

## GENERAL OSTEOPATHIC COUNCIL

Minutes of the 59th meeting of the General Osteopathic Council held in public on  
Tuesday 16 September 2008 at Osteopathy House,  
176 Tower Bridge Road, London SE1 3LU.

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**Chairman:** Professor Adrian Eddleston

**Present:**

Martin Booth	Robin Shepherd
Geraldine Campbell	Paul Sommerfeld
Claire Cheetham	Rosalind Stuart-Menteth
John Chuter (Treasurer)	Dr Andrew Thompson
Catherine Hamilton-Plant	Fiona Walsh
Professor Ian Hughes	Jenny White
Tim McClune	John Wilden
Dr Richard Rebain	Margaret Wolff
Rachel Pointon	Dr Les Wootton
Professor Trudie Roberts	

**In attendance:**

Evlynne Gilvarry, Chief Executive & Registrar (CE&R)  
Vince Cullen, Director of Professional Standards  
Alan Currie, Head of Registration and MIS  
Matthew Redford, Head of Finance & Administration  
Velia Soames, Head of Regulation  
Brigid Tucker, Head of Communications

Jane Quinnell, Clerk to Council

1. Geraldine Campbell and Jenny White, recently appointed lay Council members, were welcomed to their first Council meeting. A briefing and lunch for Geraldine and Jenny had taken place in August and a further induction session, attended also by recently elected osteopath member, Richard Rebain, took place on 15 September.
2. Alan Currie, the newly appointed Head of Registration, who replaces Gillian O'Callaghan, was welcomed to his first Council meeting. The Council noted Gillian's enormous contribution to the GOsC since its inception. She had been a key figure in building the IT systems to support the Register. Gillian is moving to start a new life in Wales and the Council wished her well.
3. Nigel Graham from the British Osteopathic Association and Jaskiran Aujla, osteopath, were welcomed as observers.
4. The Osteopathy House redevelopment item would be taken at 11.00am when the project managements were present and there was an additional item to be heard in the public session of the meeting, immediately after lunch at 2.00pm. The item concerned a report by the Registrar following an investigation conducted under Section 10 (1) of the Osteopaths Act 1993. The investigation related to an entry in the Register which is alleged to have 'been fraudulently procured or incorrectly

made' (s10(1)). Council would be asked to:

- a. Consider the Registrar's report
- b. Make a decision in the case as provided in Section 10

Additional supporting papers would be given out in the lunch break with some reading time allocated and the matter would be heard immediately after lunch.

## **APOLOGIES**

5. Apologies were received from Dr Stephen Barasi, Robert Burge, Nigel Clarke and Fionnuala Cook.

## **QUESTIONS FROM OBSERVERS (five minutes)**

6. Nigel Graham asked whether osteopaths called as witnesses in Fitness to Practise cases could be offered any legal assistance. The Chair replied that this question would be researched and answered in writing. He invited Mr Graham to put questions he proposed to raise in writing before a Council meeting so that adequate answers could be given, whether orally or in writing, during the short period reserved for questions from observers.

## **MINUTES OF THE PREVIOUS MEETING**

7. The minutes from the meeting of 10 June 2008 were signed by the Chair as a true record of the meeting.

## **MATTERS ARISING**

8. There were no formal matters arising and none raised by members.

## **CHAIRMAN'S REPORT**

9. Recruitment Campaign for Council Members The recruitment campaign for membership of the reconstituted Council for 1 April 2009 commenced on 8 September 2008. The profession, members of Council and members co-opted to Council committees had been emailed directly about the campaign. So far, some 200 information/application packs had been downloaded or requested by mail.
10. Forum for Osteopathic Regulation in Europe (FORE) and European Federation of Osteopaths (EFO) Professor Eddleston had chaired a meeting of FORE and EFO on Saturday 13 September 2008 at Osteopathy House. The meeting had considered the role and work plans of the two bodies. Both bodies had distinct but complementary roles; FORE's focus was mainly regulatory whilst the EFO's role was to promote the profession of osteopathy. The meeting resolved that both bodies should collaborate in the interests of promoting regulation of osteopathy throughout the EU and enhancing the status of osteopaths as primary health care professionals.
11. Recruitment Campaign for the Fitness to Practise Panellists and the Professional Standards Committee The competences for Fitness to Practise panellists had been developed and approval of the competences would be sought later in the meeting under Item 10b. Competences for Professional Standards Committee members were to be drafted. Currently it was planned to commence the recruitment campaign for members of statutory committees in the week

commencing 20 October 2008.

## **CHIEF EXECUTIVE'S REPORT**

12. EG presented her report and invited questions.
13. In a response to a question, EG acknowledged that the Joint Regulators Committee on Public and Patient Involvement had completed work previously on registration. Indeed, the GOsC had made changes to its register based on the outcome of this work. However, the imminent research planned was aimed at assessing the usefulness and effectiveness of our registration procedures for new osteopaths.
14. EG would keep members informed with regard to the research projects (their development and progress). The results of the current four research proposals would give the GOsC benchmark measurements against which it could measure itself in subsequent years. Members asked that care should be taken to ensure that there was no unnecessary duplication of GOsC research and research undertaken through the National Council for Osteopathic Research's (NCOR)

## **STAKEHOLDER ENGAGEMENT REPORT**

15. BT presented her report and invited questions.
16. A question was raised as to the likely number of applicants under the GOsC's new registration powers ( S3 of the Osteopaths Act 1993) The answer was that it was too early to estimate with any degree of accuracy but the current working assumption was that it could be between 200 and 500. The GOsC had written to those on a database of approximately 1000 - identified as practising osteopaths in 1996/7, but who had not been registered - to make them aware of the new powers. All current registrants had also received a letter alerting them to the new powers and seeking their help in bringing the information to the attention of anyone they knew who might potentially apply under the new powers. The BOA and the GOsC's international networks had also been alerted.
17. Engagement with stakeholders and general public/patients The need to step up the level of engagement with these groups was acknowledged and the advice and assistance of Geraldine Campbell, who had particular expertise in consumer engagement would be sought.
18. World Health Organization (WHO) Guidelines on Basic Training and Safety in Osteopathy Members asked about the status and progress of these Guidelines which had been drafted and developed in 2006/07. Mr Cullen reported that the Guidelines were completed in 2007 but WHO had not yet published them due to a inconsistency between the guidelines and WHO's own guidelines (produced subsequently) on publishing guidelines . However, there was some prospect of the Guidelines being released at the end of 2008.
19. GOsC Stakeholder Engagement Report EG said that the report on stakeholder engagement was aimed at ensuring Council members were well informed about the content and outcome of talks with external bodies. She invited Council members to submit any comments they may have so that the format could be refined further.

## **EQUALITY & DIVERSITY**

20. VS presented the update report. She confirmed that the Equality Scheme was currently out for consultation and all feedback would be taken into account in refining the scheme and underpinning action plan. Meanwhile however, the GOsC was pressing ahead with implementation of the action plan in key respects. Jenny White, whose expertise lay in Equality & Diversity, noted that she had some questions and comments on the proposed scheme and would raise these separately with VS.

### **DRAFT ANNUAL REPORT AND ACCOUNTS for 2007-08**

21. Mr Chuter presented the draft Annual Report, the audited accounts, the Auditor's report and the Management Letter. He confirmed that Council would be invited to:
- a. approve the draft Annual Report & audited Accounts for the period covering 01 April 2007 to 31 March 2008
  - b. give its approval that free reserves should be maintained at the level of 3 months annual expenditure
  - c. note the Management Letter from the Auditors, Buzzacott.
22. Draft Annual Report Members considered the draft and made the following comments:
- a. Some reconsideration might be given to the order in which subjects were treated eg protection of the public/patients was the GOsC's main concern and therefore reports/statements under this heading might be placed closer to the beginning of the report.
  - b. Some of the charts/graphs/tables, particularly within the Fitness to Practise report, might be more clearly depicted, and therefore more easy to comprehend. The data on Investigating Committee's decisions, on page 14, was currently set out in two tables, when one might suffice (with the previous year's figures in brackets). On pages 15 and 16, the table about Professional Conduct Committee decisions might be clearer if the information axes were swapped.
  - c. Page 31 – some facts contained comparison with the previous year's financial figures and some did not. For consistency, it would be preferable to show comparisons for all facts as most readers would primarily be interested not in the actual figures but whether the trend was one of increase or decrease.
  - d. There was no consistency in the use of the words 'osteopathic' and 'osteopathy' and this needed correction.
  - e. It was felt that perhaps the report on Advancing Osteopathy on page 19 was a little under-stated and that more could have been made of this very successful event. However, it was noted that the Chairman's statement at the start of the report could be used to draw further attention to the event.
  - f. There were some other grammatical points which would be passed to the Head of Communications to note for final editing.
  - g. It was confirmed that the new reporting requirements, to Parliament, on Equality and Diversity, Fitness to Practise statistics and producing the

business plan would come into effect in the next reporting year but this year's report was an attempt to anticipate these changes by including most of the required information. The report also aimed to provide a more transparent depiction of expenditure by showing a detailed breakdown of the £750 registration fee.

23. Audited Accounts **Agreed:** to accept these.
24. Free Reserves Mr Chuter confirmed that 5 years ago, free reserves were set at 9 months' operating costs but that, on a recommendation of the Finance & General Purposes Committee's (F&GP), this had subsequently been reduced to 6 months' operating costs. Now, in light of a further review, it was proposed to reduce these free reserves to 3 months. The external auditors, Buzzacott, had independently reviewed the level of free reserves and had advised that for an organisation like the GOsC, a level of free reserves equivalent to three months' annual expenditure was adequate. The F&GP had also scrutinised the risks facing the Council and agreed with the view expressed by Buzzacott. It was important to make a decision on an appropriate level of free reserves as there was a need to use funds in reserves to finance key projects over the next 3 to 5 years. Members proceeded to discuss the matter with the aid of graphs showing proposed designated funds for key projects such as revalidation, governance changes and the re-development of Osteopathy House. In addition, the GOsC was taking steps to speed up the process of changing the registration fee. Currently, any change to the fee would require approval of the Privy Council and the process could be protracted. The Department of Health was agreeable to a change and an appropriate amendment to the Osteopaths Act was being drafted. It was noted, however, that any such change would probably not be in place until the end 2009 or even 2010.
25. Members cautioned against the current Council making decisions in relation to reserve levels, that might tie the new Council, due to be appointed in April 2009. Members accepted that the principal risk for the GOsC was, and had always been, a legal challenge to one of its decisions. No challenge had yet been made and while the threat had not diminished, the Council, ten years on, had a greater understanding of the risks and how they could be mitigated. Members cautioned about continuing optimistic forecasts of growth in the register. The effect of the current economic slowdown could cause newly qualified osteopaths to abandon the profession out of need. It was noted that the osteopathic educational institutions (OElS) were finding it harder to recruit students. Concern was also raised at the unknown cost of revalidation, over the next few years, and the unknown cost of the new registration powers. Mr Chuter pointed out that the Council would remain in control of the situation; designated funds could always be changed or re-allocated and if need be, the re-development of Osteopathy House could be financed through debt rather than out of free reserves.
26. It was confirmed that the GOsC's investments were short term and in circumstances of low risk. They could be realised and liquidated quickly if necessary. It was confirmed that the sum set aside for the new governance restructuring did not include the new remuneration proposals and that these would be budgeted for on an annual basis.
27. **Agreed:** unanimously, that free reserves should be maintained at the level of 3 months annual expenditure.
28. Management Letter **Noted:** Buzzacott's Management Letter.

## OSTEOPATHY HOUSE (OH) REDEVELOPMENT REPORT

29. Simon Wood and David Atkinson from the project management company, Interactive Design, were present for this item. EG presented the paper and confirmed that work had progressed with the appointment of architects and conduct of further structural surveys to confirm the feasibility of an extension by two floors at the rear of the building. Additionally, the possibility of locating the lift within the fabric of the building (as distinct from building it to the rear where planning consents would be necessary) had been investigated. The extension to the rear would require both planning permission and the cooperation of Rail Track (and its tenants) to conduct the works with access from their property next door. The build up, were it to go ahead, could be completed largely (80%) externally without disruption to the main building. This would be achieved by pre-fabricating the structure and attaching it to the rear.
30. It was explained that the possibility of locating the lift within the building, avoiding the need for planning consent and neighbour's cooperation made it a more feasible option. It could be achieved with less complication and potentially, less expensively. It would also mean that the lift would be closer to the front door. The architects had provided some draft space plans, in a variety of options, which were circulated to members. The architects had confirmed that there was adequate space in OH, without extension, to accommodate all the GOsC's functions and requirements. More effective use of that space could enhance further the sense of space. It was pointed out that the budget would have to be recast as the estimate considered by the Council in June did not take into consideration some of the design features, e.g. glass front doors, proposed by the architects. The additional items would have to be costed and a decision taken on whether to include them. A revised budget would be sent to the Council for approval. The GOsC had committed to housing an archive of osteopathic material for three years. Space would be allocated for this – one proposal to be considered was to display the archive material in cabinets in the Council chamber. Members discussed the re-development proposals, the main questions raised were:
- a. whether it was feasible to invest in the build-up of two floors at the rear, given that it would create only two extra meetings rooms.
  - b. whether the extension would add value to the building? – the prime reason for the proposed works was to make OH fully accessible and fit for its regulatory purposes; the GOsC was not a real estate developer' and any expenditure of registration fees would have to be justified as strictly necessary to fulfil the GOsC's core functions.
  - c. whether, in any case, it would be worth obtaining the planning consents and permission from Rail Track, so that consideration could be given to extending the premises at a later date?
  - d. where, within the building, the lift was best located?
  - e. whether consideration had been given to how visitors to Osteopathy House would be received? A dedicated receptionist or a current member of staff working from the reception area at a work station?
  - f. whether arrangements were in place to consult staff on space planning. Several members reported on their experiences of switching from cellular to open plan offices with very positive results, if managed/planned correctly.
31. Decisions
- a. **Agreed:** that it was necessary to carry out the re-development works to make OH fully accessible and fit for its regulatory purpose.

- b. **Agreed:** to approach neighbours about the possibility of adding an extension and to find out whether they would cooperate to the extent necessary to undertake the work from the rear.
- c. **Agreed:** with two votes against (Robin Shepherd and Andy Thompson) to carry out the planned works (installation of a lift and refurbishment) without extending the building.
- d. **Agreed:** that the lift should be placed in the centre of the building ie Architects' Plan A, option 1.

Further work would be carried out to produce revised budget for the F&GP and the Council.

## GOVERNMENT REVIEW OF HEALTHCARE REGULATION

32. Revalidation Working Group (WG) Mr Cullen presented a progress report on the work of the Revalidation WG. There had been a change of plan with regard to the timetable. It was now proposed to carry out the consultation in January 2009, not October 2008, to allow for another meeting with the BOA, the OEIs and the Regional Communications network in the Autumn. The GOsC had to report to the Department of Health (DoH) by December 2008 with an outline plan for its revalidation scheme. The paper and online consultation would then run from January to March 2009 to be followed by a series of regional meetings across the country to receive direct feedback from the profession. The scheme would be revised on the basis of the consultation and regional meetings and the remainder of 2009 would be devoted to devising a pilot to begin in 2010 and run for six months at least. There would be a further round of regional workshops in 2011 to prepare the profession for implementation late that year or early in 2012. A preliminary pilot, conducted in August involving 30 volunteers, had elicited 24 returns and the results were now being analysed. Members then discussed the matter, the main points were:
- a. Members felt the revised timescales for consultation were more realistic.
  - b. The WG was praised for the quality of the self-assessment tool and the accompanying guidelines.
  - c. Para. 37 of the covering paper relating to a link between revalidation and Fitness to Practise (FtP) processes needed to be clarified. What was intended was to ensure that revalidation could be used as a tool by Fitness to Practise panellists in cases where an osteopath gave rise to concern
  - d. It was important to get a view on the Department of Health's approach to the scheme in advance of consultation. The CE confirmed that she would be discussing the essence of the scheme with the DoH's Director of Regulation even in advance of formal submission of the scheme in December. Soundings taken already suggested that the GOsC's scheme would be viewed favourably, however, the DoH would wish to ensure that the scheme was sufficiently robust and that was down to the detail.
  - e. It was felt that the order of subjects in the self-assessment tool might need to be revised; the first subject covered by the tool was 'potential risks' and this could strike an unfortunate tone at the start. VC confirmed that this was one of the views of the osteopaths who had carried out the initial pilot and that it would be addressed.
  - f. Feedback from patients, employers, colleagues etc – there needed to be some requirement for evidence from patients to be included. VC noted that

many osteopaths would not currently seek feedback from patients but the process of revalidation was a way in which a shift of practice in this direction could be encouraged and in due course, a requirement for this information could be introduced.

- g. The most effective way of implementing the scheme would have to be agreed but it was likely that a fifth of the profession would be revalidated each year over five years. Currently, this would equate to some 750/780 osteopaths per year beginning in 2012.
- h. Consideration was being given to effective means of consulting patients and the public during the development phase of revalidation.

### Lunch

*An additional observer, Lady Angela Bernstein, arrived to observe the following item which was held immediately after lunch.*

### **SECTION 10 , OSTEOPATHS ACT 1993 (Fraud or error in relation to registration) – additional agenda item – Item 21**

- 33. VS presented this item. An osteopath had admitted, earlier this year, that, in applying for registration originally, he had failed to disclose convictions for criminal offences. Accordingly, the Registrar, had conducted an investigation under Section 10 (1) of the Osteopaths Act 1993. The investigation related to an entry in the Register which was alleged to have 'been fraudulently procured or incorrectly made' (s10(1)). A report of that investigation had been circulated in advance to the Council. Supporting papers and testimonials were circulated to Council members on the day and reading time allocated. It was confirmed that external legal advice had been sought about the conduct of an investigation under Section 10 and the procedure for hearing a case under this section. The Council's lawyers had confirmed that the section required the case to be heard by the Council sitting as a whole; there was no provision to refer the hearing to a Fitness to Practise panel or to a special committee established by the Council for the purpose.
- 34. A lengthy discussion took place on how best to conduct the hearing, given that it was open to the public. Some concern was also expressed at the fact that supporting materials (as distinct from the Registrar's report on the case) were not available to Council members until the day of the hearing.
- 35. **Agreed:** that the Council would hear the case and present its findings in public. However, it would conduct its deliberations in private.
- 36. VS presented the case of the registrant who applied for registration on 6 May 1998. On the original registration application form, the registrant had ticked the 'No' box when asked if there were any previous convictions. The registrant wrote to the Registrar on 15 March 2008 to admit that he had failed to disclose two convictions for drugs-related offences when he applied initially for registration. He had received and served a custodial sentence in relation to the offences. The Section 10 investigation was instigated by the Registrar and a Criminal Records Bureau (CRB) check carried out. The registrant was kept fully informed throughout the investigation. The resultant CRB check showed the convictions in question and also disclosed two earlier convictions. The registrant was informed of the CRB disclosure. In August, the registrant made a detailed submission in mitigation and in an accompanying letter, also referred to the two earlier offences (previously undisclosed). A series of testimonials in support of the registrant were also received by the Registrar. The Council was advised that it must exercise a



discretionary power either to order the Registrar to remove the registrant from the register or confirm that he should not be so removed.

37. Members of the public and staff, other than the Registrar and the Head of Regulation, were asked to leave the meeting, whilst the Council deliberated its decision.
38. When the public and staff were invited to return to the meeting, Professor Eddleston read out a prepared statement of the Council's findings as follows:

**Consideration of a matter under section 10 of the Osteopaths Act 1993 by the General Osteopathic Council at its meeting on 16 September 2008**

The Council has been asked to consider an item under section 10 of the Osteopaths Act 1993, arising out of a disclosure by a registrant of a criminal conviction which was not disclosed at the time of his admission to the register.

Having considered the Registrar's report to Council, and having considered the additional papers submitted to them (including the registrant's original application form, the CRB check, and representations on behalf of the registrant, including a number of testimonials), the Council came to the following conclusions, in relation to its powers under section 10 (5) to order the Registrar to remove the registrant from the register:

1. Council was required first to make a factual decision as to whether there had been a fraud or error in the registration, and the Council was satisfied that there had been such a fraud or error: the registrant had confessed to a criminal conviction in 1982, which he had failed to disclose on his original application form.
2. The Council then went on to consider whether it should order the Registrar to remove the registrant from the register, the only sanction available to it under section 10.
3. The Council took into account the following factors in its consideration of that issue:
  - The age of the convictions
  - The nature of the convictions
  - The action of the registrant in failing to disclose his convictions, as an act of dishonesty
  - The fact that the disclosure in March 2008 did not refer to the two earlier convictions, one of which itself was for an offence of dishonesty (and the Council noted the submissions made on behalf of the registrant in relation to this)
  - The registrant's length of practice, with no notice of complaints, non-payment of fee, or failure to submit CPD records
  - The numerous testimonials, which speak of the registrant's good character, good osteopathic practice and the help he has given others
  - The registrant's stated motives in not disclosing his convictions on his application form (shame, fear and desire to protect his children)
  - The insight which the registrant had shown into his previous conduct and his contrition
  - The fact that the registrant had previously disclosed his convictions to

his training school.

4. The Council came to the following conclusions:
  - There was no risk to the public in allowing the registrant to remain on the register
  - There was no significant risk to the reputation of the profession in allowing the registrant to remain on the register
  - There was a risk that allowing him to remain on the register might encourage others not to make full disclosure of criminal convictions on their applications for registration, but that risk was not considered to be so great as to require this registrant's removal and was in any event reduced by the CRB checks on new registrants which are now undertaken.
5. The Council expressed its strong disapproval of the registrant's failure to disclose his previous convictions and his lack of honesty, but did not consider that it was necessary or a proportionate sanction to order the Registrar to remove him from the register.
39. It was proposed to seek the cooperation of the Department of Health to amend Section 10 at the earliest possible date. It was agreed that matters of the kind for which S10 was drafted, would be more appropriately handled under the GOsC's Fitness to Practise procedures.

#### **GOVERNMENT REVIEW OF HEALTHCARE REGULATION *cont/...***

40. Progress Report on continued work necessary for the new governance structure on 1 April 2009 EG presented the update report and invited the Council to approve the outline for an appraisal scheme and approve the competences developed for Fitness to Practise panelists.
41. In response to a question about how the Chair would be appraised, Professor Eddleston said he was actively considering putting a proposal whereby he and the chairs of other regulators might be appraised by the Chair of the Council for Healthcare Regulatory Excellence. As part of this, the views of Council members on the performance of chairs could be sought by the CHRE chair.
42. One member asked what would be the process in the event of a disagreement between the Council member and the Chair of Council during the appraisal process. Professor Eddleston said he hoped that this situation would not occur and that the appraisal process should be conducted in such a way as to provide a means of resolving any possible disagreements. Another member highlighted the need to ensure the appraisal system was sufficiently robust to tackle issues such as poor attendance. EG confirmed that the Council members' Code of Conduct, which would cover poor performance including attendance, would be revised as a way of underpinning the appraisal process.
43. **Agreed:** the principles of the new appraisal system.
44. **Approved:** Fitness to Practise Panellists' competences

#### **REMUNERATION SCHEME FOR MEMBERS OF THE NEW GOVERNANCE STRUCTURE**

45. The Treasurer introduced the paper and invited members to:
- a. consider the issues highlighted in the debate so far
  - b. agree on the method of remuneration i.e. annual fee or daily attendance rate
  - c. agree the appropriate levels of remuneration for Council members, committee members, chairs of committees and the Chair of the Council
  - d. agree the proposed arrangements for compensating members' expenses.
46. He confirmed that the independent review by Cumberlege Connections and the recommendations following that review were intended to strike a balance to attract the required talent for the new governance structure, to encourage and reward high calibre contributions and to reflect the expected high standards and ethos of those in public office. Members debated the matters highlighted.

Method of remuneration – annual fee or daily attendance fee

- a. Some members noted that an annual fee could work effectively if it was accompanied by a robust appraisal scheme which would pick up on poor performance including poor attendance rates. It was acknowledged that an annual fee would be easier to administer.
- b. Other Council members supported a daily rate as this reflected the effort put in by individual members. Some concern was expressed about the unknown quantity of work in the future (how many ad hoc working group meetings etc.) It was argued that a daily rate was a more reliable way of ensuring that Council members were paid for work done. A daily rate was also congruent with osteopathic practice.
- c. As the debate drew to a close, Professor Eddleston, reminded the Council that the new Council would be appointed against specific competences and would be expected to deliver accordingly.

*Richard Rebain left the meeting (3.35pm)*

47. **Vote:** 13 for an annual fee (TMc, GC, TR, LW, JC, CH-P, MW, RS, PS, IH, JWilden, MB, RP), four against (FW, AT, CC, RS-M) and one abstention (JWhite).

48. Level of fee

- a. The Council was informed of remuneration rates offered by the comparator bodies e.g. CHRE, General Optical Council and the Nursing and Midwifery Council and many others.
- b. One member suggested that these comparators along with others cited in the Cumberlege Report were not appropriate as some other healthcare regulators regulated vastly greater numbers than the GOsC, ranging from 1.4 million registrants down to 2,500 registrants. However, the contrary view was expressed that the number of registrants was not a key factor to be taken into account; the core responsibilities of regulators were the same and it was appropriate therefore that remuneration rates should be within a comparable range.
- c. It was noted that the annual fee should be reviewed (and possibly index linked to say something like the Senior Civil Service pay), just as the registration fee is annually reviewed.
- d. Some members felt that the recommended levels for the annual fee were in fact a bit low.
- e. One member expressed the view that the responsibility allowance for the Treasurer was too high, and that for the Audit Committee Chair should be higher.

49. **Vote:** on the following levels of annual fee:

Annual fee for Council members	£6,500
Annual fee for Chair of the Council	£22,000
Responsibility allowance for the Treasurer	£5,000
Responsibility allowance for the Chair of the Audit Committee	£2,000
Responsibility allowance for the Chair of the Professional Standards Committee	£2,000
Rate for all committee members who are not Council members	£300 per attendance

14 for the level of annual fee as above (TMc, GC, TR, JWhite, LW, JC, MW, AT, RS, PS, JWilden, MB, RS-M, RP), 4 against (IH, CC, CH-P, FW).

50. Compensation for members' expenses **Agreed:** The recommendation of the Cumberlege Connections Report in relation to the levels of expense reimbursement was unanimously agreed.

*Geraldine Campbell left the meeting at 4.00pm and Les Wootton left the meeting at 4.15pm*

### **PREPARATION FOR USE OF NEW REGISTRATION POWERS UNDER SECTION 3 OF THE OSTEOPATH ACT 1993, AS AMENDED BY S60 ORDER 1A**

51. VC presented the update report on preparations for use of the new registration powers. The current focus was on determining appropriate assessment techniques for those within the UK who, by definition, cannot have been practising as osteopaths since 2000. Meetings would be held with the OEIs who had already expressed interest in providing accelerated learning courses for potential applicants. VC reported that five years out of practice was a common benchmark used to indicate a requirement for training.
52. Members sought confirmation that processes established to implement the new registration powers would be cost neutral. EG reported that aside from the executive time devoted to preparation, the intention was to seek to recover all costs i.e. costs of administration and assessment.
53. It was agreed that the rules which would give effect to the new powers should be tightly worded in general terms and particularly in relation to length of practice requirements.
54. It was confirmed that the consultation with the BOA and Regional Representatives on the new powers had generated similar concerns to those expressed by Council members, namely:
- it should be clear that these new powers are not an 'easy route' onto the register for those who failed initially to become registered or who did not apply.
  - the opportunity to apply under the new powers must be made as widely known as possible.
  - great care should be taken to ensure robust assessment of applicants.
55. One member asked how 'good reason' (for not applying during the original transition period) would be defined. EG reported that this was the subject of current discussions with the legal team drafting the rules.

## **GOsC MEETING SCHEDULE FOR COUNCIL AND COMMITTEE MEETINGS FROM APRIL 2009 TO MARCH**

56. **Agreed:** the list of proposed dates for main Council and Committee meetings for April 2009 to March 2010.

### **MANAGEMENT ACCOUNTS TO 31 JULY 2008**

57. Mr Chuter presented financial position for the first quarter of the financial year. The position to July 2008 showed a year to date surplus of £29k compared with a budgeted position of £47k. This variance was a consequence of accruals form of accounting reflected an expected trend for this time of the financial year. The details of a registration appeal which cost (£5k), at para 3, predated the current CE&R, and these would be circulated to Council members, out of Council.

### **COUNCIL FOR HEALTHCARE REGULATORY EXCELLENCE (CHRE)**

58. The minutes of CHRE's meetings of 12 March and 11 June 2008 were presented.
59. CHRE's Performance Review 2007-08 – final report was presented. The next cycle was about to begin for the regulators' performance reviews for 2008-09.
60. Mr Clarke had sent in an email giving details of the CHRE's work in progress. This was read to Council by Professor Eddleston:
- a. The main item on the CHRE agenda had been the special performance review of the Nursing and Midwifery Council (NMC), conducted earlier in the summer. The outcome had been the resignation of President, Vice-President and Chief Executive of the NMC, which was itself now implementing an action plan to address the concerns set out in the CHRE's report. GOsC members will recall that the process was initiated by Ministers following an Adjournment debate in the House of Commons.
  - b. The CHRE had been making arrangements for its governance structure and other changes following passage of legislation.
  - c. A CHRE working group had been considering Section 29 (referral of excessively lenient Fitness to Practise cases to the High Court) procedures; their recommendations would be considered by CHRE at its Council meeting on 16 September 2008. The CHRE had also been involved in the various White Paper working groups, as had the GOsC.
  - d. There was ongoing work on harmonising sanctions used by regulators and an interim paper, which outlined further work to be undertaken, would be discussed on 16 September 2008.
  - e. The 2008 Performance Review of Regulators has been completed, and was published on 28 August 2008. The outcome for the GOsC was positive, the suggestions constructive, and relationships appeared to be working well. The CHRE was currently reviewing the process of Review and the GOsC was involved in this. This should culminate in a clear set of principles defining CHRE's future approach to Performance Reviews.
  - f. Mr Clarke attended, as did EG, the English Public Patient Involvement day at

CHRE on 4 September 2008. A number of patient and public representative groups came together to discuss how CHRE could involve them more in its work, and to take soundings about the Public Patient Involvement processes as a whole. This was part of a UK-wide exercise, and should result in a draft strategy proposal to be considered at a future meeting.

- g. CHRE continues to monitor the international scene around healthcare regulation.

## COMMITTEE REPORTS

- 61. Audit Committee Fiona Walsh presented the minutes of Audit Committee's meeting of 14 July 2008. She also presented the Fitness to Practise and Human Resources Audit Reports, recommendations, management responses and current updates. There were no questions.
- 62. Finance & General Purposes Committee The Treasurer presented the minutes of F&GP's meeting of 16 July 2008. He confirmed that a decision had been taken not to register for VAT purposes and that the Committee had discussed the year end accounts, the reserves position, the funding for the works at Osteopathy House and members' remuneration (out of committee). There were no questions.
- 63. Investigating Committee Paul Sommerfeld confirmed that the Investigating Committee met on 10 September 2008 to consider recommendations in the Fitness to Practise audit that related to the investigation of complaints and the committee's procedures. There was an additional issue about interim suspension orders which the FtP audit did not cover. VS was asking Field Fisher Waterhouse, the FtP auditors, to look at the matter further. The Committee considered two cases; it found no case to answer in one and the other was referred to the Professional Conduct Committee. On two other occasions, the Committee met to consider interim suspensions. Only in one case, was a suspension ordered.
- 64. Professional Conduct Committee (PCC) Margaret Wolff confirmed that the PCC has sat on three occasions to hear cases and had met on 2 July 2008 to review recent cases and learning points arising. The three cases PCC considered were:
  - Mr Iain Chapman The PCC reviewed a Conditions of Practice Order that had been previously imposed and agreed that Mr Chapman had met the conditions so it could revoke the Order.
  - Mr John Varley The PCC reviewed a Suspension Order that had previously been imposed and found that Mr Varley had addressed some of the areas of concern raised at the initial hearing but that further steps could be taken. The Committee therefore imposed a Conditions of Practice Order to apply for one year. The Order would be reviewed before it expired.
  - Mr John Perrott The PCC concluded its consideration of the case against John Perrott and found some of the charges proved and that Mr Perrott had been guilty of unacceptable professional conduct. The sanction applied was a Conditions of Practice Order for six months.
- 65. Remuneration Committee Mr Chuter presented the minutes of Remuneration Committee's meeting of 16 July 2008. There were no questions.
- 66. Section 32 Committee Miss Cheetham confirmed that since the last meeting of the

Council, there had been one successful Section 32 prosecution. On 27 June 2008, Mr David Jackson of Newton Abbott, Devon, was found guilty of three charges of unlawfully describing himself as an osteopath. The charges related to Mr Jackson's registration with the BOA, letters sent to patients and a newspaper article in which he was described as an osteopath. Mr Jackson was fined £3,000 for each offence and ordered to pay costs of over £14,000 by Newton Abbott Magistrates Court. Mr Jackson has subsequently appealed the Magistrates' decision.

#### **ANY OTHER BUSINESS**

67. There was no other business, not dealt with elsewhere on the agenda.

#### **QUESTIONS FROM OBSERVERS (five minutes)**

68. There were no questions from the observers.

#### **DATE OF NEXT MEETING**

69. Tuesday 4 December 2008.