



Council
29 January 2014
Education Quality Assurance Contract

Classification	Public
Purpose	For decision
Issue	Plans for future procurement of quality assurance services in the context of the current regulatory environment and the osteopathic educational environment.
Recommendations	<ol style="list-style-type: none">1. To waive the procurement requirements in relation to the existing quality assurance contract up until August 2015.2. To agree the plan for tendering a major quality assurance contract to commence from August 2015.
Financial and resourcing implications	The costs of quality assurance from August 2014 to August 2015 have been taken into account in the 2014-15 budget to be agreed separately by Council. Some of these costs will fall into the April 2015 to March 2016 budget because the latter part of the contract will fall into that financial year.
Equality and diversity implications	None directly.
Communications implications	We have discussed the contents of this paper in advance with the Quality Assurance Agency for Higher Education (QAA) which currently manages the review process. This paper will be in the public domain and we will publish and advertise more detailed information later in 2014, about our intentions in relation to the August 2015 contract.
Annexes	None
Author	Fiona Browne

Background

1. Sections 14, 15 and 16 of the Osteopaths Act 1993 provide the Council with power to recognise qualifications (subject to Privy Council approval) which entitle applicants to apply for registration with us on advice from the Education Committee. The Education, Registration and Standards Committee is the statutory Education Committee for these purposes.
2. The Osteopaths Act 1993 provides the Education Committee with a range of duties and powers in relation to quality assurance of osteopathic education. Section 11 of the Osteopaths Act 1993 provides that the Education Committee has a 'general duty of promoting high standards of education and training in osteopathy and keeping the provision made for that education and training under review.' The Education Committee also has a duty to provide advice to the Council about matters related to education and training.
3. Section 18 of the Osteopaths Act 1993 provides the Education Committee with wide powers to require 'any such institution ... to [the Committee] such information as [the Committee] may reasonably require in connection with the exercise of its functions under this Act.' Section 12 also provides the Education Committee with statutory powers to appoint statutory Visitors with wide powers to inspect and report on education and training provision.
4. The Corporate Plan 2013 to 2016 provides that we will 'promote public and patient safety through proportionate, targeted and effective regulatory activity.' It also confirms our goal to 'ensure that initial education and training is of high-quality and is fit for purpose in an evolving healthcare and higher education environment.'
5. The activities that we have committed to undertaking to support the achievement of this goal include to:
 - '...quality assure 'Recognised Qualifications';
 - '...ensure the effective training and appraisal of educational Visitors undertaking quality assurance visits';
 - '...develop proposals on changes to our quality assurance processes, consult on these and implement any changes' and
 - '...ensure the effective alignment of standards and quality assurance'
6. Our major review of quality assurance is underway and a report on this will be considered by the Education and Registration Standards Committee in February 2014. It is being undertaken in the context of the major review of health regulation legislation which is currently being undertaken by the Law Commission of England and Wales, the Scottish Law Commission and the Northern Ireland Law Commission which will change our legislation in due course.

7. In February 2013, the Law Commission published a consultation analysis of all the responses to their original proposals for a single Act of Parliament dealing with the regulation of all the existing health and social care professionals. The Law Commission confirmed that their 'provisional proposals will be reviewed in the light of the evidence received at the consultation events and the formal responses to our consultation paper from individuals and organisations.' The final report of the Law Commission and the draft Bill are expected to be published in early 2014. It is then expected that a Government Bill will be introduced to Parliament following the Queen's Speech in May 2014.
8. The proposals for regulators' powers and duties in relation to quality assurance anticipated in the Law Commission Bill are intended to be flexible. The Law Commission proposed that 'regulators should be given greater autonomy to determine their own approach to the approval of pre-registration and post-registration education and training. This would enable the regulators to undertake the task of regulation in such a way that reflects the circumstances each faces, including the potentially significant costs and burdens imposed by quality assurance systems. For example, the regulators could opt for a process-driven approach to regulation which relies heavily on approving the content of courses/programmes and inspection, or an outcomes-based approach. The regulators could also choose to regulate individual education programmes and/or education institutions and/or the environment in which education is delivered.' The regulator would be able to set out how it would approve courses, programmes and how it would quality assure these in its own rules' (see pages 107-108 of Regulation of Health Care Professionals Regulation; Regulation of Social Care Professionals in England: A Joint Consultation Paper, 2012).
9. All those responding to the proposal that regulators should make rules about the qualifications, institutions, courses, programmes or environments which are approved, withdrawal of approval, appeals processes, methods of quality assurance, monitoring and review, appointment of Visitors and systems of inspection agreed with it (see page 105 of the consultation analysis, 2013).
10. This suggests that a flexible framework to quality assurance is likely which could open up the possibility of a radically different and fit for purpose approach to quality assurance in due course.
11. In terms of the operational undertaking of our quality assurance processes, we currently contract with the Quality Assurance Agency for Higher Education (QAA) – which is responsible for quality assuring higher education in England, Scotland and Wales to run our quality assurance process and to provide reports and analyse information on our behalf. These reports provide the evidence base upon which the Education Committee makes recommendations to Council to inform its decisions.
12. We have contracted with the QAA since 2004 and the contract has been renewed every two years. For a time, there were no comparable organisations in the market and so the contract continued to be negotiated and reviewed. In February 2012, the Finance and General Purposes Committee agreed to waive

our procurement process for the quality assurance contract and to renegotiate the contract with the QAA for a further two years. It was envisaged that a full tender for the delivery of quality assurance services would take place ahead of the contract renewal in August 2014.

13. In relation to our quality assurance activities, we are about to come to the end of a series of Recognised Qualification (RQ) review visits. The last RQ review visit of this phase will take place in March 2014. The next RQ review visit after that will take place in April 2016 meaning that review costs are envisaged to be significantly lower over the course of the next contract period from August 2014 to August 2015. Usually contracts will involve between two and four RQ visits and associated costs on a cyclical basis. Council should note that there is always the potential for new institutions or new qualifications at existing institutions to be introduced during this period, which may require an unplanned review to take place. Likewise, if there was a significant event that would affect the delivery of the *Osteopathic Practice Standards* at an institution during this time, then this might also require an unplanned review.
14. Following the governance review and the abolition of the Finance and General Purposes Committee, decisions about variations to the procurement process now rest with Council (see page 53 of the Governance Handbook.)
15. This paper seeks the agreement of Council for a further waiver of the procurement process for our quality assurance contract allowing us to negotiate an extension to the existing contract from August 2014 to August 2015. The reasons for this are set out below.

Discussion

16. Our requirements for the quality assurance contract from August 2014 to August 2015 will include:
 - Refresher training (which will take place towards the end of 2014). It is necessary to retain a 'live' pool of Visitors in the event that unscheduled reviews may be necessary.
 - Evaluation report and focus group focussing on evaluation of the RQ visits that took place during August 2013 to August 2014 (there were 5 RQ visits which took place during this time period).
 - Annual performance reviews/appraisals for Visitors .
 - Annual report analysis for all 11 osteopathic educational institutions
 - Appropriate QAA staff costs.
 - Provision for unplanned RQ visits (although we are not currently expecting to undertake any).
17. From August 2015 to August 2020 and possibly beyond, our specification will look very different. During 2015, we will have a better understanding of the timetable for the implementation of new legislation (subject to legislation proceeding as planned). We will have a better understanding of what our new quality assurance framework will look like following the quality assurance

consultation planned for 2014. For example, a new quality assurance framework may be based on the collection of student and patient data, or it might focus on quality assurance of institutions rather than individual courses, or it might take a thematic approach to quality assurance focussing on drilling in depth in narrow areas to support the sharing of learning and good practice. However, we will still be carrying on the 'old' system whilst we develop a new operational framework for the 'new' system which will be subject to the implementation of the new legislation.

18. It would be appropriate for the service provider to be appointed in August 2015, in order to play a part in the development of the new operational framework and to have time to appoint appropriate Visitors with the right expertise etc. ahead of the implementation of the 'new' framework perhaps in 2018 or so. The successful provider will also need to undertake reviews of all eight osteopathic educational institutions (some of these under the old system and some of these under the new system as well as evaluation reports, recruitment, training, appraisal and the analysis of some annual reports).
19. Such a specification is likely to require a period of five years (rather than the two year renewal that we currently have in place). Indeed there might be an argument to agree a longer contract given the particular period of transition to allow any new quality assurance framework to bed down effectively.
20. The contract would clearly be worth a significant sum of money. As such, it would be subject to European Union (EU) procurement rules, including particular requirements relating to advertising and the Chair or another member of Council to be a member of, or an observer to, the selection panel. The remaining selection panel members would consist of the Chief Executive, Head of Registration and Resources or the Head of Regulation.
21. The detailed specification for the August 2015 contract will be considered by Council in October 2014 following an initial consideration by the Education and Registration Standards Committee in September 2014.
22. An indicative timetable for the August 2015 recruitment, subject to the detailed consideration and approval of Council in October 2014, would be as follows:

Date	Activity
November to December 2014	Interested parties invited to attend General Osteopathic Council (GOsC) to learn more about the specification and the role of the quality assurance provider.
January 2015	Advertise invitation to tender for quality assurance services
Mid February 2015	Closing date for the submission of tenders

Late February 2015	Short-listing takes place
March 2015	Interviews take place
April to June 2015	Contracts negotiated, agreed and signed.
August 2015	New contract commences
April 2016	First planned quality assurance visit takes place.

23. We could treat the August 2014 and August 2015 contracts as a single contract and undertake a major tender now. However, the external uncertainty means that this could not be clear about the appropriate specification at this stage. It is therefore submitted that the requirements for the August 2014 contract and the August 2015 contract are quite different.
24. If Council is agreed that the requirements of the contracts from August 2014 to August 2015 and from August 2015 onwards are quite different, there remain two options for the August 2014 contract as follows:
25. Option 1 is to tender for a short interim contract from August 2014 to August 2015. The advantages of this are that we might secure a cheaper contract. The disadvantages of this approach are that, given the limited specification, it will be, in reality, difficult for any other organisation to compete with the QAA. For example, the evaluation of the previous RQ visits could be difficult for a new provider to undertake as data already collected by the QAA would need to be 're-collected' by the new provider, unless there was consent to pass this data on. The reality is that we would also need to spend considerable time and resources on bringing an interim provider up to speed with the current process should this be necessary. Further, such a process could have the unintended consequence of impacting on the service providers bidding for the major tender process. This is because unsuccessful tenderers could be put off tendering for the major contract in August 2015. In any event, it is suggested that the resources required to undertake such a tender at this stage are disproportionate to any benefits that we might achieve in this year.
26. Option 2 is to negotiate an extension to the existing contract with the QAA to August 2015 while also explaining our plans for August 2015 and beyond. The advantages of such an approach are that it provides a simple cost-effective approach to quality assurance over the course of the following year. The disadvantage is that we will not have tested the market, but this is in the context of the limited benefits and indeed major risks outlined above of undertaking a tender at this point in time and also the proposal below and timetable for undertaking a major tender during 2015.

27. It is submitted that the external uncertainty of the legislative framework, the risks of tendering for a new contract in 2014 outlined above, and our plan to issue a major tender document in August 2015, mean that it is appropriate for Council to waive the procurement process for the QAA for a further year and permit us to negotiate an extension to the contract for a further year to 2015.

Recommendations:

1. To waive the procurement requirements in relation to the existing quality assurance contract to August 2015.
2. To agree the plan for tendering a major quality assurance contract to commence from August 2015.