



General Osteopathic Council

Council

Minutes of the 81st meeting of Council held on Thursday 17 October 2013
at 176 Tower Bridge Road, London SE1 3LU

Confirmed

Chair: Alison White

Present: John Chaffey
Colin Coulson
Mark Eames
Jorge Esteves
Jonathan Hearsey
Nick Hounsfield
Kim Lavelly
Brian McKenna
Kenneth McLean
Haidar Ramadan
Julie Stone
Jenny White

In attendance: Fiona Browne, Head of Professional Standards
David Gomez, Head of Regulation
Kellie Green, Regulation Manager
Jane Hern, Chair, Audit Committee (Items 7 and 8)
David Plank, Chair, Professional Conduct Committee (Item 6c)
Matthew Redford, Head of Registration and Resources
Marcia Scott, Council and Executive Support Officer
Brigid Tucker, Head of Policy and Communications
Tim Walker, Chief Executive and Registrar

Observers

Maurice Cheng, Chief Executive, British Osteopathic Association, Jane Hern, Chair of the Audit Committee (part), David Plank, Chair of the Professional Conduct Committee (part).

Welcome and opening comments

1. The Chair welcomed Maurice Cheng, Chief Executive of the British Osteopathic Council (BOA)

2. The Chair also welcomed David Plank, Chair of the GOsC Professional Conduct Committee (PCC). The Chair advised the meeting that Jane Hern, Chair of the Audit Committee, would also be joining the meeting at a point later during proceedings.

Item 1: Apologies

3. Apologies were received from James Kellock, Chair of the Investigating Committee (IC), who, due to prior commitments, was unable to attend this meeting and also the next meeting of Council scheduled for January 2014.

Item 2: Questions from observers

4. There were no questions from observers.

Item 3: Minutes and Matters arising

5. The minutes of the public session of the Council held on 20 June 2013 were approved as a correct record of the meeting.
6. There were no matters arising.

Item 4: Chair's Report and Appointments

7. The Chair gave an oral report to Council. The main points were:
 - a. Council Strategy Day: the annual strategy day in early September was an opportunity for Council to reflect on some of the most important issues in the GOsC Corporate Plan. Considerable engagement in the past few years on the future regarding revalidation and continuing professional development, have resulted in the work of Council clearly reflected in the proposals to be considered at this meeting. Council also had the opportunity for reflection on its own effectiveness the outcome of that discussion taking the form of a proposed whole-Council development plan for the year ahead.
 - b. Appointments: as the Chair had previously reported, candidates had been interviewed for the vacant independent members' posts on the Osteopathic Practise Committee (OPC), and a suitable lay member had been appointed, and had attended her first Committee meeting. It was reported that a suitable registrant candidate had not been appointed and a further recruitment process would be conducted. The Chair would report on the detail of this and other appointments in the subsequent paper of this meeting.
 - c. Of most concern to the appointment panel was the apparent inability of candidates to effectively engage with demonstrating competence. To help with this, the Executive has produced a guide to assist candidates and are seeking to identify further ways in which candidates who are unfamiliar

with competency-based processes can be supported. It is hoped these actions will help broaden the pool of candidates available for appointment.

- d. The Chair informed members she would be chairing a number of appointment panels over the next few months in order to fill vacancies on Council and a number of committees and thanked members for supporting the process. The Chair informed the meeting she would be conducting interim personal development reviews with a number of Council members and looked forward to exploring progress and personal development needs arising from the meetings.
 - e. Meetings with IC and PCC Chairs: the Chair and the Chief Executive met with the Chairs of the IC and PCC for their first annual review meeting. The discussions touched on a range of areas where it would be helpful for them to work together to improve the quality and cost effectiveness of the GOsC's fitness-to-practise process. The Chair said Council would already be aware that the Head of Regulation was considering a range of new measures and improvement opportunities which would be reported to Council in due course, and progress reports are already being made to committees and also to Council.
8. In discussion the following points were made and responded to:
- a. Members were advised that although the competency guidance was being produced with prospective osteopath candidates in mind it would be available to all applicants.
 - b. The Chief Executive added that difficulty in demonstrating competence was not an issue exclusive to osteopath candidates and extended to other professionals.
9. The Chair then introduced the item on appointments requesting Council's approval for the following:
- a. Appointments – Investigating Committee: the Chair reminded members that the Investigating Committee had submitted a proposal to Council for the temporary co-option of two registrant members. The appointments were to consider a single case due to the potential conflicts of interest identified relating to all professional members of the Investigating Committee in conducting the case. Council was asked to agree the appointments of Mr Robert Cartwright and Mr Keith Gladstone as temporary co-optees to the Investigating Committee.

Appointment – Investigating Committee Panel Chair: the Chair reminded Council that a need had been identified at the last meeting, June 20, to appoint an additional Panel Chair to the Investigating Committee after the expiry of a former member's term of office. On the recommendation of the

Investigating Committee Chair Council was asked to appoint Dr Michael Yates as an IC Panel Chair.

- b. Approval of revised Council member competencies: the Chair asked members if they had any comments or feedback on the revised competencies as recommended by the Remuneration and Appointments Committee. The revised competencies would be used in the recruitment for future members.
 - c. Council Strategy Day – Council effectiveness: following discussions at the Council Strategy Day in September, the Chair had produced an action plan to which members were invited to give their comments and feedback.
10. In discussion the following points were made and responded to:
- a. Members raised an issue about Council diversity especially in the appointment of women where it was thought Council was much improved compared to other areas. The Chair explained it was something which had been commented on at the Remuneration and Appointments Committee and at Council. The action plan was specific to Council and with the recent resignation of a female member of Council it would be important to demonstrate positive action when recruiting new members.
 - b. Members requested clarification on the action 'Relationship between Council and Committees – Council to take a more proactive interest in minutes and reports from committees', how could members be more proactive? The Chair explained that the expectation was for non-committee members to engage with and challenge the committee minutes and reports where appropriate.
 - c. The excellent diversity training conducted for members in September/October 2012, had encouraged more sensitivity on issues of diversity, members were keen for the training to be built on and for awareness of these issues be incorporated into Council meetings. The Head of Regulation reminded members that the GOsC was subject to the public sector equality duty under section 149 of the Equalities Act 2010. When making its decisions, the Council was required to pay due regard to the need to:
 - Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
 - Advance equality of opportunity between people who share a protected characteristic and those who do not
 - Foster good relations between people who share a protected characteristic and those who do not.

- d. The Chair was advised in relation to the 'Review and oversight of organisation performance' new guidance on audit process was due to be published and could be circulated as soon as it was available.

The Chair thanked members for their contributions. She advised the meeting there would be further discussion about the action plan with the Chief Executive with agenda items being brought before Council as appropriate and that Council would review the action plan again in a year.

Council agreed the following:

- a. **To appoint Mr Robert Cartwright and Mr Keith Gladstone as temporary co-optees to the Investigating Committee for the purpose of considering a single case as set out in Annex A.**
- b. **To appoint Dr Michael Yates as an Investigating Committee Panel Chair.**
- c. **The revised Council member competencies as set out in Annex B.**
- d. **To note the proposed actions on Council effectiveness.**

Item 5: Chief Executive's Report

11. The Chief Executive introduced the report which gave an account of activities that have been undertaken by the Chief Executive and others since the last Council meeting not reported elsewhere on the agenda.
12. The Chief Executive asked members to note the following that:
 - a. The Chief Executive's Report was for noting and not decision as shown.
 - b. The Annexes should be in the following order:
 - i. Annex A – Financial Report
 - ii. Annex B – Progress against the Business Plan
 - iii. Annex C – Key Data
13. In addition the Chief Executive reported on the proposed reconstitution of Council and representations made to the Department of Health on which to date there had been no conclusive response. Due to time constraints it was not expected there would be any action on the Constitution Order by April 2014 and nor in the period leading up to approval of legislation from the Law Commissions' Review expected in 2015. The Chief Executive confirmed that within the envisaged timeframe work would begin on plans for GOsC's re-constitution leading up to April 2015.
14. In discussion the following points were made and responded to:
 - a. Leeds Metropolitan University (LMU): with the announcement of the closure of the LMU M0st course following closely after Oxford Brookes

University announcement, members asked if there was a factor common to both, if there was a longer term issue with the viability of osteopathic education and whether there was a wider problem across the sector.

The Chief Executive responded that it was not clear why LMU had made its decision and it might be an issue of cost, but it was not appropriate to speculate in relation to other osteopathic educational institutions (OIEs). It was important to keep the situation under review and maintain an open dialogue with the OIEs. One of the issues for the OIEs was that they are competing against each other for a limited pool of students. The Head of Professional Standards added that the OIEs understood the issues and were considering and discussing the challenges. It was also suggested that the OIEs would need to consider the nature of clinical training within the institutions to alleviate some of the difficulties. The Chair summarised the discussion saying the future of osteopathic education was a difficult issue and one that would be returned to in due course.

- b. Patient research: members asked whether quantitative patient research was no longer a priority. The Chief Executive advised this was not the case but that the planned qualitative research was being used to inform the development of questions.
- c. Society of Osteopaths in Animal Practice (SOAP): the Chief Executive reported that his meeting with Dustie Houchin, Chair of SOAP, was to discuss how the organisation could engage with others involved in animal practice, changes in veterinary legislation and how to link with other groups. An interesting point of discussion was how standards in animal osteopathy could reflect negatively on wider osteopathic practice.
- d. Financial Report: members queried why it appeared there was less spending on the building and more on travel. The Head of Registration and Resources explained that travel was included within office administration costs and that over time there had been a significant savings in this area.
- e. Business Plan: members commented that the Business Plan grid and update were very useful. They were struck by how many projects and work-streams remained 'on-track'. The Chief Executive responded that adhering to the plan was challenging and could be time-consuming but ultimately was dependent on capacity. He added that it was a credit to SMT and staff of the GOsC that so much work was on-track.

Members asked for an explanation of the acronym GOPRE which the Head of Professional Standards explained stood for Guidance for Osteopathic Pre-registration Education.

- f. Key Data: members asked whether the data shown in the charts for osteopaths was an anomaly or if there was a recognised trend. The Chief

Executive explained that there were seasonal peaks for much of the data, for example staff sickness and increased use of the o-zone for CPD returns. The Chair suggested that it would be useful to have a report showing longer-term trends of key data. The Chief Executive agreed and the information from 2011 onwards would be made available in due course.

Council noted the Chief Executive's report

Item 6a: Quarterly Fitness to Practise Report

15. The Head of Regulation introduced the item highlighting the following:

Future fitness to practise reporting: further to the suggestions about fitness to practise reporting made by Council at its meeting in June 2013, the Head of Regulation reported that active consideration was being given to a new format for presenting information to Council. The Head of Regulation noted that a draft quality assurance framework had been considered by the OPC on 19 September 2013. Suggestions from that meeting would be incorporated into the quarterly reporting. The intention was to present a 'dashboard' to Council in January. The dashboard would contain both qualitative and quantitative information and comparative quarterly data.

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

- a. Training and development: members noted that a staff training event had been arranged with the Samaritans. The Head of Regulation explained that the training was timely in the light of the increase in health cases and that a similar course had been provided to other health regulators. Members were advised that the event would be tailored to the needs of the GOsC and that staff from the General Optical Council would also attend the training, providing a platform for cross regulatory learning. Feedback from the training session would be provided to Council at the next meeting.
- b. It was noted that the Director of Public Prosecutions had recently published new guidelines for prosecuting certain types of case and it was suggested that the GOsC might usefully take these into account when developing its quality assurance framework.

Council noted the Fitness to Practise Report

Item 6b: Investigating Committee (IC) Annual Report

17. The Chair invited the Head of Regulation to present the report on behalf of the IC Chair. The Head of Regulation drew the Council's attention to the increase in the number of cases considered by the Committee, and to the case trends and issues identified by the IC Chair.

18. In discussion the following points were made and responded to:
- a. Members asked about understanding the source of complaints. The Head of Regulation advised that some information about complainants is collected as part of the feedback process and that this might in future be included in future 'dashboard' reporting. Themes around complaints were also being reviewed.
 - b. Members asked about the review of targets. The Regulation Manager noted that the targets and KPIs were currently being reviewed as part of the draft quality assurance framework. The framework would itself be subject to periodic review. Once the framework was operational, more demanding targets for some aspects of the FTP process could be implemented over time.
 - c. Members thought that feedback from informal complaints could be a valuable as a mechanism for learning. The Regulation Manager informed the meeting that NCOR had reviewed this in the adverse events project and that all stakeholders including the GOsC, the BOA and insurers, should be capturing all information relating to adverse events including informal complaints.

Council noted the Investigating Committee Annual Report

Item 6c: Professional Conduct Committee (PCC) Annual Report

19. The Chair introduced the Professional Conduct Committee Chair and invited him to comment on his Annual Report to Council.
- a. The PCC Chair noted the number of allegations which were found proved and not proved, and highlighted some suggested areas for improvement including the drafting of allegations and case presentation. He observed that changes in the membership of the Professional Conduct Committee had seen improvements in the way the committee worked and commended the GOsC on the appointment of new members.
20. In discussion the following points were made and responded to:
- a. The Chair and the Head of Regulation both thanked the PCC Chair for his comments. It was noted that the views of the PCC were an important aspect of the quality assurance of the GOsC's fitness to practise processes. In discussion, it was suggested that the ongoing establishment of professional norms in a comparatively recently regulated profession posed particular difficulties in relation to expert evidence, and that areas for future consideration might usefully include the development of guidance for screeners and 'threshold criteria'.

- b. The Chair noted that the Regulation Department was undertaking a review of its processes and procedures in conjunction with the establishment of the quality assurance framework and developing a new report format for the Council. The improvements suggested by the PCC Chair would feed into this work.

Council noted the Professional Conduct Committee Annual Report

Item 7: Audit Committee (AC) Annual Report

- 21. The Chair welcomed Jane Hern, the AC Chair, to the meeting. She was invited to introduce the AC Annual Report and add any further comments.
- 22. The AC Chair advised Members that the AC Terms of Reference had been included with the report as a reminder as to the purpose of the committee which might be helpful when reviewing the report along with the 'Opinion of the Audit Committee' shown in final paragraph of the report.
- 23. The Chair then invited comments from the Council Members who sat on the Audit Committee during the past year, Mark Eames, Kenneth McLean and Jenny White. The members added that as well as the financial health of the GOsC, the AC had oversight of non-financial areas and that as a member of the Audit Committee it was helpful in getting an alternative view of GOsC's activities.
- 24. In discussion the following points were made and responded to:
 - a. It was confirmed there was no requirement for the Audit Committee to include two external members and, in fact, there was no statutory requirement to have an Audit Committee.
 - b. The Chair drew members attention to the costs associated with the Audit Committee which demonstrated both transparency in the report and value for money.
 - c. The AC Chair confirmed that all meetings with the auditors included the Executive and that in the past if a private meeting was necessary prior to an AC meeting this took place informally. It was established that in future private meetings would be held to ensure good practice is maintained. It was also confirmed that there were good relations with the auditors and that discussions at meetings were always frank and robust.

The Chair thanked the AC Chair for her report.

Council noted the Audit Committee Annual Report

Item 8: Appointment of financial auditors

25. The Head of Registration and Resources introduced the item reminding members that external financial audit services was one of the services subject to tender at least every five years. The process had resulted in three shortlisted firms of which Grant Thornton LLP had been the strongest, demonstrating fresh thinking despite having five years of experience of working with the GOsC.
26. The AC Chair added although it was recognised there may be concerns over the reappointment of Grant Thornton LLP they represented continuity and also understood and had a valuable bank of knowledge about the GOsC.
27. Both the Head of Registration and Resources and the AC Chair agreed that though unsuccessful the next best candidate would be useful for any special audit projects in the future.

Council agreed the following:

- a. **To reappoint the Grant Thornton LLP as auditors for a further two years to 2015.**
- b. **To note that the contract for Grant Thornton LLP may be extended for an additional three years subject to their satisfactory performance and a review of the audit team composition to ensure a continuing relationship demonstrating professional independence and maintenance of sufficient challenge.**

Item 9: Budget Strategy 2014-2015

28. The Head of Registration and Resources introduced the item explaining the item including the proposed cost reductions, expenditure levels and the impact on registration fees. He explained the GOsC could make a further reduction in fees during the financial year 2014-2015. The Head of Registration and Resources added that the GOsC was the only one of the eight regulators which had made reductions in registrants' fees over three years, an achievement for which the organisation should be proud.
29. In discussion the following points were made and responded to:
 - a. Members asked if the income projections were sound given that student numbers were reportedly reducing. The Head of Registration and Resources noted the concern but explained that for the purpose of the 2014-15 budget strategy, we were still projecting growth in the Register. The Chief Executive added that in terms of the financial projections the GOsC continued to be in a strong position. The Chief Executive noted that in 2009, registration projections for 2012 were that the Register would reach a position of nil growth; however, this has proven not to be the case.

- b. Members advised that a prudent view was required to ensure that fee reductions and other savings did not impact negatively on the other work-streams currently being undertaken nor put organisational viability at risk. The Chief Executive reminded members that in 2011 following the publication of *Enabling Excellence* all regulators were expected to make cost savings for which a number of different approaches had been used and the GOsC had met the requirements as set out.
- c. Members were also concerned that with a conservative budget there was a need to ensure delivery of service while maintaining quality.
- d. Members asked whether there had been an improved cash-flow after previous fee reductions. The Head of Registration and Resources reported there had been no marked change but this was being kept under review.
- e. Members asked if there was an increase in non-UK graduates leading to an increase of income. The Chief Executive advised that the number of non-UK registrants remained very small. The issue was the number of UK registrants overseas leaving the register but the numbers again were small.

Council agreed the following:

- a. To a further fee reduction in 2014-2015 and that there should be a consultation on it.**
- b. The overall financial envelope for 2014-2015, the balance between income and reserve expenditure and the desirable level of fee.**

Item 10: Continuing Fitness to Practise

- 30. The Head of Professional Standards introduced the item thanking the Chair and Council members for their comments during Council's Strategy Day in September. The paper reflected the outcomes from the discussions and comments on continuing fitness to practise ahead of consultation in 2014.
- 31. In discussion the following points were made and responded to:
 - a. Members commended the paper and the work completed to date.
 - b. Members asked about the fitness to practise trends and comparisons with other regulators which appeared to be lower. The Chief Executive explained that not all information is published in terms of case type for analysis but the GOsC has had no significant increase.
 - c. Members pointed out that in relation to CPD there appeared to be nothing related to clinical improvements. It was also highlighted in the draft Continuing Fitness to Practise Framework that there was no mention of how to achieve and evidence the CPD requirements as set out.

- d. Members asked about how remedial action would be implemented if registrants did not fulfil their CPD requirements. The Head of Professional Standards responded that if an individual reached a point where it was clear they were not engaging then administrative procedures would be used.
- e. It was suggested that more senior members of the profession should be willing to act as mentors to ensure participation and engagement. The Head of Professional Standards agreed adding that it was the duty of all osteopathic education providers to assist with mentoring and support.
- f. Members were concerned about paragraph 14 – ‘the nature of osteopathic practice is such that boundaries can be readily miscommunicated and misunderstood’ and felt the statement needed to be amended. The Head of Professional Standards noted the comment and advised that it would be changed.
- g. A correction to Annex 2 of B: Year 2 – the number of hours needed to be amended from 16 to 15 hours.
- h. Members asked for clarification on peer discussion, and peer discussion review and feedback, at the beginning and end of cycles. It was also thought that there should be more emphasis on patient feedback as this area was a little light. The Head of Professional Standards explained that the peer discussions were two different areas and was a matter of language which would be made more precise.
- i. Members asked how the process would be monitored. The Head of Professional Standards explained that this was still to be discussed with partners including the necessary governance and quality assurance.
- j. It was commented that the essence of the Strategy Day had been captured and item was evolutionary rather than prescriptive and again the work completed so far was commended.

The Chair thanked members for their comments and asked that the Head of Professional Standards keep Council informed of progress.

Council agreed:

- a. The draft framework for further discussion with key stakeholder groups.**
- b. That the draft framework and more detailed guidance should be subject to consultation during 2014.**

Item 11: Indicative Sanctions guidance and Conditions of Practice Guidance

32. The Regulation Manager introduced the item and thanked members for their helpful suggestions and drafting points. Council was asked to note the consultation report and to approve the guidance on Indicative Sanctions and for the PCC formulating Conditions of Practice Orders.
33. In discussion the following points were made and responded to:
- a. Members raised a drafting point about the criteria set out in paragraph 43e indicating that suspension might be appropriate – ‘no evidence of harmful, deep-seated personality or attitudinal problems’. It was suggested that this either be removed or qualified by a reference to whether such problems were capable of being remediated. The Head of Regulation agreed to review the sentence.
 - b. Members asked why references to convictions were confined to UK convictions. The Regulation Manager explained that this was the effect of section 20(1) of the Osteopaths Act 1993. Where the GOsC was notified of non-UK convictions, these would still be dealt with, but as allegations of unacceptable professional conduct, rather than a conviction allegation.

The Chief Executive added that criminal checks are undertaken for all new registrants, and that all osteopaths are required to self declare any convictions wherever received, at the time of renewal of registration. It was also noted that changes to the 1993 Act had been sought from the Department of Health in order to bring the GOsC legislation in line with other healthcare regulators. However, any changes to legislation would have to await the outcome of the work arising from the Law Commissions’ Review.

34. The Chair thanked the Regulation Manager for her presentation and Members for their comments.

Council noted the Consultation Report at Annex A: Indicative Guidance and Conditions of Practice Guidance – Guidance for the GOsC Professional Conduct Committee.

Council approved, subject to suggested amendments:

- a. The Indicative Sanctions Guidance shown at Annex B.**
- b. The Guidance for the Professional Conduct Committee on formulation Conditions of Practice Orders shown at Annex C.**

Item 12: Obtaining Consent guidance

35. The Head of Regulation introduced the item. Council’s attention was drawn to the report of the consultation and to the outcomes of two focus groups. The Head of Regulation noted that the focus groups had been extremely useful in clarifying issues and simplifying the drafting of these documents, and thanked

the Communications Department for their assistance in organising the events. Members of the OPC had provided very helpful drafting comments on earlier versions of the document and there was a general consensus now that separate guidance documents for each jurisdiction was the best way forward. The focus groups had highlighted a need for registrants to have a quick reference guide to a complicated area – the law relating to patient’s capacity to give consent – as well as the need for some practical further guidance, in the form of case studies or scenarios. The production of this further practical guidance would form a future work stream.

36. In discussion the following comments were made and responded to:
- a. Members congratulated the Head of Regulation for work done in completing a complicated piece of work.
 - b. The tables relating to children born before and after 6 April 2009 should make it clear that persons listed as potentially having parental responsibility were in addition to (not instead of) the other listed persons with potential parental responsibility.
37. The Chair thanked the Head of Regulation for his presentation and Members for their comments.

Council agreed the amended Obtaining Consent Guidance for England and Wales, Scotland and Northern Ireland.

Item 13: Fitness to practise publication policy

38. The Regulation Manager introduced the item, and drew the Council’s attention to the consultation report, focus group outcomes and comments received from the PSA. It was accepted that no clear consensus had emerged from the consultation in relation to the length of time for which decisions should remain published on the GOsC website. The Executive, in making its recommendation, had sought to adopt a proportionate and balanced approach.
39. The Chair added that members should note this was a difficult policy to write and commended the Executive on a job well done in bringing the policy together. She advised that if there was a still a polarity of views members should make these known.
40. In discussion the following points were made and responded to:
- a. Members noted that findings of the PCC did not appear to be linked to the GOsC Register. It was queried whether this might make them difficult to locate on the GOsC website and therefore not be easily accessible to members of the public unless knew where to look. The Regulation Manager noted that recent statistics about website access indicated that access to PCC decision notices was high.

- b. Members requested clarification on the process for making an application for restoration after a registrant had been removed from the register, and after the expiry of the period of 10 months before an application could be made. The Regulation Manager advised that restoration would require another decision to be made by the PCC. The Chief Executive added that for other regulators the time frame for removal is five years. It was considered that members of the public might want to know that a registrant had been removed from the register, even after being restored. Members agreed the information about removal from the register should remain published for five years.
- c. Members discussed the different approach to publishing information about conditions of practice and suspensions. The Chief Executive explained that the Interim Suspensions Guidance indicated the sanctions available to the GOsC and reflected the seriousness of alleged offences. In making the recommendations, the Executive had sought to reflect the seriousness of the respective sanctions, rather than adopt a blanket approach.
- d. Members asked if the findings of the PCC were available other than on the website. The Regulation Manager explained that at present the information was also published in the Annual Fitness to Practise Report. Both of these were published on the website but could also be made available on request.
- e. The Chief Executive summarised the discussion agreeing that a good balance of views had been achieved. He also pointed out that information relating to osteopaths who were 'struck off' came high up in search engine ratings.
- f. Members noted that legislative changes following the Law Commissions' Review would provide a useful opportunity to review the policy.

The Chair thanked members and the Executive for their contributions on a difficult topic.

Council approved the Fitness to Practise Publications Policy

Item 14: Rule 8 Guidance and Practice Note

- 41. The Head of Regulation introduced the item and drew Council's attention to the report of the consultation and the outcome of the focus groups. Council's attention was also drawn to comments received from the PSA. The Head of Regulation agreed to incorporate the PSA's key drafting suggestions into the final version of the documents.
- 42. In discussion, Council was asked to consider three issues:
 - i. Should a registrant's fitness to practise history be taken into account by the PCC in deciding whether or not the Rule 8 procedure should be used?

- ii. How should the term 'single incident' be defined?
 - iii. Whether the definition of 'harm' should include both actual and potential harm.
43. Council endorsed the view of the Executive that an individual's fitness to practise history should be taken into account when deciding whether or not the Rule 8 procedure should be used.
 44. Council agreed with the definition proposed by the OPC, and agreed that it should be for the PCC to decide, on the facts of the particular case, whether the matter should be considered to be a 'single incident'.
 45. To ensure consistency throughout the document, Council agreed that references to harm should include both actual or potential harm. It was noted that all treatment had the potential to cause harm, and the Head of Regulation agreed that, where appropriate, reference to 'treatment' would be replaced by references to 'actions or omissions'.

Council agreed the PCC Practice Note and the Guidance for Registrants shown at Annexes A and B subject to these amendments.

Item 15: Investigating Committee decision-making guidance

46. The Regulation Manager introduced the item and highlighted the changes which had been made to the original guidance. She also highlighted the following areas where additional amendments were to be made:
 - a. Page 2, paragraph 7: to be included 'The IC should consider and decide each of the allegations made'.
 - b. Page 3, paragraph 14b: removal of the word 'allegation' so the sentence reads 'the Council has the burden of proving the facts before the PCC and HC'.
47. Members agreed the suggested amendments.
48. In discussion the following points were made and responded to:
 - a. In reference to the IC Decision making flowchart, Members commented on the phrase 'Viewed critically...' at the beginning of the sentence. It was agreed that this should be removed providing it did not contravene the case law.
 - b. Members queried the wording relating to the final paragraph in the table. The Regulation Manager stated that this also came from case law. The Chief Executive added that the purpose of the flowchart was to be an aid for the IC to make decisions in private with assistance from legal

assessors. It was not the GOsC's duty to provide guidance on the law as that was the role of the legal assessors.

- c. Members asked how the use of GOsC's guidance is monitored to ensure consistency across cases. The Head of Regulation responded that use of the guidance would be monitored as part of the quality assurance framework. The GOsC and GOC were exploring the potential for peer review mechanisms. The Regulation Manager added that the PSA audit all decisions made by the PCC and IC.

Council approved the Investigating Committee decision-making guidance flowchart subject to the amendments.

Item 16: Preparing for the PCC practice Note

- 49. The Chair introduced the item advising Members that there would be further practice notes published in due course and that they were an important and helpful guide to the fitness to practise committees. The Regulation Manager advised members that it was the intention to replace the PCC Notice to Osteopaths and Legal Representatives with a Practice Note – Preparing for PCC hearings, which would add transparency and bring it into line with the suite of practice notes to be published.

Council agreed that the current PCC Notice to Osteopaths and Legal Representatives be replaced with a Practice Note – Preparing for PCC Hearings.

Item 17: Temporary and occasional registration guidance

- 50. The Head of Registration and Resources introduced the item explaining that the GOsC receives applications for registration from visiting professionals wishing to provide temporary and occasional services in the UK. The GOsC needs a position statement setting out its interpretation of temporary and occasional services. This had been endorsed by the Education and Registration Standards Committee.
- 51. In discussion the following points were raised and responded to:
 - a. It was confirmed that temporary registrants are not required to meet the GOsC's insurance requirements and that based on EU/EEA law would be able to practise without any additional restrictions being place on them.

Council agreed the position statement as set out and as recommended by the Education and Registration Standards Committee.

Item 18: Professional Indemnity Insurance consultation

- 52. The Head of Registration and Resources introduced the item advising members that the GOsC is required to consult with key stakeholders on possible changes

to its Professional Indemnity Insurance Rules 1998. Members' were asked to approve publication of the consultation document.

53. The Head of Registration and Resources also asked Members to note a correction that the reference for the EU directive should be EU2011/24/EU.
54. The Chair also added this would not be the only chance for members to comment on this topic and there would be further opportunities for comment during 2014 when draft rules were developed.
55. In discussion the following points were made and responded to:
 - a. Members asked why it was proposed to ask if there were circumstances in which insurance might not be necessary given the draft legislation will require all registrants to hold insurance. The Chief Executive responded that the consultation might provide useful responses and tease out additional issues that had not been considered previously.
 - b. Members asked whether any criteria are set for number or range of consultation responses. The Chief Executive responded there were a number of mechanisms in place to measure responses but there were no set criteria.

Council agreed the publication of the Professional Indemnity Insurance Consultation.

Item 19: Notification of fitness to practise investigations and outcomes

56. The Head of Regulation introduced the item which set out proposals to formalise the process for seeking information about a registrant's employers, or any person with whom the registrant has a contractual or other arrangement to provide osteopathic services, as part of the fitness to practise process.
57. The Head of Regulation drew the Council's attention to the amendments to the policy recommended by the OPC, in relation to health cases and cases relating to the improper use of restricted titles under section 32 of the Osteopaths Act 1993.
58. In discussion the following points were made and responded to:
 - a. Members considered that notification to employers and others should only be made at the point where a case to answer had been found by the Investigating Committee, and that all persons who had been notified at this stage should also be notified of the eventual outcome of the proceedings.
 - b. Queries were raised about situations in which a registrant was not providing treatment services but might still pose a danger. Members were

advised that the GOsC had a duty to provide information about certain types of allegations to named bodies under the safeguarding vulnerable groups legislation.

- c. Members asked if patients were also advised of outcomes. The Chief Executive responded that it would not be feasible to contact all of a registrant's patients. In addition to the website, in some cases, the GOsC targets local media.

Council agreed the draft policy set out at paragraph 19 of the paper and the recommendations made by the Osteopathic Practice Committee at paragraph 23.

Item 20: GOsC Performance Measurement 2012-13

- 59. The Chief Executive introduced the item explaining that the performance measurement report still required some refining and Council's comments and ideas would be welcome.
- 60. In discussion the following points were made and responded to:
 - a. Members raised a question about the PSA's review of comparative costs suggesting has 'above the line unit costs'. The Chief Executive responded that the PSA report did not look at why the regulators conducted their work in particular ways, but some of their report was helpful in reviewing practices and processes. The Chief Executive would forward the PSA report for information.
 - b. In the light of the Francis Report, members asked if the GOsC should be looking at temporary registration and what can be done to ensure the protection of the public. The Head of Regulation responded that the Executive were very aware of the problem and the challenges set by the temporary registration of overseas applicants. The Executive were active in working with other regulators to address the issues.

Members asked for information about a proposed staff survey as there were no reporting indicators. The Chief Executive advised this was planned for 2014.

- c. The Chair noted that the work on Council effectiveness would be reflected in the subsequent report.
- d. The Chief Executive advised members that a review of the structure of this report would take place and a revised format presented to Council. The Chief Executive suggested that a starting point might be for discussion to take place at a future meeting of the Audit Committee.

Council noted the report.

Item 21: Professional Standards Authority – Performance Review 2012-13

61. The Chief Executive introduced the item and was pleased to present a positive report from the PSA and advised members that work had started on the Performance Review for 2013-14.
62. Members commended the Executive and staff for a very good report which reflected positively on the organisation and its work.
63. The Chair added that to receive external validation was also very good for the organisation.

Council noted the content of the PSA Performance Review Report

Item 22: Registration report

64. The Head of Registration and Resources introduced the report which covered the period 22 February to 30 September 2013. He also commended the Registration team for their work through a busy and difficult period.
65. In discussion the following points were made and responded to:
 - a. Members asked whether the implications to the register where a registrant might undergo gender reassignment had been considered. The Head of Registration and Resources responded there had been some discussion among regulators but there were no conclusions in terms of impact on the register.
 - b. The Chief Executive also added that in the current economic climate a close watch is being kept on student and registrant numbers.

Council noted the report.

Minutes for Noting

Item 23: Minutes of the Education and Registration Standards Committee – 19 September 2013

66. The minutes of the Education and Registration Standards Committee were noted.

Item 24: Minutes of the Osteopathic Practice Committee – 19 September 2013

67. The minutes of the Osteopathic Practice Committee were noted.

Any other business

68. Acronyms: Members suggested a glossary of acronyms should be available especially for external readers of GOsC documents and include the purpose and link to the GOsC. The Chair agreed this would be useful and asked the Head of Policy and Communications to consider this.
69. Leeds Metropolitan University: Members asked in that light of the anticipated closure of the LMU course would there be an opportunity for wider discussion within Council. The Chair responded that discussion would initially take place at the meeting of the Education and Registration Standards Committee in the context of their remit with wider discussion follow on at a future meeting of Council. The Chief Executive added that there would be meetings between LMU and GOsC in due course and these would be reported to Council.
70. **Date of the next meeting**: 29 January 2014 at 10.00