



Council
9 February 2022
Chief Executive and Registrar's Report

Classification	Public
Purpose	For decision
Issue	A review of activities and performance since the last Council meeting not reported elsewhere on the agenda.
Recommendations	<ol style="list-style-type: none">1. To re-appoint Crowe as external financial auditors for one year.2. To increase the hotel allowance to £170 per night within the expenses policy.3. To note the content of the report.
Financial and resourcing implications	The financial report for the nine months to 31 December 2021 is attached at Annex B.
Equality and diversity implications	The paper sets out what we have done since the previous Council meeting on matters related to equality, diversity and inclusion.
Communications implications	These are discussed in the report.
Annexes	<ol style="list-style-type: none">A. Business Plan monitoring - 31 December 2021B. Financial report: nine months - 31 December 2021
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Key messages from this paper:

- The report sets out the activities undertaken by the team since the previous Council meeting not reported elsewhere on the agenda. Headlines include:
 - The judgment in the Court of Appeal case (Wray) was handed down on 17 December 2021. The Court of Appeal agreed with the substance of the GOsC arguments, although overall, the GOsC is deemed to have lost the appeal.
 - As a result of the Omicron variant, 'Plan B' restrictions in England were introduced and GOsC staff have been following the Government guidance and working from home where they can. Following the ending of Plan B restrictions we have revised our risk assessment to facilitate a return to office based working on a hybrid basis.
 - The Department of Health and Social Care have launched a 12-week consultation on 'Healthcare regulation: deciding when statutory regulation is appropriate'.
 - We have been in communication with the Welsh Language Commissioners Office about how we display on our Register the use of Welsh language in an osteopathic practice. The Welsh Language Commissioners Office is considering whether this is effective practice that should be promoted to other organisations.
 - We have received the report from Professor Julie Stone on professional boundaries in osteopathy. We are considering the report which will be discussed at the Policy and Education Committee and Council in March 2022 and May 2022 respectively.
 - We will be promoting LGBT+ History Month in February through the use of a staff email signature, support on social media and a blog from the Chief Executive and Registrar.
 - The paper seeks a decision from Council to reappoint our external financial auditors, Crowe, for one year, to allow for exploration of a potential group tender with some of our fellow healthcare regulators.
 - The papers seeks approval of a Remuneration and Appointments Committee recommendation to increase the hotel allowance within the expenses policy to £170 effective from 1 April 2022.

Introduction

1. This report gives an account of activities of note that have been undertaken by the Chief Executive and Registrar and colleagues since the previous Council meeting, which are not reported elsewhere on the agenda.

Council activity

Court of Appeal (Wray):

2. The judgment in the Court of Appeal case (Wray) was handed down on 17 December 2021. The Court of Appeal agreed with the substance of the GOsC arguments that the High Court had been wrong to criticise the way in which the PCC heard the case. Their Lordships underlined the importance of PCC panels seeking information through questioning and set out that the procedure followed by the PCC had not in any way been irregular or unfair to the registrant.
3. However, overall, the GOsC is deemed to have lost the appeal. This is because the Court of Appeal concluded that the High Court, notwithstanding its errors, had been entitled to form its own view of the conduct that had been admitted by Mr Wray, and to overturn the PCC's finding that he was guilty of unacceptable professional conduct. A fuller update is provided in the Director of Fitness to Practise' report elsewhere on the agenda.

Omicron: Plan B restrictions (implemented and lifted since previous meeting of Council)

4. The Government announced in December 2021 that as a result of the Omicron variant, 'Plan B' restrictions in England were to be implemented, with one pillar of the new restrictions being for individuals to work from home if they could.
5. The GOsC staff team are able to work from home and we issued a communication to staff to that effect. We know homeworking, while not ideal for every member of staff, does not impact on our overall productivity as demonstrated by the organisational performance since the beginning of the pandemic.
6. Prior to the Plan B restrictions, staff had begun operating on a hybrid basis - part office based, part home based - and now that Plan B restrictions have been lifted (January 2022) we are able to recommence in-person office activity again. While the transmissibility of the virus remains high, we will naturally follow the Government guidance, keep our own risk assessment updated, and ensure the safety of our staff team at all times.

Professional Standards Authority for Health and Social Care (PSA)

Performance review:

7. The publication of the PSA Performance Review Report into the GOsC performance for 2020-21 was published on 29 November 2021. A more detailed paper on the performance review report is contained later on the February 2022 Council agenda.

PSA requests:

8. We have responded to requests for information on the following areas of policy work which PSA are considering developing further:
 - The voice of patients and service users in professional regulation
 - Review of sexual boundaries publications
 - Advertising
9. We have also responded to the PSA following a request to all regulators for information concerning guidance regulators have issued on vaccinations for healthcare professionals. All GOsC information can be found on the Covid-19 webpage including our guidance on [vaccinations](#).

Appointments seminar:

10. We attended an appointments seminar held by the PSA on 12 January which considered whether notices of reappointments (Council members) could be further streamlined; advised of some minor revision to the PSA guidance on appointments and reappointments; and the sourcing of independent panel members.

Department of Health and Social Care

Healthcare regulation: deciding when statutory regulation is appropriate

11. The Department of Health and Social Care (DHSC) launched a consultation on 6 January 2022 on '[Healthcare regulation: deciding when statutory regulation is appropriate](#)'.
12. The consultation considers how the powers to introduce and remove professions from regulation might be used in the future. It seeks views on:
 - the proposed criteria to make decisions on which professions should be regulated
 - whether there are regulated professions that no longer require statutory regulation
 - whether there are unregulated professions that should be brought into statutory regulation.
13. The consultation runs for 12-weeks, and we will respond to that consultation before the deadline of 31 March 2022.

Patient Safety Commissioner consultation response

14. In July 2021, in its formal response to the First Do No Harm report by Baroness Cumberlege, the Government accepted the recommendation to establish a Patient Safety Commissioner to champion the patient voice and support and encourage the efforts of the healthcare system to improve patient safety around the use of medicines and medical devices.
15. A consultation was held in the summer of 2021 covering a range of details relating to how the Commissioner role will operate in practice, including the term of office of the role, remuneration and funding and the establishment of an advisory panel to support the Commissioner.
16. The Government published its [consultation response](#) on 6 January 2022. Headlines include:
 - The Patient Safety Commissioner will serve for an initial term of three years and may be eligible for reappointment at the end of that term.
 - The Patient Safety Commissioner position will be remunerated and the DHSC will fund the operation of the Patient Safety Commissioner, who will produce a report of their activities annually.
 - The Patient Safety Commissioner may appoint an advisory board, whose members will have a broad range of relevant interests, experience and knowledge of the health system, sectors and patients.
17. Once appointed we will aim to meet with the Patient Safety Commissioner to discuss the settings within which osteopathic care is provided so we can help inform the Commissioner of our work and also be informed by the expectations in the wider health sector.

Devolved nations

Scotland:

18. We have been invited to respond to a questionnaire on the Scottish Government's commitment to create a Patient Safety Commissioner for Scotland which was one of the recommendations arising from the Cumberlege Review.
19. We have been invited to participate in a cross sectoral group to explore how osteopaths work as part of the wider health sector in Scotland led by Glynis Fox, President of the Institute of Osteopathy.

Northern Ireland:

20. Since the November 2021 meeting of Council we have continued to recruit for a Council member, Northern Ireland, to replace Joan Martin who demits at the end

of March 2022. We have provided a fuller update on progress in the Chairs Report on the February 2022 Council agenda.

Wales:

Welsh Language, effective practice

21. We have been in communication with the Welsh Language Commissioners Officer about our public Register displaying whether Welsh is spoken at a practice. This is being considered by the Welsh Language Commissioners Officer as a case study for effective practice and we will keep Council informed as this work continues.
22. We have been invited to a PSA conference on Regulation in Welsh Context to be held online in March 2022. There will be executive and non-executive attendance from Council at the meeting.

Boundaries

23. In 2021 we commissioned Professor Julie Stone to prepare a report on professional boundaries in osteopathy. The report, which was informed by discussions with osteopathic education providers, students and patients, has been submitted and is currently being considered by the Executive. The report will be presented to the March 2022 Policy and Education Committee and to Council in May 2022.
24. We will ensure there is a suitable amount of time on the May 2022 agenda for this report to be considered by Council and any subsequent next steps.

Equality, Diversity and Inclusion

25. The month of February is LGBT+ History Month and as in previous years, the GOsC staff emails will contain a signature footer highlighting this event and we will support on social media. Additionally, this year there will be a blog from the Chief Executive and Registrar.
26. We are progressing well with our pilot to explain why we want to collect more equality and diversity data from the profession. [Dr Stacey Clift's blog](#) on this matter has been well received and has led to participants volunteering for two focus groups at the end of January and early February to check the pilot survey and messaging before we launch the pilot.

Review of GOsC performance

27. In March 2021 Audit Committee approved the commencement of a short-term working group to look at the performance of the GOsC. The working group consisted of executive and non-executive members and six working group meetings were held from June to December 2021.

28. The working group has now concluded its work and produced a draft report. Consideration is being given as to how best to present the findings to Council so that members may engage fully with the findings of the working group.

Communication activities

29. At the November 2021 Council meeting, it was agreed that appropriate updates on the GOsC Communication activities would be provided through the Chief Executive and Registrar report. The Senior Management Team continue to review our activity matrix for all of our stakeholders reviewing insights and engagement and feeding those in to our cross-organisational activities.
30. This update highlights that the draft Business Plan and Budget 2022-23, which is contained elsewhere on the agenda, sets out in more detail the nature of the communication activities we are planning for the coming year ahead. However, at a strategic level, Council will recognise that the activities are focused on its priorities being:
- Understanding our baseline by undertaking registrant and stakeholder perceptions survey and supporting work as well as a patient perception survey (carried out every four years);
 - Enhancing our activity with, and support for, regional groups, around issues such as boundaries and professional judgement;
 - Enhancing our communication with students across all years of study including establishment of a student forum.
31. We have redesigned the GOsC monthly ebulletin into a format which we hope will be more accessible and engaging for the profession. The redesign offers a more image-led layout, which will give us a platform to introduce greater diversity to our imagery and more variety to our content. The redesign was based on feedback we received from osteopaths following a survey held in 2021.
32. In January 2022, we held some new education quality assurance seminars for around 20 osteopaths and lay people involved in osteopathic education. The aims of the seminars were to increase knowledge and understanding of the why, what and how of the GOsC Quality Assurance process, to consider what is 'quality' and some of the challenges and tensions, to provide a space for reflections and questions and to encourage applications for the Mott MacDonald visitor roles.
33. Initial feedback indicated that the nature and extent of our work to assure education is not widely known and members commented that they were struck by the 'human' approach that we take. We will continue to aim to raise awareness of our role in education over the course of the next couple of months.

Protection of title: enforcement policy

34. We will be undertaking a rapid review of the GOsC Section 32 enforcement policy, which sets out our approach to protecting the title 'osteopath' from unlawful use. While the policy, which was introduced in November 2014 remains current, we feel on reviewing the policy that it could be enhanced with some practical examples and by updating references including the Health and Social Care (Safety and Quality) Act 2015 which added our public protection and other associated statutory objectives.
35. We had looked afresh at the policy as in recent months we have been asked to clarify our position in relation to the use of prefixes with the protected title osteopath for non-registered individuals. The Enforcement Policy underpins our approach. For context, I summarise below the issue around the use of the prefix and how the Enforcement Policy may be used in such circumstances.
36. A clarification was sought as to whether the use of a prefix, such as 'animal/equine osteopath', for a non-registered individual, would exempt them from enforcement action if it was clear to the public that the individual was not treating humans in any way. Would the GOsC be prepared to say it would not automatically seek to prosecute an individual using a prefix and who made it clear to the public they did not treat humans?
37. Our position is that while we recognise that the regulation of animal practice (where use of techniques in relation to animals is subject to the requirements of the Veterinary Act) is separate from the regulation of human practice, we cannot say that we would not prosecute an individual using a prefix with the protected title when they are not a registered osteopath. We would not be prepared to provide a guarantee or 'immunity' from enforcement action commencing. This is because of the potential public protection and reputational implications arising for osteopaths.
38. Our Enforcement Policy sets out our approach to deciding whether to commence enforcement action and states GOsC will:
 - Act in the public interest and not solely for the purposes of obtaining a conviction
 - Be fair, independent and objective
 - Follow the guidance set out in the:
 - Code for Crown Prosecutors issued by the Crown Prosecution Service for England and Wales
 - Prosecutions Code issued by the Crown Office and Procurator Fiscal Service for Scotland
 - Code of Prosecutor issued by the Public Prosecution Service of Northern Ireland

39. Any case would be considered on its own merits/facts and enforcement action determined after application of the policy to the case in question.

External financial auditors: one year extension

40. We reported to Council in November 2021 that there was the potential for GOsC to participate in a group tender with some of our fellow healthcare regulators for external financial audit services. We continue to be engaged in those discussions and will update Audit Committee and Council accordingly.
41. Our current auditors, Crowe, have undertaken five audits and in line with good procurement practice we had planned to run an external audit tender in the business year 2021-22. In light of the potential group tender, Audit Committee were content to recommend to Council that Crowe be reappointed for one year covering the audit of FY2021-22. We have discussed this with Crowe who are happy with the arrangement subject to approval from Council.
42. The one year extension will allow the Head of Resources and Assurance to fully explore whether the group tender will work for the GOsC requirements, and if not, it will allow time for us to undertake our own procurement process.
43. Council is asked to approve the re-appointment of Crowe for one year.

Council and Committee expenses policy

44. In November 2021, the Remuneration and Appointments Committee (RaAC) considered the GOsC Council and Committee expenses policy which had been benchmarked against the wider healthcare sector.
45. There was just one area where the GOsC expenses policy was behind the market and that was in relation to hotel expenses. It was noted that a small increase of £20 from £150 to £170 would bring the GOsC policy in line with the market, and the RaAC were content to make this recommendation to Council.
46. Council is asked to approve an increase to the hotel expense allowance to £170.

Staffing

47. Since the previous meeting of Council there have been some staff changes as outlined below:
- Susan Alisigwe, Regulation Assistant, has left the GOsC having secured promotion into a Regulation Officer role with the Health and Care Professions Council. We are arranging for some temporary cover for the Regulation team while we consider a more permanent appointment process.

- We have recruited Jessica Davies as maternity leave cover for Stacey Towle, Senior Communications Officer and Fameeda Shafiq on a secondment from Ward Hadaway as maternity leave cover for Sheena Wynn, Senior Regulation Officer.
- Due to the Cloud Engage project during this year, we have added some additional temporary capacity into the Registration team to support CPD activity (Mohammed Irfan Sherali), and also we advertising for additional digital engagement capacity whilst our Senior Digital Communications Officer works on the cloud engage project.
- In addition, we have secured some temporary assistance (Jane Saunders) to support our part-time HR Manager with the volume of human resources and governance activity. We welcome Mohammed and Jane to the GOsC.

External meetings – bringing insight into our business

48. Since the previous meeting we have participated in several external events with stakeholders and partner organisations which ensure that we are able to bring insight to our work. These meetings, which have not been referenced elsewhere in the report, include:

- Chief Executives of the Regulatory Bodies forum
- Sub-group of the Chief Executives (CO-POD)¹
- DHSC: regulatory reform meetings
- Directors of Fitness to Practice forum
- Meeting with Nick Jones, Chief Executive and Registrar, General Chiropractic Council
- Meeting with Maurice Cheng, Institute of Osteopathy (iO)
- Osteopathic Development Group meeting
- Inter-regulatory forums - multiple

Progress against the 2021-22 Business Plan

49. The Business Plan monitoring report as at 31 December 2021 is set out at Annex A.

Financial report

50. The financial report for the nine months to 31 December 2021 is set out at Annex B. Maxine Supersaud, Head of Resources and Assurance, will attend Council to present the results.

¹ NB: The GOsC has taken on the Chairing responsibilities for CO-POD in 2022 following the change in Chief Executive and Registrar at the General Optical Council.

Recommendations:

1. To re-appoint Crowe as external financial auditors for one year.
2. To increase the hotel allowance to £170 per night within the expenses policy.
3. To note the content of the report.