



Council
5 May 2016
Committee Structure and Appointments

Classification	Public
Purpose	For decision
Issue	Governance arrangements for policy development with the new Council.
Recommendations	<ol style="list-style-type: none">1. To agree to the establishment of a Policy Advisory Committee with the terms of reference set out at Annex B.2. To note the appointment of members of the GOsC's committees for 2016-17 as set out at Annex C.3. To agree the appointment of Dr Bill Gunnyeon as Chair of the Policy Advisory Committee.4. To agree the co-option of Manoj Mehta to the Policy Advisory Committee from 1 April 2016 to 31 March 2017.
Financial and resourcing implications	Minor costs savings may accrue from this proposal.
Equality and diversity implications	None
Communications implications	None
Annexes	<ol style="list-style-type: none">A. Principles that should underpin the work of a council of a professional regulatorB. Terms of reference and membership of the Policy Advisory CommitteeC. Committee memberships 2016-17
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Background

1. In 2012 the GOsC undertook a comprehensive review of its governance structure. It was this review that led to the agreement by Council that it would reduce in size to ten members.
2. The same governance review led to the establishment of two new policy committees: the Osteopathic Practice Committee and the Education and Registration Standards Committee (which exercises the statutory function of the Education Committee).
3. As Council will be aware it has taken four years to get to the point where the Council could be reduced in size.
4. Part of the 'unfinished business' of the 2012 governance review was consideration of whether committee requirements would need to change following the reduction in the size of Council.
5. The Corporate Strategy 2016-19 agreed by Council on 4 February 2016 includes the following commitment:

'We will create a new policy advisory forum to ensure that a wide range of stakeholders can contribute to our policy development.'

6. This paper considers the issues involved and proposes a new approach to our policy advisory functions.

Discussion

Principles of good governance

7. The most substantive report on the work of regulators' councils was that commissioned by the Department of Health in 2007 on *Enhancing confidence in healthcare professional regulation*¹. This report concluded that Councils should be smaller and 'more board-like' and set out the principles that should underpin the work of a council of a professional regulator (see Annex A).
8. Some of the principles that are set out in this document are also reflected in this proposal:
 - a. Council should be focused primarily on strategic matters rather than policy formulation
 - b. Council should ensure that there is effective engagement with stakeholders.

In addition the document firmly believed that committees of Council should not be populated exclusively by Council members.

¹http://webarchive.nationalarchives.gov.uk/20130107105354/http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_085161.pdf

Creating a single committee

9. The two policy committees have worked reasonably well since they came into being on 1 April 2013.
10. As was agreed in the 2012 governance review, the Committees have some overlap of membership. At most meetings the committees consider at least one joint paper which crosses the different areas of responsibility.
11. However, despite this commonality and also holding meetings on the same day it would be difficult to argue that the committees 'gel' with each other or that any great synergy has been obtained in their work.
12. Therefore it is proposed that the terms of reference and the membership of the two committees are brought together into a single policy-focused committee.
13. A draft of proposed terms of reference for a single Policy Advisory Committee, which would cover the work of both current committees, can be found at the Annex.

Exercising the statutory functions of the Education Committee

14. The existence of a statutory Education Committee with power independent of Council is a historical anachronism which has its roots in debates on medical education and regulation in the 1970s.
15. Council can only delegate its own functions and is not in a position to delegate the functions of the statutory Education Committee. Therefore, while the current statutory role exists, it is necessary for there to be a properly constituted Education Committee.
16. However, as has been demonstrated with the current Education and Registration Standards Committee, it is perfectly possible for a single committee to be 'twin-hatted' and have functions beyond its formal statutory remit.

Widening the input to policy discussions

17. Since the agreement of the Corporate Plan 2013-16 there has been an emphasis in our work on partnership with other bodies. This partnership working is manifest in the work of the Osteopathic Development Group, the regular liaison meetings held with the osteopathic educational institutions, the widening of participation in Regional Communications Network meetings, regular liaison with professional indemnity insurance providers, as well as our ongoing work with our Patient Partnership Group.
18. While all of our partners have the opportunity to respond to our consultations, discuss any matter with us informally and attend our meetings as observers, we do not routinely give them 'a seat at the table' in our deliberations on broad issues of policy.

19. The question for this paper is whether this is desirable, feasible and appropriate in governance terms.
20. First of all it is important to recognise that the GOsC Council, except in a limited number of matters relating to the quality assurance of education, is sovereign in all policy matters relating to the GOsC. Even where the Education Committee has advisory powers it is a matter for Council to accept or reject this advice.
21. Council's role should be to balance viewpoints from a range of sources and ensure that its decisions are well-informed. In doing so it should ensure that the GOsC consults widely and that there is effective external input into its processes. This requirement would be supported if there were to be routine input into policy discussions from a limited number of key stakeholders. However, it is important to stress that involvement of external members on policy committees is not a substitute for effective external engagement, particularly with harder to reach groups.
22. It is important that all our stakeholders believe that we operate in an open and transparent manner. It is suggested that the more we open up our processes and discussions to external scrutiny and appropriate participation, the more confidence there will be in what we do.
23. Would it be feasible to invite attendees from other organisations to take part in our early policy discussions? The GOsC's Standing Orders allow for any person to attend or speak at a meeting at the Chair's discretion. The Standing Orders also allow for such a person to be required to leave a meeting at the Chair's request. Therefore the powers to enable such participation already exist within the Governance Handbook.
24. In governance terms, the key questions that need to be considered are:
 - a. Are the discussions of a committee or Council likely to be unduly swayed by the participation of external members?
 - b. What would the role of any external participants be in relation to formal decisions of the Committee?
25. With regard to undue influence, it is important to recognise once again the primacy of Council, which must take its own decisions weighing up the advice and evidence of committees and others.
26. Many of the items that are considered by the ERSC and OPC do not require a formal decision. Arguably, it would be preferable if the position was normalised that the policy committees provide advice to Council rather than taking decisions for their subsequent endorsement, i.e. in Council's decision-making they would receive advice rather than recommendations from the policy committee.
27. Additional protection can be provided through effective management of conflicts of interest, carefully attributed minuting of discussions within the committee and

by ensuring that papers prepared for Council reflect the deliberations of the policy committee but are not driven by these.

28. The clear exception here has to be those decisions that lie solely within the ambit of the Education Committee's powers. These powers (which are detailed in the Annex) are limited to:
- a. Advising Council on the recognition of qualifications (or the withdrawal of recognition)
 - b. The appointment and performance management of education visitors
 - c. Requiring the provision of information from institutions (in effect the ongoing quality assurance process).
29. These decisions must not only be independent, but also be seen to be independent. In these areas, an appropriate approach would be to limit the participation of non-committee members or, as is the case at present, where matters are considered to be confidential, to take those decisions in the absence of any observers.

A practical approach

30. A policy advisory committee as described above and at the Annex would need to be formally constituted in the same way as the current Education and Registration Standards Committee, i.e. consisting of:
- a. Five members of Council (three lay and two registrant)
 - b. Four members who are not members of Council
 - c. Up to five co-opted members.
31. While it would be possible to co-opt a number of external members to the committee, it is suggested that this is not desirable for a number of reasons:
- a. It would be inappropriate for an individual from external organisation, for example the Institute of Osteopathy, to become a member of the governance structure.
 - b. Any such appointment might suggest a 'representative' role, which is not desirable.
 - c. Appointments – even where these are for co-opted roles – should be based on merit.
 - d. Single person co-options would not allow flexibility of attendance from stakeholder organisations with limited resources.

32. A preferable approach would be to invite on a standing basis, our key partner organisations to attend meetings of the policy committee as observers with speaking rights rather than as members of the committee.
33. For those parts of the meeting that were designated as items that are reserved to the Education Committee, any external observers would be entitled to remain at the meeting (unless it were to move into private session) but would not be able to participate in discussion.

Implementation and appointments

34. We propose that a new Policy Advisory Committee is established with immediate effect, with its first meeting taking place on 16 June 2016.
35. Appointments of members of Council to the policy committee would take place in the same way as at present.
36. The current external members of the Education and Registration Standards Committee would remain in post. All four of them due to stand down on 31 March 2017 and will need to be replaced at that time.
37. The individuals appointed in 2009 were all appointed by the Appointments Commission against a set of generic competencies with the addition of a number of specialist competencies that were focused entirely on education.
38. While it will be important to retain some element of expertise in the education field, it would also be desirable to widen the criteria to include individuals who have experience as patients and as practitioners whether in osteopathy or other healthcare areas.
39. If Council agrees the approach set out in this paper, the Remuneration and Appointments Committee will develop suitable criteria for the new appointments with a process to commence in autumn this year.
40. In addition Council appointed two members to the Osteopathic Practice Committee whose terms of office are due to expire on 31 March 2017. One of these members is also a member of the ESRC and therefore it is suggested that the other individual be co-opted to the committee until 31 March 2017.
41. Our partner organisations in the Osteopathic Development Group would be invited to send an observer to all future meetings of the Policy Advisory Committee. While it might be hoped that there would be some consistency of attendance, we recognise that this will be subject to change. More important will be setting a clear expectation of the role of observers: to provide critical input to policy development, rather than their individual views; and to be a conduit between the GOsC's policy formation process and their own organisation's wider membership.

Working arrangements

42. In informal discussions with Council members about the desirability of this approach, it was highlighted that it was important to strike a balance between ensuring that issues receive proper consideration, and that meetings and agendas do not become overly-lengthy.
43. It is suggested that the way in which this might be managed is as follows:
 - a. Ensure that there is effective agenda planning with the new Chair of the Committee.
 - b. To circulate any 'to note' papers outside of meetings and only to consider these at meetings if there is a request to do so.
 - c. To recognise that the March meeting, which considers Annual Reports from osteopathic educational institutions, is likely to have an extended agenda and to timetable other items accordingly.
44. Members also suggested that there should be an element of horizon-scanning in the work of the Committee and it is suggested that this might be addressed through the regularly tabling of a Committee forward work plan and accompanying commentary.

Appointments in 2016-17

45. The Policy Advisory Committee will operate (at least in part) as the Education Committee and therefore appointments to it must be in accordance with the General Osteopathic Council (Constitution of the Statutory Committees) Rules Order in Council 2009.
46. The Order requires that the appointments of members of Council to the Committee be made by the Chair of Council. Council then appoints one of the lay members appointed to Chair the Committee.

Conclusion

47. The appointments to the Committees for 2016-17 are set out at Annex C. The reconstitution of Council provides us with the opportunity to further streamline our governance structure. The proposed approach will ensure that every Council member sits on either a policy or scrutiny committee in addition to their Council role. It will open up our decision making to a wider range of inputs and improve transparency, while ensuring that key decisions remain the responsibility of Council.

Recommendations:

1. to agree to establish a new Policy Advisory Committee with the terms of reference as set out at Annex B.

2. To note the appointment of members of the GOsC's committees for 2016-17 as set out at Annex C.
3. To agree the appointment of Dr Bill Gunnyeon as Chair of the Policy Advisory Committee.
4. To agree the co-option of Manoj Mehta to the Policy Advisory Committee from 1 April 2016 to 31 March 2017.

Principles that should underpin the work of a council of a professional regulator:

1. The council should uphold the purpose of the organisation as established by Parliament, determine its values and keep both its purpose and its values in mind at all times, with mechanisms in place for annual review
2. The council should be forward and outward looking, focussing on the future, assessing the environment, engaging with the outside world, and setting strategy
3. The council should determine the desired outcomes and outputs of the organisation in support of its purpose and values
4. For each of its desired outcomes the council should decide the level of detail to which it wishes to set the organisation's policy - any greater level of detail of policy formulation should then be a matter for the determination of the chief executive and staff
5. The means by which the outcomes and outputs of the organisation are achieved should be a matter for the chief executive and staff; the board should not distract itself with the operational matters
6. The chief executive should be accountable to the council for the achievement of the organisation's outcomes and outputs
7. In assessing the extent to which the outcomes have been achieved, the council must have a framework of pre-determined criteria against which performance is reported both internally and externally
8. The council should engage with its key interest groups including patients, the public, registrants, employers, educators and the devolved administrations, and be confident that it understands their views and priorities
9. The membership of the council should have the capacity and skill to understand the priorities of each of these key constituents
10. Information received and considered by the council should support one of three goals – to allow informed decision making, to fulfil control and monitoring processes or to enable the council to co-operate with CHRE and to be accountable to Parliament
11. The council must govern itself effectively, with clear role descriptions for itself, its chair, and its members, with agreed methods of working and self-discipline to ensure that time is used efficiently
12. The council must ensure that issues of equality and diversity are considered as part of all its work

Terms of reference and membership of the Policy Advisory Committee

The role of the Policy Advisory Committee is to contribute to the development of Council policy. To do this it will:

- a. Advise Council on all matters of policy including:
 - i. The standards required for initial registration and appropriate means for assessing those standards.
 - ii. On all matters relating to pre-registration education and training of osteopaths, including the standards of osteopathic practice required for registration.
 - iii. Post-registration education and training, including the requirements for ensuring osteopaths remain fit to practise.
 - iv. The management, investigation and adjudication of concerns about the fitness to practise of registrants.
 - v. Matters relating to the exercise of powers under section 32 of the act (protection of title).
 - vi. The development of the osteopathic profession.
 - vii. Measures to encourage research and research dissemination within the osteopathic profession.
 - viii. Any research needs to support the GOsC's work.
- b. Take into account the decisions of fitness to practise committees, information from the PSA and other relevant sources, and external legal or other requirements.
- c. Ensure that policy development has been informed by effective engagement with the full range of the GOsC's stakeholders.
- d. Make an annual report for Council on the work of the Committee.

The Committee will also undertake the statutory functions that are reserved to the Education Committee, which are to:

- a. Advise Council on the recognition of qualifications in accordance with section 14(6) of the Act.
- b. Appoint and manage the performance of visitors to conduct the evaluation of courses under section 12 of the Act.
- c. Advise Council on matters relating to the withdrawal of recognition of a qualification in accordance with sections 16(1) and 18(5) of the Act.

- d. Exercise powers to require information from osteopathic educational institutions in connection with its statutory functions in accordance with Section 18 of the Act.

Meeting Frequency

Three times yearly or more frequently if required. Some business may be conducted out of committee where required.

Membership

Ordinary members

- Five members of Council, of whom two shall be osteopaths and three shall be lay members. One of the lay members shall be appointed by Council to be Chair of the Committee
- Four members who are not members of Council.

Co-opted members

The Committee may co-opt up to five members in accordance with Rule 3 of the Statutory Committee Rules.

Observers with speaking rights

The member organisations of the Osteopathic Development Group are invited to send an observer with speaking rights to each meeting.

Observers may not take part in any part of the meeting where the business is that reserved to the Education Committee.

Quorum

Five, of which:

- at least one must be a lay person and one must be an osteopath
- at least two must be members of Council and two must be members who are not members of Council.

Committee memberships 2016-17

Name	Policy Advisory Committee	Remuneration and Appointments Committee	Audit Committee
Council – Lay			
Sarah Botterill		X	
Bill Gunnyeon	X		
Joan Martin	X		
Denis Shaughnessy			X
Alison White	X	X	
Council – Registrant			
John Chaffey	X		
Jorge Esteves			X
Kenneth McLean	X		
Haidar Ramadan		X	
Deborah Smith		X	
External			
Bernadette Griffin	X		
Jane Fox	X		
Rob McCoy	X		
Manoj Mehta	X		
Ian Muir		X	
Martin Owen			X
Chris Shapcott			X
Liam Stapleton	X		