to approve the establishment of a fitness to practise committee with the terms of reference as proposed.
60. Members supported the establishment of this new committee but wondered whether the FtP Chairs should also be involved with the committee either as members or in attendance. **Agreed** the establishment of a FtP Policy Committee with an amendment to the terms of reference to require the committee to consult the chairs of both the investigating Committee and Professional Conduct Committee in the course of developing policy on Fitness to Practise matters. .

Policy for remuneration of Fitness to Practise panellists on cancellation/postponement of FtP hearings at short notice

61. The Head of Regulation presented the paper which invited the Council to consider and agree a policy of paying committee members and legal assessors' attendance fees where, at short notice, their attendance is no longer required. The Council **agreed**:
- a. to endorse the existing policy of paying the attendance fee to panel members where notice of cancellation is given seven days or fewer before a hearing, with the seven day interval to include weekends.
 - b. to agree that panel members should continue to receive payment for all days booked for a hearing, even if a case concludes in fewer than the scheduled number of days.
 - c. to authorise reimbursement of expenses incurred by panel members before the cancellation of a hearing where such expenses cannot be recovered by the panel member.
 - d. to authorise payment to the legal assessors where a case completes before the allotted time The legal assessors would receive payment for one additional day over those actually worked.

All payments under a. to d. would not be paid automatically but panel members/legal assessors would be entitled to claim them in circumstances where they would otherwise lose out.

Policy for remuneration of Investigating Committee members for reading papers

62. The Head of Regulation presented a paper which proposed that members of the Investigating Committee (IC) be paid a fee of £75 for reading documentation associated with casework, in addition to the daily fee allowance. The proposal had been considered by the Remuneration Committee and was before the Council for approval.
63. Some members expressed the view that IC members knew there was no paid reading time when they applied for the appointments and therefore were inclined not to favour additional payment. However, it was acknowledged that the volume of documentation to be considered by IC members was frequently large and, unlike in the case of PCC members, the reading had to be done in advance of the hearing day.
64. **Agreed** the payment of a flat fee of £75 to IC panellists for reading material in

connection with casework in addition to the daily rate of £300. IC panellists would be required to make a claim for this flat fee – it would not be paid automatically.

RISK MONITORING

Audit Committee

65. In the Chair of the Audit Committee's absence, the Chief Executive presented the minutes of the Audit Committee's meeting of 2 February 2010 which the Council **noted**. The Head of Finance confirmed that the Inland Revenue had confirmed that there were no VAT consequences for the GOsC in connection with the Department of Health funds.

Any other business

66. One member asked the Executive to consider the font style used for Council papers as she found it difficult to read when the volume of papers was very large.

Questions from observers

67. There were no observers present.

Date of next meeting

68. The meeting resumed on the next day, 15 April 2010, at 10.00am to hear a report on the Registrar's investigation into a registration possibly procured fraudulently or erroneously under Section 10 of the Osteopaths Act 1993.
69. The next meeting of the Council was scheduled for Tuesday 13 July 2010 at 10.00am.

Thursday 15 April 2010

Section 10 of the Osteopaths Act 1993 – Fraud or error in relation to registration – Report on Registrar’s investigation

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1. Council considered the report of a Registrar’s investigation under Section 10 of the Osteopaths Act 1993 and agreed that the Registrar should remove a registrant’s name from the Register.
2. In line with the Council’s published policy that following a Professional Conduct Committee decision to remove a registrant’s name from the register, the decision should be published online for a period of 10 months, details of this matter have now been removed from our website.
3. Further information is available on application to the Head of Regulation