General Osteopathic Council

Osteopathic Practice Committee

Minutes of the 8th Osteopathic Practice Committee held on
Tuesday, 13 October 2015

Unconfirmed

Chair: Jonathan Hearsey

Present: Jane Fox
Kenneth McLean
Julie Stone
Alison White
Jenny White

In attendance: Sheleen McCormack, Head of Regulation (Item 4)
Matthew Redford, Head of Registration and Resources (Item 10)
Marcia Scott, Council and Executive Support Officer
Brigid Tucker, Head of Policy and Communications (Items 5, 7 and 9)
Tim Walker, Chief Executive and Registrar

Item 1: Welcome

1. The Chair welcomed all participants to the meeting.

Item 2: Apologies

2. Apologies were received from Manoj Mehta, who was unable to attend due to teaching commitments, and Fiona Browne. The Chief Executive informed the Committee that Fiona had very recently returned to work and would gradually recommence her duties in the coming weeks. The Chair, on behalf of the Committee, asked that their best wishes be passed on to Fiona.

Item 3: Minutes and Matters Arising

3. Minutes: the minutes of the meeting 18 June 2015 were agreed as a correct record of the meeting.

4. Matters arising: there were no matters arising.

Item 4: Witness Guidance

5. The Head of Regulation introduced the item which invited the Committee to consider the draft Witness Guidance which has been developed as part of a range of support tools to ensure witnesses are properly assisted to give evidence.

6. In discussion the following comments were made:

   a. The Committee agreed that the Witness Guidance was a welcome addition and the approach to developing the guidance had been thoughtful. The idea of using visual media as a resource was also considered very helpful in supporting witnesses.

   b. In reviewing the language of the guidance it was suggested that it could be simpler as witnesses might be daunted by some of the legal/technical terminology used. Use of words like 'stressful' and 'intimidating' could also have a negative impact adding to what the witness might already consider a difficult situation. It was also noted that the document did not always distinguish between the victim and other witnesses. It was also suggested that the guidance be made available in braille/large print.

   c. It was agreed that it was unlikely a witness would differentiate between the Professional Conduct and Health Committees. It was therefore agreed to remove the reference to the Health Committee.

   d. Members were informed that it was the intention to have the guidance reviewed for Plain English. A glossary of terms would also be produced and once the guidance was formatted it would be more user friendly and accessible. The guidance would also be reviewed by previous witnesses who have experienced the fitness to practise process and by the Patient Partnership Group.

   e. It was suggested that the guidance should consider and reflect the needs of vulnerable witnesses who may have been sexually abused as well as those who could be considered vulnerable due to a disability. The issue was to ensure the appropriate support to make the legal process accessible and less stressful to vulnerable witnesses.

   f. The Committee was informed that a training event was being developed for members of the fitness to practice committees. This would involve the use of trained actors in scenarios based on real life situations. This would help committee members better understand and be more aware of their responsibilities to witnesses.

   g. Members were assured that diversity was a subject which featured in all training sessions to some degree but a training session focusing solely on all aspects of diversity (including consideration of gender and culture) was being considered for the fitness to practice committees during 2016.

   h. It was suggested that vulnerable witnesses might be accompanied in hearings, a role in which Victim Support would potentially play a part. However, it was noted that an accompanying person could not engage in the hearing only act as moral support. It was also suggested that there should be a footnote in the guidance about caseworkers and their role.

i. It was suggested that the guidance highlight areas that might be of particular concern, such as how much time a witness might be required to wait before being called.

j. The Chief Executive cautioned that balance was required in how much information was provided to witnesses so that as far as possible they would not be overwhelmed by the hearing process. It was added that the guidance was a process document and deliberately short. The handling of individual witnesses' concerns would in most cases be managed by the case worker. The goal was to address some of these concerns and engage with witnesses to improve the current process.

Agreed: the Committee noted the proposed draft Witness Guidance. A further draft reflecting the observations of the OPC would be circulated for further comment before publication.

Item 5: Implementation of the duty of candour

7. The Head of Policy and Communications introduced the item which set out the GOsC's approach to implementing the duty of candour. She highlighted the concern that osteopaths did not consider the duty of candour as a significant concern although it was an integral part of the *Osteopathic Practice Standards*.

8. The Chair added that as an osteopathic focus group participant he had found the discussions on the duty of candour very worthwhile and valuable.

9. In discussion the following points were made:

a. The Committee thanked the Head of Policy and Communications for the comprehensive report which had been produced. Members commented that reading the duty of candour posed questions about what was covered by the OPS, what was relevant to fitness to practise and more fundamentally what is meant by candour, as this was open to interpretation in different circumstances. Members agreed that the duty of candour had to reflect and be relevant to osteopathy and work within the GOsC's remit.

b. In reference to C9 of Annex A: Act quickly to help patients and keep them from harm, it was noted that no time frame was included to guide osteopaths on actions to take in order to protect patients. Additionally the points which follow relate more to whistleblowing rather than candour and what was highlighted in the vignettes.

c. In reference to D7 of Annex A: Be open and honest when dealing with patients and colleagues and respond quickly to complaints, it was commented that this also does not appear to address the vignettes but highlights complaints procedures.

d. It was agreed that the duty of candour highlighted gaps within the current *Osteopathic Practice Standards* which might require some amendments, as

well as improved guidance and tools to ensure osteopaths were supported in 'doing the right thing'.

e. It was agreed that there were differences between the duty of candour and whistleblowing and presenting the concepts would need some consideration as grey areas still existed. The Chief Executive commented that osteopaths should also be assured that it was a mark of professionalism to show candour and that acknowledging an error is not necessarily an admission of legal liability.

Agreed: the Committee noted the approach outlined for developing standards, guidance and resources that support the duty of candour.

Item 6: Corporate Plan 2016-19 – Committee consideration of initial themes

10. The Chief Executive introduced the item which asked that the Committee give their initial consideration on the themes and activities in the Corporate Plan 2016-19. Council had already had sight of the initial themes.

11. Members were reminded that the document was an early draft and therefore the listed themes and activities were not yet in their final order for presentation to Council. Members were advised that it was very likely that the leading theme of the Corporate Plan would be the new continuing professional development scheme as this was about maintaining and improving standards in practice.

12. In discussion the following points were made for consideration by the Executive in a future draft:

    a. In relation to the education quality assurance process it was suggested there should be a fundamental rethink on how this is approached with the focus being on quality assurance rather than quality control. It was agreed that what is required is a process which is more risk based and proportionate dependant on the type of institution.

    b. It also was suggested that there might be a need for a fundamental policy rethink on quality assurance investment with resources targeted at areas of higher risk such as CPD. Members were informed that there had been consultation about quality assurance of CPD and the suggestion had been rejected.

    c. It was suggested that under the theme of engagement in the activity 'promoting relevance of the register' there should also be mention of the public rather than just patients.

    d. It was suggested that with the reconstitution of Council in 2016 it would be helpful to strengthen the activity on the effective operation of Council. It was also suggested it might be helpful to feature organisational structure and capacity building as an activity.

Item 7: Common classification system for recording and monitoring concerns about osteopathic practice

13. The Head of Policy and Communications introduced the item which included the independent analysis of the findings of data collected during 2013 and 2014 by the GOsC, the Institute of Osteopathy (iO) and providers of professional indemnity insurance in relation to complaints and claims about osteopaths.

14. Members were informed that the information had been very useful to the GOsC in underlining the prevalence of recurring issues and these have been published in the Osteopath as teaching/training material.

15. In discussion the following points were made:

    a. Members were informed that the data had been useful during the CPD consultation process to highlight concerns about communication and consent.

    b. Members asked for clarification about the categories and to what extent did these cover professional and sexual boundaries? It was suggested that if a more precise categorisation was established then it might be possible to better identify trends. Members were advised that the GOsC was reliant on consistent coding and that the trends were less important than the number of incidences.

    c. It was agreed there was still much to be done to confront the ongoing problems which stemmed from the nature of osteopathy practice and the complaints which arise from the perceived crossing of professional and sexual boundaries. It was also agreed that the challenge was to create appropriate policy in response to the available data and use it to reinforce messages. The iO and other stakeholders had acknowledged there were issues especially relating to professional and sexual boundaries.

    d. In terms of the breakdown of criminal convictions members were advised that an incident may be counted under four or five categories but the numbers under review were very small and did not affect the overall data quality. It was also advised that in future more demographic information would be included.

    e. It was noted that there had been a rise in the number of business disputes between osteopaths. The iO was also aware of the rise in disputes and was looking at how this could be resolved.

Noted: the Committee noted the contents of the paper.

Item 8: Review of the Osteopathic Practice Standards

16. The Chief Executive introduced the item which outlined the proposed approach to the review of the 2012 *Osteopathic Practice Standards*.

17. In doing so, there was a need to be mindful of the McGivern report which found that osteopaths sometimes misinterpret or misunderstand the current standards but it was not believed that the standards were at fault. Therefore, the focus needed to be on guidance and providing practical materials to support the standards, as well as asking the profession itself where they thought the sticking points of the OPS lay.

18. In discussion the following points were made:

    a. It was agreed that the approach was encouraging and sensible. Linking the outcomes from the Values Seminar and the McGivern report to the OPS was also very helpful and the Committee supported the approach.

    b. There were some concerns about capacity and securing osteopaths' engagement without the feeling of being 'over consulted'. It was agreed this would be a challenge, but to make things easier the changes envisaged in the document would be highlighted in the consultation.

    c. It was agreed there was a need to instil new interest and enthusiasm for the OPS and for the profession to take ownership of professionalism rather than this be a matter just for the GOsC.

    d. It was agreed that to achieve the necessary changes in behaviours it would be important to draw on the experience of stakeholder groups and also learning from other regulators.

Noted: the Committee noted the approach to the review of the *Osteopathic Practice Standards* as set out.

Item 9: CPD consultation analysis

19. The Head of Policy and Communications introduced the item which presented an independent report on the findings of the GOsC's 16-week public consultation on proposals for a revised scheme of continuing professional development for osteopaths. It was added that the report would be taken to Council in November and published in full.

20. In discussion the following points were made:

    a. The Committee agreed this was an excellent report. Members were assured that the suggestions submitted by respondents would be taken on board. It was agreed that resolving some of the issues raised from the consultation

would go some way into buying goodwill with the profession and show that the GOsC was listening.

b. Members agreed that thanks should be offered to those who participated in the consultation through email, regional groups and other means.

c. There was some concern about the lack of enthusiasm for the peer review/discussion process. However, it was felt that those who had experienced this through the regional meetings had been more positive so this concern might be addressed through future communications.

Noted: the Committee noted the CPD consultation analysis.

Item 10: Recognition of Professional Qualifications: IMI Alert system

21. The Head of Registration and Resources introduced the item which set out the requirements of EU Directive 2013/55/EU which aims to facilitate the professional mobility of individuals across the EU. The Directive requires competent authorities to use the Internal Market Information (IMI) system to send alerts about registrants or applicants, in accordance with the Directive's requirement.

22. It was added that an alert system already existed between GOsC's Regulation and Registration teams so the EU directive would only mean a slight amendment to already existing protocols.

23. In discussion the following points were made:

a. In response to a question about false applications members were advised that if a false application was received and proved false, an alert would be activated and the appropriate actions taken.

b. Members were assured that in relation to the Data Protection Act 1998, there was provision for information relating to an individual to be shared. This meant that if an osteopath leaves the UK to practice overseas, data relating to the individual can be shared with the relevant overseas authority.

c. It was asked if the new system would require continuous monitoring and how this would be done. Members were advised that discussions with the Department of Health as to how the system is to be monitored were ongoing.

Noted: the Committee noted the Directive and how the GOsC intends to operate alerts through the IMI system

Item 11: Any other business

24. There was no other business.

Item 12: Date of the next meeting: Thursday 3 March 2016 14.00