General Osteopathic Council

Osteopathic Practice Committee

Minutes of the 9th meeting of the Osteopathic Practice Committee
held on Thursday 3 March 2016

Unconfirmed

Chair: Jonathan Hearsey

Present: Jane Fox
Manoj Mehta
Kenneth McLean
Julie Stone
Alison White

In attendance: Steven Bettles, Education Consultant, Professional Standards (Item 5 – via Skype)
Fiona Browne, Head of Professional Standards
Sheleen McCormack, Head of Regulation
Matthew Redford, Head of Registration and Resources
Marcia Scott, Council and Executive Support Officer
Brigid Tucker, Head of Policy and Communications (Item 8)
Tim Walker, Chief Executive and Registrar

Observer: Jenny White

Item 1: Welcome

1. The Chair welcomed all to the meeting.

2. The Committee was advised that Steven Bettles, Education Consultant, Professional Standards, was unable to attend the meeting in person and he would participate by means of Skype.

Item 2: Apologies

3. There were no apologies.

Item 3: Minutes and Matters arising

4. The minutes of the 8th meeting of the Osteopathic Practice Committee, 13 October 2015 were agreed as a correct record.

5. There were no matters arising.

Item 4: CPD Project Governance

6. The Head of Professional Standards introduced the item which concerned the governance structure for the implementation of the CPD project. The paper set out in detail the different levels of decision making and the terms of reference (ToR).

7. The Committee was informed of the discussion which took place at the meeting of Council, 4 February, and its request for more detail of the proposed governance structure, decision making matrix and ToR for the implementation of the CPD.

8. The Committee's attention was brought to how the governance structure was expected to function highlighting the fine balance of keeping the structure simple, supportive and allowing for flexibility. The Committee's attention was also drawn to the levels of decision making from the SMT Task Group through to Council.

9. In discussion the following points were made and responded to:

    a. It was suggested that the terms of reference should also include mention of the time limited nature of the project as the timeline was clear in the support documentation.

    b. The Committee commented that there was a need to be precise about accountability. There was some concern about the name and role of the Delivery Board which could be misinterpreted as the role was one that related more to an advisory board. It was suggested that some thought should be given about making the clear distinction that the group is one that would work in an advisory capacity and should report to the Senior Management Team rather than directly to the Osteopathic Practice Committee. It was also important to note that GOsC would likely set the agenda and that this should be reflected in the ToR.

    c. The comment was understood but in response the Committee was assured that the Delivery Board would not work autonomously in its reporting capacity and that this would be addressed in the terms of reference brought to Council in May. The Committee was also advised that the Delivery Board was a way of bringing stakeholders together and developing a collective commitment in delivering the new CPD scheme. It was agreed that a name change would be taken into consideration – it was suggested that 'Partnership' Board may better reflect the nature of the group.

    d. The Committee sought clarification on the reference in the ToR about financial and risk management and how this fits with the advice and decision making table for the scheme. It was suggested that the reference in the ToR be developed to give more detail as financial management and risk were both key areas. The point made was acknowledged. It was explained that one of the regular reports that would be made to Council would be on both

financial and non-financial risk. This was also an important area for all other groups to monitor and to provide advice. It also incorporated evaluation and impact assessment and advises on risk rather than management of risk. It had been important to bring the SMT Task Group and stakeholders together in this area but the ToR would be made clearer.

e. It was agreed that the teaching faculty, not members of COEI, be included in the membership of the Delivery Board.

f. It was reconfirmed that the budget to cover the CPD Scheme would come from the £100,000 designated by Council. In due course, a more detailed budget would be prepared for Council.

g. It was agreed that a visual representation of the governance structure for the CPD scheme would be prepared for the Committee.

Agreed: The Committee agreed the following:

a. To take the terms of reference for the Delivery Board subject to the agreed changes.
b. To agree the terms of reference for the SMT Task Group subject to the agreed changes.
c. The approach to governance as outlined in the paper.

Item 5: CPD Resources and Case Studies: Consent and Communication

10. Steven Bettles introduced the item which concerned the scoping report on resources relating to consent and communication in preparation for developing material to support the implementation of the new continuing fitness to practise scheme. It was explained that the purpose of the scoping project was to review the current support resources available for the implementation of the new CPD scheme.

11. The Committee was advised the project also acted as an audit of the information available on the **o**-Zone where it was found that on occasions the information although good was not easily accessible.

12. The Committee was also advised that there were many other free resources available which would benefit osteopaths in enhancing their knowledge in areas of consent and communications. It was suggested that by improving and enhancing the **o**-Zone and giving access to a wider range of resources we may encourage wider use of the site. How this could be achieved in the short, medium and long term was a key question.

13. In discussion the following points were made and responded to:

a. The Committee welcomed the extensive scoping report and commended the work. The Committee recognised that both regulators outside of osteopathy and other professional bodies had been reviewed, but also asked if other

organisations with expertise in training had been considered, for example the Institute of Healthcare Communication. The Committee were informed that at this stage the scoping had gone beyond the health regulators to other professional bodies where there would be no additional costs. It was agreed that the work could be further broadened to include other specialist providers and organisations: there was a lot of material out there to be reviewed, for example Coursera or Future Learn.

b. The Committee wondered whether the GOsC should be interested in the quality of courses purporting to deliver the OPS. Was the GOsC approached to permit the use of content from the OPS as a training tool? Was there ever a danger of possible misrepresentation? It was agreed that the OPS is being used to deliver training by a range of individuals and organisations and that this was to be encouraged. There was a limit to how much checking could be undertaken; an individual should make their own judgement about the quality of CPD on offer. It wouldn't be appropriate for GOsC to ratify everything. People need to engage, reflect and determine and make a judgement.

c. In relation to the Montgomery judgement, the Committee noted that courses referring to the Bolam test, but not Montgomery were being delivered. In this area, particularly, the GOsC may have an interest in assuring that quality resources were available for osteopaths to select. It should be strongly suggested to providers that they are up to date with any current rulings and/or standards. It was noted that this was a difficult area and sensible conversations and the provision of resources were important. Montgomery helped us to position the debate around consent in a more helpful arena – dialogue with the patient – rather than in risk which tended to confuse and polarise discussion, and was also not where issues arose.

d. The Committee liked the suggestion of using case based scenarios. Students responded much better and got more out of the sessions using this method as it encouraged discussion and interaction. It was suggested that Professional Conduct Committee cases might be a useful resource for osteopaths to look at.

e. In conclusion the Committee agreed the ideas put forward in the paper were excellent and a rich resource. It was agreed that the profession needed encouragement to use all resources available and that work would be ongoing to consolidate and expand the range of resources available to osteopaths in an easy to use way.

f. In response to a question about the use of electronic portfolios it was advised that this was being considered and might be something that could be used for the early adopters of the CPD scheme

Item 6: Case Examiners

14. The Head of Regulation introduced the item which asked the Committee to consider the options which explored enhancing the role of Screeners at the investigating stage of a fitness to practise case as part of the ongoing reform programme.

15. A review was conducted of the other health care regulators who use Case Examiners, who are in some aspects undertake a similar role to Screeners. An advantage of utilising a Case Examiner model was that it allowed a case to progress more quickly as, in the majority of cases, the Investigating Committee did not need to be involved. Streamlining and modernising the process would be to the advantage of all parties involved in fitness to practise proceedings. However, currently our legislative framework requires that a case that is screened in must be referred to the Investigating Committee for consideration.

16. Use of the Threshold Criteria has enabled us to act more proportionately to complaints whilst maintaining our ability to protect patients. Because of built in quality assurance mechanisms which require the osteopathic screener's recommendation to be reviewed by a lay screener, there have been no perceived disadvantages or risks identified so far where cases have been closed inappropriately.

17. To introduce Case Examiners would require a Section 60 order and replacing the Investigating Committee. Expanding the role of the Screener could improve efficiencies and streamline the process without a change to the Act or rules.

18. In discussion the following points were made and responded to:

    a. The Committee was advised that there was no current timescale for the introduction to the change in the role of the Screeners as at this stage the suggestion was for exploration and discussion. Working with the Threshold Criteria and especially being tested with the recent advertising complaints has shown the suggested change to the Screeners role would work well.

    b. It was explained that GOsC Screeners are members of the Investigating Committee who are all independent decision makers. If the osteopathic Screener recommends a case to the IC the lay Screener will not review that case. It was explained that the role of the Case Examiner differs for the other health regulators as, where Case Examiners agree, the case can be referred to a final hearing without consideration by an Investigating Committee.

    c. The Committee was advised that applying for a Section 60 order was presently not an option for the GOsC which was the reason for looking at other ways of progressing and modernising our processes.

    d. It was commented that in the long term it would be best to introduce Case Examiners. The Executive would need to be sure the change was legally

sound. And that in giving the Screeners a more substantive role there would need to be assurance that additional costs were identified and measured against potential benefits.

e. It was suggested that a pilot of the system could be run alongside the existing procedures to test how it would operate in practice. It was also suggested that before the pilot began a test on the decision matrix and deciding the evaluation points and measures of achievement should be considered.

f. It was stressed that the public should not see the suggested changes as a detriment to how cases are dealt with. It was also asked if there was any way to shorten the time the IC takes with cases and if there were opportunities for the IC to work more flexibly in terms of remote meetings or teleconferences. The Committee was advised that all the points were being actively explored and acted on.

g. The Committee was advised that the IC had not as yet been approached about the proposal.

19. The Head of Regulation thanked the Committee for their comments and suggestions which would be considered for the development of the suggested pilot.

Item 7: Legally Qualified Chairs

20. The Head of Regulation introduced the item which asked the Committee to consider the options for the current use of legal assessors and the introduction of legally qualified chairs at hearings and meetings of the fitness to practise committees.

21. In introducing the paper it was acknowledged that the original parameters of the paper had expanded to explore not only the use of legally qualified chairs but in parallel with this the paper also explored whether the current statutory scheme required the attendance of legal assessors at every meeting and hearing as mandatory as this could mean that in some hearings legally qualified chairs could sit without a legal assessor present. If this was legally permissible then having legally qualified chairs would help to improve the efficiency of processes and would be a cost saving as they would be able to deal with points and issues without requiring a legal assessor to be present.

22. Having undertaken a review of the statutory framework the preliminary view was that a legal assessor was not required in certain hearings and meetings

23. In discussion the following points were made and responded to:

a. The Committee asked for clarification of the term 'legally qualified'. There was a concern that there might be some confusion about respective roles.

Would this require recruiting additional committee members who could 'double up'?

b. In terms of existing membership of the IC it was noted there are currently two IC members who have a legal qualification.

c. Members commented that they were comfortable that the IC might sit without a legal assessor in ordinary meetings. However, there was some concern expressed about instigating too many initiatives around the same time period, for example: not having a legal assessor present at Investigating Committee meetings and convening Investigating Committee meetings remotely. There were important considerations around fairness and process and ensuring proposed changes were introduced in a staged manner after piloting.

d. Members were supportive of the idea of legally qualified chairs but the concern was in ensuring this was an appropriate legal route to follow. The Head of Regulation had given prior consideration to the risks raised and had, in addition, invited comments from selected and experienced members of the FtP Forum prior to preparing the paper.

e. It was suggested that the issues associated with convening IC meetings via teleconference or Skype should be disaggregated from the discussion on legally qualified chairs and hearings without the presence of a legal assessor for future discussion at Council.

f. It was suggested that moving to a system of legally qualified chairs was dependent on the experience of the individuals appointed and therefore it would be necessary to keep the pilot under close review.

Item 8: *Osteopathic Practice Standards* Review

24. The Head of Policy and Communications introduced the item which gave an update on the review of the *Osteopathic Practice Standards* and progress to date.

25. The Committee was informed that a major review of the standards had been launched. Anyone with an interest in osteopathic standards and practice is being invited to engage in the review process and feedback on the current OPS and how it can be improved. A website has been developed which participants can access for information about the process and how to participate.

26. It was confirmed that participants could post their on-line comments either in the public forum or as a private response.

27. A wide number of media and other sources have been used to publicise the feedback including Facebook, tweeting and email, the May registration renewals and through engagement via GOsC stakeholders.

28. In discussion the following points were made and responded to:

    a. It was confirmed that it was expected that the Osteopathic Education Institutions would engage with students and also with patient groups. It was added that it was important for the osteopathic community to engage in this process as it was an opportunity to comment and inform any changes that might be made to the OPS.

    b. The Committee asked how the Executive would reformulate the difficult areas of the OPS following the feedback from osteopaths in the McGivern report. It was explained that much of what was expressed stemmed from the previous version of the standards. The findings from the current feedback exercise would be analysed to assist in the revision of the OPS. It was added that fitness to practice cases would be included as part of the review.

    c. Members asked what opportunities would there be to capture the consultation feedback from the Gerry McGivern report. It was explained that it would not be possible to go back to the research subjects but the GOsC would want to hear from those who wanted to offer further comments. It was also hoped that through discussion in the community others would review the standards and also participate.

    d. It was confirmed that the comment would remain posted as a way of encouraging responses.

    e. Members asked if it was thought if the consultation would highlight the 'rule-breakers' as there was still some concern about practise standards. In response it was explained that the standards were more about reinforcing the positive which will improve the patient experience and encourage better standards of care from the profession. It was also commented that an area of concern would be the sole practitioner and the communications issues which resulted.

Item 9: Any other business

29. The meeting was the final one for the Chair as a member of the Committee and of Council. On behalf of the Committee and the staff of the GOsC the Chief Executive thanked Jonathan for all he had done on behalf of the organisation and that his work had been much appreciated.

Item 10: Date of the next meeting: 16 June 2016 at 09.30.