



Meeting of Council

Minutes of the 109th Public meeting of Council held on Wednesday, 18 November 2020, hosted via Go-to-Meeting video conference

Unconfirmed

Chair: Dr Bill Gunnyeon

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

In attendance: Steven Bettles, Policy Manager, Professional Standards
Fiona Browne, Director, Education, Standards and Development
David Bryan, Regulation Manager
Rachel Heatley, Senior Research and Policy Officer
Sheleen McCormack, Director of Fitness to Practise
Liz Niman, Head of Communications and Engagement
Matthew Redford, Chief Executive and Registrar
Marcia Scott, Council and Executive Support Officer

Presenting: Richard Davies, Chair, Professional Conduct Committee (Item 9b)
Philip Geering, Chair, Health Committee (Item 9c)
Kabir Kareem, Quality Assurance Liaison Officer (Item 12)
Brian Wroe, Chair, Investigating Committee (Item 9a)

Observers: Kate Fawcett, Senior Scrutiny Officer, Professional Standards
Authority (PSA)
Colette Higham, Senior Scrutiny Officer, Professional Standards
Authority (PSA)
Sarah North, Head of Policy, Institute of Osteopathy (iO)

Item 1: Welcome and apologies

1. The Chair welcomed all to the meeting. A special welcome was extended to the Chairs of the Fitness to Practise Committees and to David Bryan, Regulation Manager, who had recently joined the GOsC.

2. Apologies were received from Maurice Cheng, Chief Executive, the Institute of Osteopathy.

Item 2: Questions from Observers

3. There were no questions from observers.

Item 3: Minutes

4. The minutes of the 108th meeting, 9 July 2020, were agreed as a correct record of the meeting.

Item 4: Matters arising

5. Council noted the matters arising from the meeting of 9 July 2020. The following comments were made:

Item 12. Renewal of Plymouth Marjon University Recognised Qualification (RQ): It was confirmed that the action to seek confirmation for the renewal of the Plymouth Marjon's RQ had been completed.

Item 14. IT and Business Improvement: It was confirmed that discussions are ongoing with the CRM provider and it is expected that by the end of 2020 there will be a better understanding as to whether we can upgrade our existing product.

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

Item 5: Chair's Report: Appointments and reappointments

6. The Chair introduced the item which provided an update on the appointment and reappointment activity which will be undertaken in 2020-21.
7. The following points were highlighted:

Reappointments: Council

- a. The reappointments of Registrant Council members, Elizabeth Elander and Simeon London, have been confirmed by Privy Council. The reappointments are for terms of four years from 1 April 2021 until 31 March 2025. The Chair offered his congratulations to them both.

Non-Executive Reappointments: The Fitness to Practise Committees (Investigating and Professional Conduct Committees) and the Policy and Education Committee (PEC)

- b. The applications for all members who are eligible for reappointment, 14 members of the Fitness to Practise Committees and four co-opted members of the PEC, have been reviewed by the Chair of Council in their capacity as Chair of the Remuneration and Appointments Committee (RaAC). His

recommendations for the reappointment of the eligible members are with the members of the RaAC for their review before any formal recommendation is submitted to Council at the February 2021 meeting.

Investigating and Professional Conduct Committees – Appointments Process

- c. There had been over 250 applications for the positions on the Investigating Committee (IC) and Professional Conduct Committee (PCC) including the applications for role of PCC Chair. The high number of applications has meant that the recruitment schedule has been pushed back with the shortlisting taking place in November and interviews to be scheduled for early 2021. Commencement remains at 1 April 2021, subject to Council's approval of the recommendations for appointment.
 - d. The number of applications received has been very encouraging but has also raised a question as to whether the criteria set for the roles had been sufficiently rigorous. This would be considered in a review of the recruitment process which would also identify whether the objective to increase the diversity of applicants has been successful. This will be undertaken by the RaAC in March 2021.
 - e. It was confirmed that shortlisting exercise for the IC and PCC had been completed and interview dates would be confirmed to take place in early 2021. The Chair thanked the Executive and team for their support and the members of the IC and PCC recruitment panellists, Caroline Guy, Brian Wroe (IC), and Richard Davies (PCC) for the work undertaken to date.
8. In discussion the following points were made and responded to:
- a. It was confirmed that as the Chair had served as a lay member of Council for four years, from 1 April 2016 – 31 March 2020, therefore his term of office as a member of Council and Chair would end in March 2024, when he would have completed his eight year tenure as a member of Council.
 - b. It was confirmed that although the number of applications from registrants for the FtP Committee roles were eight this was not unusual for these particular vacancies. How to engage and encourage registrants to consider applying for non-executive governance roles was a question on which the RaAC would review at its meeting in March 2021, considering registrants transferable skills, mentorship and leadership, and the possible introduction of associate members akin to what is undertaken by the HCPC and NMC.
 - c. It was confirmed that a number of different strategies had been used for the FtP Committee recruitment including:
 - a video featuring a member of the Investigating Committee discussing their experience and the skills which can be brought to the role.

- a more accessible application pack which included an introductory message from the Chair of Council and, after receiving feedback from previous applicants, and in particular registrants, a change in language and tone.

9. The Chair highlighted the following from his report

- a. The bilateral meetings with the Chairs and Chief Executives of the Health and Social Care Regulators have taken place with all but one and a meeting with the HCPC will take place in due course. The meetings have been well received with the issue of regulatory reform a focus for discussion and the potential for the Chairs to work together in using their combined influence to get the best outcomes from the reforms.
- b. Further to the report made to Council in July 2020 concerning members appraisals, the Chair's objectives have been agreed:
 - to lead Council through the challenges of the pandemic;
 - to ensure the financial sustainability and securing the ongoing delivery of the GOsC core functions;
 - to support and assist in the development of the Chief Executive and Registrar as he settles into the role;
 - to shape and develop the new Council (as of 1 April 2020) to become a highly effective team providing clear direction and robust oversight;
 - to support the Chair of the Policy and Education Committee;
 - as Chair of the Remuneration and Appointments Committee, provide leadership as it considers a number of difficult issues as a consequence of the pandemic;
 - to strengthen Council's relationships with registrants ensuring a better understanding of the role of the regulator and consider ways in which Council can support osteopaths in the protection of patients;
 - to strengthen Council's relationship with key stakeholders, especially the health care regulators, to optimise the opportunities presented by regulatory reform;
 - to oversee successful appointments and reappointments to Council and the committees.

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

Item 6: Chief Executive and Registrar's Report

10. The Chief Executive and Registrar introduced the item which gave an account of activities and performance since the last Council meeting and not reported elsewhere on the agenda. The staff team were acknowledged for the work undertaken to date with the ongoing challenges of the pandemic.

11. The following points were highlighted:

- a. PSA Symposium - The symposium took place over three days:
 - Day 1 – Supporting and regulating the workforce: this included a presentation from Lucy Watson, Patients’ Association. Rachel Heatley asked about the role of the regulator and referenced our work to ensure that the patient voice is always heard.
 - Day 2 – How regulation should evolve to support the workforce: presentations were given by representatives from England, Wales and Northern Ireland. Fiona Browne contributed to the plenary discussions with a focus on culture and values.
 - Day 3 – Panel discussion- Equality, Diversity and Inclusion – ‘Is Regulation Too White?’: this was of particular interest as the GOsC has recently undertaken an Equality, Diversity and Inclusion (EDI) Audit of which the outcomes and recommendations will be a key feature of activity in the Business Plan in 2021/22.
- b. Devolved UK Nations: the new section of the report on the GOsC’s activity and communications with the devolved nations will be a regular feature giving Council the opportunity to consider and scrutinise work in this area. A future discussion will consider how Council members from the devolved regions can be utilised to further inform work concerning Northern Ireland, Scotland and Wales.
- c. Welsh Commissioner’s Office: the GOsC has been approached by the Welsh Commissioner’s Office to discuss the organisation’s constructive response to the Welsh Language consultation. A meeting is planned for the end of November 2020 and there will be a report to Council at its next meeting in February 2021.
- d. Patients’ Forum: there has been a significant increase in the number of patients who have joined the patient involvement group. The members of the Professional Standards team were commended for their work.

12. The following points were made and responded to:

- a. Members welcomed the report from the devolved nations. The reporting is timely as the impact of the different approaches to healthcare taken by the four nations of the UK has been highlighted throughout the pandemic. The issues of equality, diversity and inclusion are also demonstrated in the report.
- b. Members acknowledged the breadth of work which had been undertaken by the Executive and staff in particular:
 - the setting up of regular meetings with the Chief Allied Health Professions Officer;
 - the PSA webinar on candour and whistleblowing and healthcare experiences – what can osteopaths learn?
 - the fourteen-day CPD challenge;

- the meeting with the Black, Asian and Minority Ethnic (BAME) osteopath group – can insights from the meeting be discussed with COEI to respond and address the challenges?
- c. Members were informed that the initial meeting with the BAME osteopath group was an opportunity for the participants to share their thoughts, insights and some of their experiences within the profession. The Chief Executive, with Maurice Cheng, Chief Executive of the iO, will continue to have regular contact with the group. The learning from the groups insights and experiences will help to inform a range of activities as part of the GOsC Business Plan in 2021/22.
 - d. Good Thinking Society (GTS) / Advertising Standards Agency (ASA): There was a positive meeting held with GTS and actions resulting from the meeting were focused on communications to the profession in the GOsC e-bulletin and the 'Osteopath' magazine. A joint communication between the GOsC, ASA, Committee of Advertising Practice and the iO, is also being planned although there is no timeline at present due to resource pressures being experienced by the ASA arising from the pandemic.
 - e. Members were advised that issues relating to professionalism are embedded at all levels of the profession starting from the student journey with student presentations through to individuals joining the register and beyond. Advertising standards are a key feature within the Osteopathic Practice Standards (OPS) stating the requirements for compliance including that advertising must be legal, decent and honest.
13. Business Plan: The Business Plan monitoring report was noted by members with no questions raised.
 14. Finance Report: The reduction in expenditure to offset the loss of income in 2020/21 would mean that a deficit financial position is expected to be avoided
 15. The following points were made and responded to:
 - a. It was explained that the forecast cashflow position set out to members at the beginning of the pandemic was based on a situation never before experienced and built on the worse-case scenario of a high number of registrants leaving the register. Moving forward the forecast position is, and continues to be, better understood as the pandemic situation become much clearer and the initial concerns over the GOsC cash flow position were not realised but we will continue to be cautious and to monitor the position.

Noted: Council noted the contents of the Chief Executive and Registrar's report.

Item 7: Registration Report

16. The Chief Executive and Registrar introduced the item which provides an update on registration activities covering the six-month period from 1 April 2020 to 30 September 2020.
17. The following points were highlighted:
 - a. The number of registrants leaving the Register due to the pandemic has not been as high as expected and Register numbers continue to remain stable.
 - b. There had been an increase in non-practising applications due to the impact of COVID-19, however, the number recorded as non-practising has reduced from its peak during the height of the pandemic.
18. The following points were made and responded to:
 - a. It was explained that it would be difficult to make a comparison on the number of registrants leaving other health regulators due to the GOsC's rolling registration cycle, and the other regulators who have a single registration point, but it was not considered there had been any significant impact or changes to the registers of other healthcare regulators. It will be possible to analyse and make a comparison during 2021.
 - b. In relation to registrants who were nearing retirement and also reaching the end of the CPD three-year cycle, it was agreed that this could have an impact on the register if they all were to leave at the same time and would be monitored.
 - c. It was acknowledged that with the UK departure from the EU, the GOsC would no longer receive IMI alerts. It was not clear whether there would be a period of transition from 1 January 2021, but it was confirmed that there are other avenues through which international verifications can be made. It was thought that the integrity of the Register would not be undermined with the loss of the IMI alert system.

Noted: Council noted the content of the Registration report.

Item 8: Fitness to Practise Report

19. The Director of Fitness to Practise introduced the report which gave the quarterly update on the work of the Regulation Department and the GOsC's Fitness to Practise Committees.
20. The following points were highlighted:
 - a. All hearings (remote and blended) and meetings are continuing and progressing smoothly. Any technical problems during hearings have been

quickly resolved. Hearings are continuing to be listed to the end of 2020 and into 2021.

- b. Webinar: the first in a series of fitness to practise webinars to directly engage with the profession and patients was successful with over fifty delegates taking part and received some very positive feedback. We are planning to run another webinar in March 2021.
- c. Appeal against Unprofessional Conduct (UPC): An appeal is to be heard at the Royal Courts of Justice on 19 November 2020, conducted by video conference. The grounds for the appeal relate to the finding of UPC, rather than the sanction imposed.
- d. Dataset: It was acknowledged that the performance indicators for the PCC median figures are outside of the targets, but this reflects the impact of unheard substantive cases between 26 March and 3 July 2020 due to COVID-19 pandemic. During this time, we paused final hearings but continued to hold interim order cases, review hearings and Investigating Committee meetings. However, steps are already underway since July 2020 to actively manage this delay with hearings listed up until the end of 2020 and into the New Year.

Comments from the FtP Chairs

- e. The Chairs commented that they had been assured by the Executives' innovative responses to the challenges presented by the COVID-19 pandemic and that the move to remote and blended hearings have worked well with timely, just outcomes being delivered. It is suggested that a forward-looking review takes place to consider the opportunities and advantages to be gained from what has been learned, but it was also pointed out there was still for face-to-face meetings to take place when and where appropriate. The FtP Chairs thanked the Director of Fitness to Practise and the Regulation team for their work and support during a challenging and unprecedented time.

21. The following points were made and responded to:

- a. Statutory Appeals: It was confirmed that two statutory appeals would be taking place; the PCC decision against Wray (19 November) and the PCC decision against Sayer (21 January). It was confirmed that there are currently no judicial reviews.

The two appeals, which have been listed for one day, 19 November, and 21 January 2021, and will be undertaken by remote means.

In relation to the Wray appeal it was pointed out that the individual had pleaded guilty to the possession of an offensive weapon with an intention to injure. A conditional discharge was received and was the reason for the PCC decision of UPC rather than the case being dealt with as a conviction case.

We intend to report to Council on the outcome at the Council meeting in February 2021.

- b. Dataset: It was confirmed that there was no 'backlog' in the number of cases. The KPIs had not been met for the PCC due to the need to implement adjustments to established processes to meet the challenges posed by COVID-19. At the beginning of the pandemic all cases were reviewed to consider whether hearings could appropriately be undertaken by remote or blended means. Also, during this period the development of interim protocols and guidelines for remote hearings, for questioning witness and the training of the Committee members in new guidance were put into place.
- c. In considering the well-being of all parties (panel members, witnesses, registrants) who are participating in remote hearings, longer listing days are being arranged to allow for more frequent breaks meaning that hearings are taking longer than they would under normal circumstances.
- d. It was highlighted that the position for FtP activities at this point in time are very different to the position between March 2020 - July 2020 and the changes required have been successfully implemented to meet the challenges and unpredictability caused by the evolving nature of the devolved administration's responses to pandemic.

Noted: Council noted the content of the report.

Item 9: Fitness to Practise Committee Annual Reports 2019-20

22. Each Committee is required to report annually on its work to Council. The reports of the Fitness to Practise Committees cover the period 1 October 2019 to 31 September 2020.

Investigating Committee (IC)

23. The Chair of the Investigating Committee introduced his report. The following points were highlighted:
 - a. Casework: the number of complaints reviewed is consistent with the prior year, but with fewer cases being referred to the PCC. The reason for the drop in number is that a number of complaints are considered relatively minor and would it not be in the public interest to make the referral.
 - b. Adjournments: There have been no adjournments during the reporting period as there have been in previous years. This demonstrates the efficiency of the case workers and the system as a whole.
 - c. Summary of complaints - areas for concern include:
 - the inappropriate crossing of professional boundaries, sexually motivated conduct, and failure to have professional indemnity insurance – even

though the number of cases has reduced this remains an increasing trend and requires close monitoring.

- failure to have in place Professional Indemnity Insurance – this continues to be an issue despite the constant reminders made to the profession.
 - allegations arising from communication issues – these issues would reduce if osteopaths improved communications with patients and ensure clear informed consent has been obtained from patients.
- d. Committee membership: the process to recruit two members to the Committee is currently taking place. This is due to one member's appointment to Council and another who's term of office is due to end on 31 March 2021.
- e. Health referrals: The lack of health referrals appearing before the IC is to be welcomed however, there is a need to remain mindful of advice from the PSA that investigating committees must remain aware of potential underlying health issues when considering cases. The IC will keep issues relating to health in mind when considering future allegations.
- f. Adequacy of reasons and the independence of the Committee: The importance of the adequacy and clarity of reasons and the determinations made by the Committee is an area which is foremost in the mind of the Committee.

There has been no evidence to suggest that the IC acts in any way other than independently and will continue to reach its decisions in a fair, just and independent manner and will ensure that the reputation of the GOsC is maintained to the highest standard

24. The following points were made and responded to:

- a. It was commented that a possible reason for the reduction in number of IC referrals to the PCC may be, in part, due to the approach taken by the Chair, the strict adherence to protocols and guidelines in relation to public protection and wider interest, and the receipt of relatively minor complaints which are not in the public interest and where advice is then given to the registrant.

25. In summary the Chair of Council highlighted the specific issues for the IC:

- Ongoing concerns relating to professional boundaries and sexual misconduct
- Registrant communications and obtaining informed consent
- The adequacy and clarity of reasons in determinations
- The assurance of the continuing independence of the Committee.

26. The Chair of Council on behalf of Council thanked the IC Chair and his colleagues for all their work over the past year.

Professional Conduct Committee (PCC)

26. The Chair of Professional Conduct Committee introduced his report. The following points were highlighted:

- a. Impact of COVID-19 pandemic: The PCC appreciate the effective efforts which have been made by the Regulation team and others to enable the Committee to adjust to the implications of the pandemic on the regulation processes.
- b. In the current situation there are implications for others, including Defence Counsel and witnesses, and the opportunity to consider the culture of case management should be kept in mind.
- c. Retrospective: The report demonstrates the significant developments which have taken place over time and have been of material assistance to the PCC. It also provides the assurance that the system can respond to the practical and procedural challenges positively and professionally.
- d. This is the final Annual Report of the PCC Chair, Richard Davies, as his tenure would come to an end in March 2021. He expressed his personal gratitude for the unflagging support of Philip Geering and colleagues of the Professional Conduct Committee. He also thanked the Director of Fitness to Practise and the Regulation team for the highly professional support received by the Committee.
- e. In noting the report Council were asked that a wider consideration be given to the effects of remote and virtual hearing should be undertaken in the course of 2021.

27. The following points were made and responded to:

- a. It was confirmed that a review of remote hearings would be undertaken in due course. It was also added that it is the intention to conduct a consultation on the Remote Hearings Protocol as at present an interim protocol approved by Council has been put in place. The next stage in the process will be to review feedback from all interested parties involved in the hearings process to feed into the guidance before there is a consultation.
- b. The Director of Fitness of Practise, on behalf of her team and the Executive, thanked Richard for his service as Chair of the PCC.
- c. In his reflection on his time as a member and Chair of the PCC it was noted that the changes in approach to the work of the Committee have been significant. Over time there has been a change in culture not only in the hearings process but also in the care taken with the recruitment process, not only in the appointment of Committee members, but also in the recruitment

and appointment of Legal Assessors. The Committee can be viewed as reliable and rigorous but fair in its decisions.

28. The Chair of Council on behalf of Council thanked the PCC Chair and his colleagues for all their work and also thanked Richard for his service as a member and Chair of the PCC.

Health Committee (HC)

29. The Chair of the Health Committee introduced his report. The following points were highlighted:
- a. The numbers relating to the HC remain low and are consistent which in some respects is positive, but concerns remain that there are health issues which are not coming to light.
 - b. It remained to be seen whether COVID-19 related cases reach the PCC as misconduct cases, or as health-related issues for the HC.
 - c. As a reflection the HC Chair commented that there has been a shift in the nature of the ftp panels and was reassured that panellists who work with the GOsC are focused on the overarching statutory objectives.
30. The Chair of Council on behalf of members thanked the HC Chair for his report, his work and the work of the Committee. The concerns regarding health issues were noted and would continue to be monitored.

General comments relating to the Fitness to Practise Committees

31. The Review of the Fitness to Practise Process: The FtP Chairs responded to the question as to whether recommendations from the review had been considered and/or implemented.
- Investigating Committee – Panel members have the opportunity to give feedback after each hearing to the Chair. What needs to be implemented is wider systems of engagement set up to enable a system for independent feedback from registrants and others involved in the process.
 - Professional Conduct Committee – panel members have the opportunity to contribute to feedback after a hearing which is submitted by the panel Chair. The balance of engagement is important to ensure no-one is overlooked and that all members serve equally on panels as far as possible. It was suggested that with the appointment of the new PCC Chair this could be handled more formally.
 - Health Committee – Committee members are already expected to show a degree of reflective learning in relation FtP members' performance as demonstrated in the Annual Reviews. It was agreed that it might helpful for this to be expanded as part of feedback post-hearing.

32. In summary the Chair of Council suggested that identifying the gaps in levels of participation by members of the FtP committees should be given further consideration due course.

Noted: Council noted the Annual Reports of the Investigating, Professional Conduct and the Health Committee.

Item 10: Draft Screeners Guidance

33. The Director of Fitness to Practise introduced the item which invited Council to consider the draft Screeners Guidance. By way of background, an external audit in 2019 recommended that the Screeners Guidance be consolidated. The guidance has also been substantially updated and modified to enable Screeners to make consistent, fair and proportionate decisions.
34. The following points were highlighted:
- a. The development of the guidance had been paused due to the COVID-19 pandemic.
 - b. The guidance relates to the initial stages of an investigation into a registrant's fitness to practise up to and including the Investigating Committee.
 - c. All screeners are members of the Investigating Committee (IC) and are osteopathic members where matters concern the application of initial closure procedure or threshold criteria. In relation to the threshold criteria where an osteopathic screener determines that a case should be closed, a threshold review will be conducted by a lay screener of the IC. If they disagree with the osteopathic members decision, then the matter is screened in for referral to the IC.
 - d. The document enhances current guidance, takes account of the step changes introduced to the initial stages through the threshold criteria and the initial closure procedure which will improve consistency, and will act as a checklist for screeners.
 - e. The IC at its training day February 2020, had the opportunity to give feedback to help shape the draft guidance which has been incorporated into the current version document along with feedback given by members of the Policy and Education Committee, 14 October 2020.
 - f. Key changes include:
 - a flowchart as an additional guide for screeners
 - a section on regulatory concerns
 - a refreshment of the language generally
 - amendment of the screeners report to facilitate and improve decisions made by screeners

35. The following points were made and responded to:

- a. Clarification was provided relating to paragraph 9 of the guidance:

The Screener should therefore ask the following questions:

(a) Is the person complained against a registered osteopath? If not, there is no jurisdiction and the case will be closed.

It was explained that the complaint/investigation process only applies if an individual is a registered osteopath. Therefore, if an individual is no longer registered we have no jurisdiction and no action could be taken against the individual unless there is a protection of title concern. A brief explanation was provided as to how we mitigate any residual risk this might present. When a concern is raised against registrant there are 'red flag' protocols in place on the register which serves to prevent any attempt to resign or leave the register until any complaint or issue of concern has fully been investigated as appropriate.

- b. It was also highlighted that where an individual makes application to re-join the register the Registration team check with the Regulation team to confirm there are no outstanding concerns.
- c. Council was given assurances that to date no situation has arisen where a complainant has raised concerns against a registrant who had been able to leave the register before a complaints/investigation process had been initiated.
- d. There was some concern about how the Executive would respond if a concern or complaint could not be upheld due to an individual resigning from the register? It was also asked if there was evidence of this happening at any other health care regulator?
- e. It was commented that the above systems are in place to deal with any concerns relating to registrants leaving or making applications to join or re-join the register were robust and a recent example was provided of where a registrant attempted to resign from the register the day after a concern was brought to their attention. It was also pointed out that if the complaints route was not available to a complainant an alternative was through insurance.

Agreed: Council approved the draft Screeners Guidance for consultation.

Item 11: Draft Guidance on Insurance Requirements for Osteopaths

36. The Director of Fitness to Practise introduced the item which proposed the introduction of guidance on insurance requirements for registered osteopaths and those intending to register as osteopaths with the General Osteopathic Council.

37. The following points were highlighted:

- a. What the Executive have sought to do in developing the guidance is to capture the requirements under the Osteopaths Act 1993 and the Rules in relation to Professional Indemnity Insurance (PII) and Public Liability Insurance (PLI) together with the OPS. Learning from a range of sources primarily through cases received and adjudicated through the fitness to practise process and also learning received from the PSA on PII cases has also been included within the guidance.
- b. Comments and responses from the consultation have been positive and suggest that the PSA learning points has been captured well. Furthermore, Council will be reassured that there has been positive feedback on the purpose of the guidance which is for the protection of the public and the maintenance of the wider public interest which is the reputation and upholding the standards of the profession. The document also states the position of the GOsC clearly.

38. The following points were made and responded to:

- a. Clarification was provided relating to paragraph 15 of the guidance:

Osteopaths have a legal requirement to advise the GOsC immediately if they have ceased to practice and/or changed insurer.

It was explained that registrants inform the GOsC of any insurance change at the point of registration renewal, through completion of a self-declaration question on the renewal form. As part of the annual registration audit, a sample of the register is checked to ensure registrants have continuous insurance cover in place.

- b. It was agreed that the wording at paragraph 15 of the guidance would be amended for clarity.

Agreed: Council agreed the draft guidance on insurance requirements for osteopaths subject to amendment at paragraph 15 of the guidance.

Item 12: Swansea University – removal of expiry date from recognition of qualification

39. Simeon London declared an interest and did not participate in the discussion.

40. The Quality Assurance Liaison Officer introduced the item which concerned the removal of expiry date for the Master of Osteopathy recognised qualifications awarded by Swansea University.

41. The following points were highlighted:

- a. Swansea University meets the requirements for the removal of expiry date for the Master of Osteopathy RQ as there are no outstanding conditions and no risk related to this RQ programme.
- b. The PEC Chair confirmed that at its meeting 14 October the issues had been well explored and any implications relating to the removal of the RQ expiry date understood.

Agreed: Council agreed to recognise the qualification Master of Osteopathy awarded by Swansea University, with no expiry date and with no specific conditions, and to see approval of the recognition from the Privy Council.

Item 13: Budget Strategy 2021-22

- 42. The Chief Executive and Registrar introduced the item which looked at the overall financial envelope for the financial year 2021-22 and set parameters around forecast expenditure levels and registration fee income projections.
- 43. The following points were highlighted:
 - a. The forecast expenditure is currently greater than the forecast income for 2021-22. The issue to explore is how resources can be made available in order to bridge the gap and ensure a credible budget can be presented to Council but it is important to recognise the possibility that a deficit budget may need to be submitted.
 - b. Registration Fees: It is suggested that considering an increase in fees at this point in time would be intolerable to the profession and would be the incorrect approach. Therefore, for the seventh year in a row the recommendation is for fees to be held at the current level. It should be recognised that in not raising registration fees in line with inflation, the organisation will have absorbed an income loss of £250k over this period and demonstrates a core budget strategy principal of cost effectiveness and efficiency.
 - c. In looking, ahead four options were presented for Councils consideration:
 - A. Exploring what role we might have around increasing registrant numbers in the future, through an expansion of osteopathic education provision in areas such as Scotland and Northern England.
 - B. Exploring the possibilities of reducing expenditure through outsourcing activities such as registration assessments; reducing our financial commitment to research (i.e. decreasing the provision of the IJOM Plus package¹); making choices about how much engagement we

¹ International Journal of Osteopathic Medicine (IJOM) Plus – a corporate subscription paid by the GOsC to enable registered osteopaths access to a range of select research journals. Current contract concludes January 2022.

undertake; and considering sharing services with another healthcare regulator.

- C. Exploring the possibilities of increasing income through new sources, such as rental income with an appropriate partner.
- D. Exploring the possibility of normalising registration fee increases such as the system undertaken by the General Medical Council.

44. The following points were made and responded to:

- a. It was agreed that fees could not remain at the same level indefinitely but in the context of the pandemic and due to a number of negative factors impacting registrants, an increase in the level of fees would be intolerable to the profession. One of the suggested options (Option D) to explore the possibility of normalising fee increases would be an area of discussion in the future in the context of the legislative framework. This has not been an area of discussion previously but should be during the course of 2021.
- b. It was commented that the registration fee could not continue to be held at its current level indefinitely. A suggestion would be to cut cost where it is possible and increase the registration fee at a time that is appropriate. Until that time and to cover the cashflow shortage the GOsC reserves could be used. The point was noted and though the challenges to registrants are recognised there was also the need to maintain the financial stability of the GOsC. The issues would be discussed at further meetings so that a conclusion can be reached about registration fees during 2021.
- c. Members agreed about the issue of continuing to maintain fees at their current level, but it was not thought that registrants would be returning to normal practise in the foreseeable future and therefore timing would be key when considering a fee increase. It was also pointed out that there are a number of initiatives being undertaken to continue to improve the relationship between the GOsC and the profession and the fees issue could have a negative impact resulting in registrants leaving the profession. An additional note was that any comparisons should be like-with-like such as the General Chiropractic Council (GCC) rather than larger regulators.
- d. It was suggested that rather than paying fees over a period of ten months would it be possible to consider payments over twelve months. This might in a small way alleviate some of the difficulties in fee payments.
- e. Members were informed that the iO survey is helpful in providing data on the average income across the profession which might be analysed to inform the future discussions on registrant fees.
- f. Members were advised that the General Medical Council increase its fees in line with inflation.

- g. It was agreed that the way of considering and conceptualising 'value' – priorities, strategic ambition, efficiencies – was an interesting and helpful challenge to be considered by the Executive. It was also stated that it was vital to ensure that the core statutory functions of the organisation are maintained and continue to receive the correct level of resource. It was also important to make sure that right level of resource is available to ensure that the patient voice is heard which must be at the heart of our work. There will be questions and choices to be made about the areas of work undertaken by the GOsC and the areas of discretionary and non-discretionary spending.
- h. In relation to option A, a recent iO report highlighted the opportunities for the profession as a workforce the NHS could utilise across the UK. One of the issues discussed at Council was the way in which osteopathic education is focused in the South and expansion into northern areas could be given consideration as a way to support the workforce in the devolved administrations as well as expand the profession. Other suggestions in the report to build and support the workforce included more NHS links in training and placements providing opportunities to not only to expand the profession but also increase alternative career pathways.

45. The Chair summarised the discussion:

- a. The importance of value and impact assessment
- b. The issue of registration fees will be revisited at future meetings
- c. The parameters in which the GOsC are operating have been clearly set out and members are content with the approach being taken by the Executive.

Noted: Council considered and noted the overall financial envelope for financial year 2021-22.

Agreed: Council agreed to hold the registration fees at their current level.

Item 14: Reduced fee consultation analysis

46. The Chief Executive and Registrar introduced the item which provided an analysis of the responses to the reduced fee consultation.

47. The following points were highlighted:

- a. The reduced fee consultation took place over the period 1 September – 30 October 2020, and 29 responses were received.
- b. Council's options in discussion are:
 - to proceed with seeking the Amendment Order from the Department of Health and Social Care (DHSC);
 - not to proceed and accept that during the course of future financial years there will be a risk to finances which will need to be managed;

- not to proceed at this time but seek further engagement on the reduced registration fee.

Council's decision will be communicated to the DHSC. The DHSC are sympathetic to the Amendment Order being made however if there is any further work required further conversations will take place with DHSC to ensure that the commitment remains.

- c. The reasons for the consultation and for seeking an amendment order is a change to how the reduced fee is applied and to remove the anomaly where an osteopath may be out of clinical contact with patients for three continuous months in their registration year, return to practice for the remaining nine-months, yet remain entitled to pay the reduced fee for the full registration year. In effect these registrants were getting a substantial discount on their registration fees not just for the three non-practising months but also for the nine practising months compared to other registrants on the register. It was felt that this was unfair to registrants who paid a full fee for a whole year who were in effect paying a greater proportion of costs towards regulation. The anomaly also posed a financial risk to the GOsC as if large number of registrants had opted for the non-practising fee it would have been significant issue for the organisation.
- d. It was also noted that the consultation responses demonstrate that despite attempts to ensure clarity there was some evidence of misunderstanding.

48. The following points were made and responded to:

- a. It was suggested that in considering values there may be a need to be more eloquent in how practitioners voices are used to help explain issues which are being discussed are place in the context of practice.
- b. In clarifying practitioner non-practising status, it was explained that an application for non-practising status may be made looking forward, or applied for retrospectively.
- c. In clarifying the position of non-practising periods of over two consecutive registration years it was explained that if a registrants non-practising status was for six months over two registration periods the individual could claim the reduction for both periods. It was confirmed that it was possible for a person claim a reduction annually if they worked for nine months and did not work for three.
- d. It was confirmed that within the proposal a registrant would not be penalised if they were non-practising for a period and after return to found that they needed to return to non-practising status for example due to ill-health.

- e. It was agreed that care would be required with the communications about the reduced fee to ensure clarity and to emphasise the fairness in the proposals.
 - f. It was noted that in receiving 29 responses it was difficult to be assured that all impacted groups were represented, and it would not be possible to discern if respondents represented specific groups.
 - g. Members raised an issue regarding issues of equality for protected groups and ensuring the communications are clear and demonstrated that issues of fairness and equality had been carefully considered.
 - h. Is there a risk to patients if a fee reduction would encourage a registrant who may be unwell but returns to practice and/or continues to treat more people? The Osteopathic Practice Standards provide guidance about the management of health.
 - i. It was asked if there is a risk of unintended consequences of registrants leaving the Register as it would not take many leaving to outweigh the benefits of a reduced fee.
 - j. It was explained that many other regulators do not have a reduced registration fee. The GOsC is an outlier in having a reduced fee system which allows a registrant to not work for three months but receive a reduction in the fee applied across their whole registration year.
49. Taking into account the arguments outlined in the consultation and the substance of the concerns of the responses which had already been considered as part of the consultation and the equality impact assessment, the Council concluded that the proposal was appropriate and fair.

Agreed: Council agreed to seek an Amendment Order to close the anomaly within the General Osteopathic Council (Application for Registration and Fees) Rules 2000 around the application of the reduced registration fee.

Item 15: Minutes of the Policy and Education Committee (PEC) (Confirmed), June 2020

and

Item 16: Minutes of the Policy and Education Committee (PEC) (Unconfirmed), October 2020

49. The Chair of the PEC had no additional comments but did inform Council that at the meeting of October 2020 there had been a particularly enriching and useful discussion on horizon scanning.

Noted: Council noted the minutes of the Policy and Education Committee, June 2020.

Noted: Council noted the minutes of the Policy and Education Committee, October 2020.

Item 17: Minutes of the Audit Committee, October 2020

50. On reflection it was suggested that Council and the Audit Committee need to give thought to how Council can usefully inform and support the workplan of the Audit Committee without limiting its independence.

Noted: Council noted the minutes of the Audit Committee, October 2020.

Item 18: Remuneration and Appointments Committee

51. The Chair was encouraged with the work which the Committee had undertaken to date in light of the challenges of the pandemic and considering the Committee's membership was relatively new.

Noted: Council noted the minutes of the Remuneration and Appointments Committee, October 2020.

Item 19: Any other business

52. There was no other business.

Date of the next meeting: Tuesday 2 February 2021 at 10.00