

GENERAL OSTEOPATHIC COUNCIL

Minutes of the public session of 74th meeting of the General Osteopathic Council
Thursday 12 January 2012

Chair: Professor Adrian Eddleston

Present:

Geraldine Campbell	Kenneth McLean
John Chuter	Robin Shepherd
Jonathan Hearsey	Julie Stone
Professor Ian Hughes	Fiona Walsh
Kim Lavelly	Jenny White
Brian McKenna	

In attendance:

Tim Walker, Chief Executive and Registrar
Alan Currie, Head of Registration and MIS
Fiona Browne, Head of Professional Standards
Matthew Redford, Head of Finance and Administration
Velia Soames, Head of Regulation
Brigid Tucker, Head of Policy and Communications
Jane Quinnell, Governance Manager

1. Alison White, the Chair designate, was welcomed to the Council meeting as an observer.

Apologies

2. Apologies were received from Nick Hounsfeld.

Questions from observers

3. The British Osteopathic Association (BOA) was unable to have an observer in attendance due to ill health. The Chief Executive read out a question that the BOA would have raised:

'The BOA has noted the paper on Budget proposals and the paper seems to suggest a reduction of around 8% which amounts to £60 per registrant. Our reading of the paper leads us to believe that a narrow view has been taken of matters and in line with current staffing structures and levels. The paper acknowledges the Enabling excellence document and goes on to outline Government expectations of a more cost effective regulation with lower fees. As a result and as the GOSC has been aware of this for sometime we are very disappointed and concerned that the budget strategy does not seem to have taken a broader view and considered ways and means of reducing costs and staffing levels with a vigorous analysis of every activity undertaken to determine if it is essential or can be achieved at a lower cost. What assurances can be given in this respect? Is the meeting of Finance and General purposes committee a public meeting

and if so when is this due to be held as we would wish to observe this meeting. Osteopaths have noted the intentions of the GCC and the GOSC will inevitably be measured against that.'

4. The Chief Executive confirmed that he had replied to the BOA to confirm that the GOsC had not taken a narrow view of its budget preparation – a Council working group had considered cost savings across the board and work continued to look at cost savings; the Finance and General Purposes Committee meeting was a private meeting but the budget and business plan it considers ,would be reported to the Council at its March meeting; and a full paper on a reduction in the registration fee would also come to the Council in March.
5. Members cautioned that essential activities must be included within the budget which should consider the health of osteopathy and the GOsC as a regulator, and that the Council must not pre-empt the work of the Law Commission Review of the regulation of healthcare professionals. It was important to manage the BOA's expectations but not right to compare the GOsC and the General Chiropractic Council which had reduced its annual fee by £200 from £1,000 to £800.

Minutes and matters arising

6. The Chair thanked Mr Chuter for stepping in to Chair the October Council meeting at short notice. The minutes of the public session of the Council meeting held on 11 October 2011 were **agreed**.
7. The Interim Suspension Order Guidance, referred to at paragraphs 19 to 21 of the minutes, had been revised and Mr Chuter, as Chair for the meeting, had approved the final wording on behalf of the Council.
8. The further review of the Student Fitness to Practise Guidance and associated documents was carried out and approved for publication by the Education Committee, under the Council's delegated authority (paragraphs 31 to 33).
9. It was confirmed that the Professional Conduct Committee (PCC) had, at its meeting on 17 October 2011, considered the next steps in its consultation about the proposed change to the way witnesses present their evidence in hearings and this had been communicated to the profession.

Chair's Report

10. The Chair presented his report. Interviews had commenced for the vacancies on Council. The Chair and the Chair designate were both on the selection panel. The second day of interviews was to take place the following week. The standard of the applicants was encouraging.
11. The Law Commission's Review of the regulation of healthcare professionals was still on schedule to publish the first consultation in March. Relevant staff had attended consultation meetings on standards in education and fitness to practise. The Executive was mindful of the outcomes of the Review and the Council's own governance timetables.

12. The report was **noted**.

Chief Executive's report

13. The Chief Executive presented his report and highlighted several items:

- a. Enabling Excellence/cost savings CHRE's review of cost effectiveness and efficiency of regulators continued with financial models, in a template format, requested from all the regulators. A meeting with the Department of Health last week had considered Rule changes that might assist with the cost savings agenda.
- b. Localism Act This Act allowed for the costs of any European infraction proceedings to be borne by the healthcare regulators rather than the Government. It will be added to the Risk Register although it is thought not to be a big risk to the GOsC.
- c. Health Select Committee The joint response into healthcare education and training, made with COEI and the BOA, was considered an effective piece of work.
- d. Adverse events project – Communicating risks of treatment and informed consent in osteopathic practice NCOR's final report of the Adverse Events project had been received and would be published shortly on the public and members' websites and would be publicised via *The Osteopath*.
- e. Equality and diversity Publication of the statutory guidance from the Equality and Human Rights Commission was still awaited but it was hoped a further paper could be brought to the Council in March.
- f. Progress against the Business Plan 2011-12 The monitoring report showed that progress against the Business Plan was on track.
- g. Annex B – financial position at the end of December 2011 The figures were draft figures prepared very early in January to enable them to be put before the meeting. The higher than forecast surplus included £80,000 earmarked in the 2011-12 budget for research into patterns of osteopathic practice which Council had agreed, in October 2011, to transfer to reserves and additional cost savings made by the Executive in-year.

14. Members then raised questions or made observations.

- a. CHRE Performance Review 2011-12 submission Members congratulated the Executive on the Performance Review submission which was a very good document.
- b. PSA levy The most pessimistic levy formula had been used for the 2012-13 draft budget; this gave a figure of approximately £40k for the year so five months of £40k was included within the budget. Notice of the Government's preferred option was awaited. The other two formulae for the levy resulted in an approximate £12k or £25k annual figure.
- c. Localism Act Although a remote risk, the impact could be very large. The Chief Executive confirmed that as he understood the position, the penalties could be limitless. The GOsC currently registered very few EU applicants but was carrying out a review of EU legislation to check that no infractions take place. It was understood that the Government was putting into place a procedure that would establish a panel, in the event of infraction, to check whose fault it was – the Government's or the regulator's. No changes to reserves policy are required.
- d. NCOR Recruitment to find a new Director of NCOR had resulted in a small number of very high quality applications. Six applicants were being considered for interview;

they were all senior researchers or professors in different disciplines at various establishments.

15. The Chair thanked the Chief Executive for the enormous number of meetings, visits and speaking engagements that he made himself available to attend. The report was **noted**.

Fitness to practise report

16. The Head of Regulation presented the report and highlighted various items:
 - a. CHRE's initial stages audit No audit took place last year as the CHRE considered the GOsC to be low risk. An audit would take place this year sometime between May and September and as the GOsC has so few cases, the CHRE would consider all closed cases.
 - b. Appeals Dr Peter Spencer was appealing against an admonishment received from the PCC in August 2011; the hearing was not likely to take place before April 2012.
 - c. Casework Numbers of cases were still low and had been reducing over the last couple of years. Mr Shepherd's point from the October Council meeting about whether patients knew the GOsC was the place to make a complaint had been looked into. It appeared patients did know where to go to complain but many of the concerns raised with the GOsC were then not followed through to a formal complaint.
 - d. Disposal rates against targets set Reassurance was given that the case which had exceeded significantly the target for hearing cases was due to specific problems. The Regulation Team was looking at ways to ensure that such delays did not happen in the future. The Chair and the Chief Executive were aware of the reasons.
 - e. Business Plan 2011-12 – research into complainants' and registrants' perceptions of fitness to practise processes and adjustments that may be required It was confirmed that a further report from the independent research was due shortly. The Head of Regulation confirmed that the research was very useful and budget allowing, she wanted to continue the research as complaint numbers were so low. Several points that had come out of the research were being addressed; it seemed that some registrants did not always understand the fitness to practise processes so work was being carried out to improve the standard letters and giving witnesses more time in the office, before giving their evidence, to prepare themselves. A summary of the research outcomes would be prepared for the July Council meeting which would then be published.
17. The report was **noted**.

Stakeholder engagement report

18. The Head of Policy and Communications presented the stakeholder engagement report, which summarised GOsC stakeholder engagement activity in the period October to December 2011, and added:
 - a. Development of social media channels A GOsC Facebook page is to be introduced within the next month to supplement our web-based information and engagement facilities. The experience of other health regulators has informed the management and user policy underpinning this development. The revised Osteopathic Practice Standards that come into force on 1 September 2012 include some guidance relating

to online environments (D17, 2.9 – Maintaining the same standard of professional conduct in an online environment as would be expected elsewhere). Council recognised that as the general use of social/digital media grows, it is likely there will be an increasing need for guidance on usage.

- b. Revalidation e-bulletin A new monthly e-bulletin had been introduced to support pilot participants and generated a readership rate of nearly 60% of recipients, the highest to date of any GOsC e-bulletin.

19. The report was **noted**.

Budget strategy 2012-13

20. The Chief Executive presented the paper which set out the forecast 2012-13 budget position including expenditure forecasts, identified savings and the potential impact on the registration fee. The draft budget would then go to the Finance and General Purposes Committee (F&GP) in February for review and would then be brought back to the Council for approval at its meeting in March.
21. The Executive has prepared the budget against the backdrop of the Government cost reduction agenda as set out in *Enabling Excellence* and it was planned to contain, and reduce where possible, all costs. Additional expenditure included delivery of the Osteopathic Practice Standards, six regional conferences and the CHRE levy. Savings were set out in the paper and included things like disposing of a large number of paper files which were now stored electronically so the off-site storage facility was no longer required. Fitness to practise expenditure had been contained at the same level as previous years but work was ongoing to consider, for 2013-14, how savings might be made, but some savings were complex and may require external consultation. Council had previously raised concerns about the number of registrants but it was confirmed that the Executive could not judge the economic situation and could only make prudent assumptions about numbers of osteopaths for budgeting purposes.
22. There were two options with regard to the savings that were being made – either the savings could be banked or they could be returned to the profession through a fee reduction. The F&GP would be considering the fee reduction further at its February meeting. The Executive was currently in discussions with the Department of Health about how rule changes to effect a fee reduction could be made swiftly, in the current climate of saving costs. It would be ideal if all decisions about a fee reduction and the mechanism to carry it out were in place before 9 May 2012 when the largest tranche of registration renewals (approx. 2,100) were due.
23. Members then raised questions or made observations:
 - a. Members agreed that the 3 months' operational reserves were the correct amount to keep.
 - b. Communication to the profession about the budget and the work being carried out to cut costs and the fee reduction would need to be transparent, well justified and be communicated to the profession carefully and clearly.
 - c. If a fee reduction came into being, assurance would be given to the profession that if members had paid and the fee reduction was back dated, overpayments would be returned.

- d. The budget around the CHRE fee levy had been, on the advice of the Department of Health, set at the highest amount that we might have to pay from the three formulae for payment that were consulted on. The Department of Health still had to publish its consultation on the preferred levy formula and if, following consultation, a lesser or different formula was selected which resulted in an over-budget on this item, the result would be a small revenue gain. It was confirmed that the GOsC would make it very clear in its annual renewal of registration paperwork what proportion of the registration fee was payable for the levy to fund the CHRE.
- e. The General Chiropractic Council (GCC) was reducing its fee from £1,000 to £800 per annum; the GCC's fee structure was different from the GOsC's fee structure as it did not have an introductory fee structure so that osteopaths paid lesser amounts for their first and second year's registration before they reached the full fee. It was all too easy to do straight comparisons of regulators' fee structures without appreciating what the different regulators did.
- f. The Treasurer reminded Council members that the F&GP Committee annually considered the registration fee but with previous advice that the rule change required would take a long time. Council had also agreed to cut the operating reserves from nine months to three months and invest the surplus for the profession (e.g. on research). He hoped that negotiations with the Department of Health would lead to a rule change that would allow an easy and swift mechanism for fee changes. The Chief Executive confirmed that as the Government had asked the regulators to cut costs, it would have to assist with agile secondary legislation to make the necessary changes. Additionally, a Section 60 Order was being considered, in about two years' time, to make some legislative changes, including perhaps the ability for the GOsC to make its own Rules rather than through the Privy Council but whether this would happen before the Law Commission review is concluded was not clear.
- g. The reference to 'cessation of research projects' in the identified savings would be reworded because what was meant was that no current research was stopping but that there was no provision for any new research in 2012-13.

24. **Agreed** that any savings identified in the 2012-13 budget should be passed back to the profession through a fee reduction.

Governance Review

- 25. The Chief Executive presented the paper which set out the various reasons why it was appropriate to carry out a review of the governance of the GOsC and the proposals on how to take the review forward. The appointment of a new Chair for 1 April 2012 also was a good opportunity to carry out a review of the Council and how it operates; she would chair the working group.
- 26. Members then raised questions or made observations:
 - a. The Chair designate confirmed that she would find a way that all members of Council, not on the working group, could feed into the work on the subject as she wanted to understand how Council worked and feedback from all, even those whose appointments ended at the end of March.
 - b. The Chair designate intended to use email and teleconferences to facilitate the work of the group so that the work could move ahead swiftly.
 - c. A mix of lay and osteopath membership of the group would be ideal with two lay and

two osteopaths to get a good balance of experience and views. Quorum would therefore be 3 members.

- d. The CHRE's work on board size did not seem to take into account the GOsC's primary legislation requirement that there be a Council member from each country in the UK; this had been flagged up with the Department of Health. The working group should consider appointment of members against competences and a Council having all the skills that it needed to function effectively against reducing the size of the board and not having enough experience/skill to function effectively.
- e. The CHRE was still developing the standards and guidance that it expected the regulators to work to in carrying out its own appointments once the Appointments Commission was abolished in November 2012. Independent scrutiny for the appointments process, once the regulators were making their own appointments, needed addressing.
- f. The Treasurer asked that an enhancement was made to the Terms of References e to say that the proposed governance arrangements should demonstrate value for money and be proportionate.
- g. Terms of Reference f – should be reworded so that it stated 'Any additional governance requirements arising from statutory or other changes e.g. abolition of the Appointments Commission.
- h. Applications to sit on the working group should be addressed to the Governance Manager who would forward them to the Chair designate.

27. **Agreed:**

- a. To commence a review of governance with the terms of reference set out in the paper, amended as suggested above, with a view to reporting by July 2012.
- b. That the Working Group should be chaired by the Chair designate, Alison White.
- c. The number of additional members required for the Working Group should be two lay and two osteopath members of Council.

Reappointment protocol for non-Council members of committees

28. The Chief Executive presented the paper which confirmed that the GOsC has not had its own reappointment process before and asked the Council to agree a protocol which set out a draft process for managing reappointments.

29. Members then raised questions or made observations.

Protocol

- a. Paragraph 11 should refer to evidence gathered under paragraph 10 and not '11' as drafted.
- b. Paragraph 13 – 'most often' could be better phrased.

Application form

- c. Part 2: Case for reappointment – members recommended a word count limit of 250 words for part 2 which asked for a brief statement setting out why applicants believed they should be considered for reappointment. Members wondered what value this requirement added to the reappointment process; whether any weighting was attached to the proposed reappointee's statement and how it would be measured and assessed? It was confirmed that requesting this information showed that a member's

appointment did not continue as a right; it allowed the appointee to justify their continued appointment and to add anything further they wished, that perhaps might not have been discussed at appraisal; it also allowed the Chair to take a balanced view about reappointment.

- d. Part 8: Time commitment – this question would encourage members, whose circumstances may have changed since original appointment, to be honest about whether they had the available time to continue with the appointment.
- e. Monitoring information – the wording about not having to complete the monitoring information if applicants did not wish to do so would be highlighted to make it clearer that the monitoring information was optional.
- f. Part 12: Disability – there was some concern over the drafting of this part. The GOsC currently did not operate the Two Ticks disability scheme. The Head of Regulation would revisit this part to check that it was in line with the Equality Act 2010.

General

- g. Members felt that the process as drafted would be suitable for the short term but that it would be appropriate to consider it further in the governance review. They had concerns about several parts of the process e.g. a member not being reappointed and then being appointed after open competition. Additionally, the governance review could consider appointing members for an eight year appointment, subject to annual appraisals and a review at four years.

30. **Agreed** the draft protocol for considering the reappointment of non-Council members of committees, subject to amendment as discussed above. **Further agreed** that the subject of reappointments for Council and non-Council committee members be considered in the governance review.

Remote working

31. The Head Registration and MIS presented an update paper on the work undertaken to develop a remote/out of office working policy. It included a summary of the results from the remote working questionnaire. It had been decided to produce guidance that reflected best practice and contained practical 'dos and don't' for secure use rather than a policy.
32. Members then raised questions or made observations.
- a. What had been learned from the questionnaire and the guidance that was to be prepared, should be passed on to the profession so osteopaths could take advantage of the work carried out to check that they were considering security when creating, using and disposing of information.
33. **Noted** the work done to identify security issues arising from remote working and the approach proposed to provide guidance in this area.

Audit Committee – revised terms of reference

34. The Chief Executive presented a paper that recommended an amendment to the Audit Committee's terms of reference following concern raised by committee members after reviewing the roles and responsibilities set out in Grant Thornton's Audit Approach

Memorandum. The Audit Committee's role to provide assurance that the necessary internal and external systems and process were in place covered wider issues but as there was a specific phrase in Grant Thornton's AAM, it was felt prudent to add the additional term – Review the internal financial controls and provide assurance to Council on this controls – to the terms of reference.

35. **Agreed** that the Audit Committee's Terms of Reference be amended to include responsibility for reviewing internal financial controls as per the Terms of Reference in the paper.

Response to GMC Consultation on *Good Medical Practice*

36. The Head of Professional Standards presented a paper which asked the Council to agree a draft response to the General Medical Council's *Good Medical Practice* consultation. The core ethical standards for doctors contained in this publication, were last published in 2006 and had been reviewed. The draft consultation response was before Council because of the need to address issues relating to the patients' journey. The Education Committee had considered the draft response and agreed to recommend it to the Council with no amendments.

37. Members made the following observations:

- a. Tone – one member wondered whether the tone and response was too specific. Others felt that the response was a good and robust response to the consultation.
- b. Was it necessary to have an annex about how osteopaths are trained and regulated? Others felt this was important as many expressed surprise when told that osteopaths trained for four years.
- c. It was interesting that 'spiritual' and 'religious' factors had appeared in the document at 13 as being factors that should be taken into account when assessing the patient's conditions.
- d. The draft *Good Medical Practice* was considered a model of clarity which was expressed in a collaborative way.
- e. Reference to consent in the document was supported by the GMC's guidance on consent which ran to some 64 pages.

38. **Agreed** the draft response to the GMC's *Good Medical Practice* consultation.

Revalidation Pilot progress report

39. The Head of Professional Standards presented the paper which provided an update on the progress of the Revalidation Pilot including the launch of an e-bulletin for pilot participants and progress with recruiting osteopaths to become Revalidation Pilot Assessors. Nearly 50 osteopaths have applied to become assessors and will be interviewed by a panel including osteopaths nominated by the BOA and Council for Osteopathic Educational Institutions. Carol Fawkes, Research Officer, NCOR, was extremely helpful in dealing with osteopaths' questions in relation to clinical audit. Other queries had centred around patient feedback e.g. how many patients to ask, how to present the data. The team were continuing to respond to questions asked by, for example, preparing a simple template for patient feedback analysis and presentation of data.

40. Members then made the following observations:
- a. One thought that Council was asked to consider was that all was going well with the revalidation pilot but that it only involved about 10% of the profession and that they might be the enthusiasts; what about the other 90% of the profession who were not involved. It was explained that if the tools in the Pilot were to prove useful, then those taking part in the Pilot would be the ones to encourage colleagues. The key was for GOsC to build on the strengths of the Pilot to produce a scheme that encouraged osteopaths to continually enhance practice. This was something we could continue to explore moving forward.
41. **Noted** the progress of the Revalidation Pilot.

Minutes of the Audit Committee meeting of 23 November 2011

42. The minutes were **noted**.

Minutes of the Education Committee meeting of 15 December 2011

58. The Chair of Council reported that the Chair of the Education Committee had not been able to approve the minutes before they were circulated in the meeting paper, hence 'unconfirmed and unseen by Chair'. There was an issue around the minuting of Item 7 – pre-registration curriculum content – which was being clarified and the minutes would come back to the Council at its March meeting.

Minutes of the Fitness to Practise Policy Committee meeting of 22 September 2011

56. Professor Hughes confirmed that he was Acting Chair for the meeting. The minutes were **noted** subject to the correcting of 'Chair' to 'Acting Chair'.

Minutes of the Remuneration Committee meeting of 15 December 2011

59. The Chair highlighted the fact that the Committee had agreed that it was more appropriate for responsibility allowances to be considered in the governance review. The minutes were **noted**.

Any other business

60. There was no other business.

Date of next meeting

61. Thursday 29 March 2012 at 10.00.