

GENERAL OPTICAL COUNCIL

Minutes of the 32nd Meeting of the Standards Committee
held on Thursday 13 September 2007

Present: Professor R J Buckley (in the Chair)
Miss R E Bailey, Ms M Black, Mr R W Chappell,
Mr I Hamer, Ms G Morgan, Mr N J Rumney,
Mr D W Pyle, Mr J Russell

Advisers: Mr R Carswell, Mr F Munro

In attendance: Mr S Heatherington, Chairman Governance Workstream
Mr P Coe, Registrar
Mr J Levett, Director of Standards
Mrs D Taylor, Deputy Registrar and Director of Education
(for item 11)
Miss H Stanforth, Consultant to GOC

Apologies for absence

1061. Apologies were received from Mr R Curran and Mrs R Varley. The Chairman welcomed Mr Stuart Heatherington to the meeting as an observer.

Declarations of interests/Confidentiality

1062. The Chairman reminded Members and Advisers of the provisions of paragraph 6(a) of the Council's Code for Members with regard to declarations of interest, and Standing Orders 5.23 to 5.26 with regard to the confidential nature of the Committee's proceedings.

Minutes

1063. The minutes of the 31st meeting held on 19 April 2007 (**SD(07)3M**) were approved and signed by the Chairman, subject to correction of a typographical error at minute 1049.

Matters Arising

1063. An Action Sheet was tabled indicating progress in taking forward the matters discussed at the last meeting.

1064. **Minutes 1030 and 1039:** Consideration was given to a draft work plan for 2008-09 (**SD(25)07**). Members were reminded that this consideration was intended to enable the Committee to appoint advisers appropriate for the tasks to be undertaken for the following year. It had been agreed at the last meeting that it would be useful to appoint an adviser from the corporate sector, preferably a dispensing optician. Members received a paper setting out proposals for an adviser (**SD(26)07**) and noted that Mr Glenn Tomison had been proposed by a Council Member. Suggestions had also been invited from the optical bodies and ABDO and FODO had jointly proposed Mr Tim Jones of Dollond & Aitchison.

1065. After careful consideration, it was agreed to request full curricula vitae from both candidates and to make a decision in the light of the fuller information that they would provide. It was noted that the appointee would need to be in post by the next meeting of the Standards Committee.

1066. **Minute 1044:** Members were reminded that the Contact Lens Working Group had concluded that it needed corporate sector input to its deliberations, a view which the Standards Committee had endorsed. It was proposed that Mr Paul Carroll be invited to join the Working Group to provide the corporate perspective.

1067. RESOLVED:

to appoint Mr Paul Carroll to the Contact Lens Working Group.

1068. **Minute 1059:** Members considered a draft impact assessment on the impact of legislation to require supply of contact lenses to be in accordance with the written specification **(SD(27)07)**. This had been put forward by the Contact Lens Working Group and recommended that in the short term the Council should produce Rules to ensure adherence to written specifications and in the long term should seek an amendment to the Opticians Act by means of a Section 60 Order. It was noted that inclusion of an amendment in a Section 60 Order in the near future was unlikely since forthcoming legislative measures would relate solely to the White Paper, *Trust, Assurance and Safety*.

1069. Members agreed with the proposed short- and long-term options. Mention was made of the legislative position in the USA, where it was believed that no substitution of contact lenses was allowed. It was suggested that it would be useful to ascertain the position in other countries in order to provide a global perspective in the draft impact assessment. In that context, Mr Carswell, as Secretary General of ECOO, agreed to provide information on the position in the ECOO member states. Comment was made about the commercially sensitive nature of the document's content and the need to ensure absolute confidentiality.

1070. RESOLVED

to approve the draft impact assessment and to instigate the process of introducing Contact Lens (Supply) Rules under section 31(1)(e) of the Opticians Act.

White Paper – *Trust, Assurance and Safety*

1071 Consideration was given to draft proposals from the Governance Workstream on future governance arrangements for the GOC **(SD(28)07)**. The same paper outlined, for information, progress in the work of the Revalidation, Registration and Tackling Concerns Workstreams. The Standards Committee was asked to consider, in particular, how in the future a smaller, more Board-like Council might best receive advice on standards matters under revised governance arrangements. The Workstream proposed that a future Council should have as much flexibility as possible and to this end it was suggested that the statutory status of the standing committees should be abolished. It was stressed that this did not mean removal of statutory functions from Council. It was hoped to present draft proposals to Council at its meeting in November 2007.

1072. The view was expressed that it should be for the new Council to determine how it wished to obtain advice on standards matters, with advice from the Registrar and his executive on the mechanisms. It was felt inappropriate to put forward structures and mechanisms that would bind a Council that had yet to be appointed. On the other hand, it was suggested that safeguards should be identified in advance to ensure that the new Council could properly fulfil its public protection role. The new Council would not necessarily be aware of all the issues without some guidance and continuity from the present Council. Concern was expressed that ad hoc arrangements for obtaining advice, especially in education matters, was not appropriate, and that a core structure was necessary to ensure that the Council carried out its statutory functions. The Registrar reminded Members of the role of the CHRE in scrutinising the regulatory bodies, a role that would be strengthened under the new legislation.

1073. Comment was made that the Standards Committee had already established working groups to take forward work on specific issues, reporting back to the Committee, which then reported to Council. New arrangements might speed up the process by establishing working groups that reported direct to the new Council. On the other hand, it was felt that there was a role for a committee to take an overview of the working groups' output, particularly as under current arrangements, that output was on occasions altered as a consequence of the Standards Committee's deliberations.

1074. Concern was expressed that under the new arrangements, if Council members had no role other than to receive papers from working groups or whatever other advisory mechanism might be put in place, they would be divorced from the real issues. There was a risk that Council Members would therefore have no understanding of the reasons for any recommendations made to Council; this cast doubt on the integrity of the decision-making process.

1075. The Registrar reminded Members that the White Paper was fairly prescriptive in terms of governance arrangements. He noted that if the Bill was enacted and the Section 60 Order passed, the Privy Council would promulgate constitutional orders in Spring 2008 and would proceed to appoint the members of the new regulatory bodies. It would, however, be for the GOC to provide the Appointments Commission with the person specifications for Council members. This gave the GOC the opportunity to define the attributes required of Council members, both lay and clinical.

1076. It was suggested that it might be useful to review Standards Committee agenda papers retrospectively over a period of time, in order to identify areas of activity and highlight those that subsequently proved unnecessary, those where working groups were set up and the outcomes, and those that had needed involvement of Council members.

1077. The Registrar commented that once the governance arrangements had been decided, it would be his role to advise on the underpinning structures to support those arrangements. He noted that at present no Officers came from a clinical background and expressed the view that clinical expertise might be needed in the new executive team. There was a general consensus in support of this but with safeguards to ensure that clinical input from Council was not excluded. It was suggested that one option could be to require the new Council to consult with the other optical bodies. Mention was made of the need to ensure input from the professions in Scotland, Wales and Northern Ireland.

1078. It was noted that a draft person specification for the new Council Members would be discussed by the Governance Workstream at its next meeting. The current Council would be updated on progress at the Council seminar in November.

Review of Codes of Conduct

1079. Members were reminded that as part of each annual work plan the Committee was required to review the Codes of Conduct. An amended Code for individual registrants was considered **(SD(29)07)**. This included amendments to make it clear that the Code encompassed student registrants and contained an additional clause relating to the obligation upon all registrants' to have adequate and appropriate insurance. This latter was intended to help the GOC to address the issues arising from EU legislation that prevented the GOC from requiring insurance as a condition of registration by European applicants seeking temporary and occasional registration.

1080. The proposed amendments were agreed. The Registrar pointed out the need to add to the new insurance clause words to the effect that the insurance was required for UK purposes, since the GOC could not specify such a requirement for practice in other countries. It was also suggested that the term 'trainee' might be more appropriate than the term 'student', since this would make it clear that the Code encompassed trainees in supervised practice under the Scheme for Registration. The footnote to the Code should make it clear that it was the trainees' duty to ensure that they were covered by adequate and appropriate cover.

1081. RESOLVED:

to recommend the amended Code of Conduct to Council, subject to the further amendments proposed at minute 1080.

1082. In discussion about supervised practice for optometrists training to become independent prescribers, the Registrar indicated that for the purposes of their specialist training such optometrists would be required to register as students. He indicated that this applied to all optometrists and dispensing opticians undertaking specialist training, since the Opticians Act limited specialist practice to those on the specialist Register or those in training for that particular specialty. The view was expressed that this was not generally known, particularly by dispensing opticians undertaking ABDO's contact lens qualification, and clarification was required.

1083. A formal request was made to the Registrar, on behalf of the AOP, for clarification of this issue and for information about the processes within the GOC for dealing with specialist student registration. The Registrar agreed to refer the matter to the Registration Committee in the first instance.

Professional bodies Guidance

1084. Consideration was given to a paper from the Director of Standards setting out further proposed changes to the professional bodies' guidance on the sale and supply of optical appliances in the light of recent legal advice obtained by the GOC from Joanna Glynn QC **(SD(30)07)**. One major issue related to the need to differentiate between supervision when supplying powered contact lenses and when supplying zero-powered contact lenses, since the responsibilities under the Opticians Act differed for each category. The Contact Lens Working Group had reviewed the legal advice and had proposed amendments to deal with the issues raised. These did not constitute major changes but rather sought to bring clarity to the guidance. It was suggested that

the guidance should make it clear that the responsibilities in fitting zero-powered contact lenses were the same as, not similar to, those applying to practitioners fitting powered contact lenses.

1085. Concern was expressed at the proposal to include in the guidance a requirement that the patient should always be on the same premises as the seller who was being supervised. There were occasions when practitioners might consider it appropriate to supply contact lenses without the patient being present, for example where proper care regimes had been established, for longstanding patients well known to the practitioner or in emergency situations. It would be for the practitioner to be able to justify any decision to a Fitness to Practice Panel in the event of subsequent complaint.

1086. The Registrar reminded Members of the judgement in the Vision Direct case, and in particular the acceptance of the evidence from the expert witness that when supervising a sale the optician should have the immediate capability of examining the eyes of the patient. He cautioned against eroding the role of the professional by reducing the power given by the judgement. This, he felt, would allow much looser arrangements that would permit supply systems that would not be in the public interest.

1087. After careful consideration, the Standards Committee took the view that the requirement for the patient always to be on the premises was not appropriate and should be deleted from the proposed amendments to the professional bodies' guidance. The remainder of the proposed amendments were accepted and would be submitted to the College/ABDO Guidance Review Group on 17th October 2007. In the meantime, the Contact Lens Working Group was asked to hold an urgent debate on the need or otherwise for the patient to be present for a supervised sale, so that in the public interest any further amendments to the professional bodies' guidance could be put forward as soon as possible.

Independent Prescribing

1088. Members welcomed the decision of the Minister to grant independent prescribing for optometrists. The scope of practice would not be based on an approved formulary but would be defined by reference to individual practitioners' competence. Consideration would now be given by the Therapeutics Working Group to the need for new and revised Rules to allow for this new specialty and Members noted for information the proposed plan for implementing a regulatory framework for independent prescribing (**SD(31)07**). Any underpinning legislation would apply to the whole of the UK. Revised clinical management guidelines and suggested additions were tabled for Members' information.

1089. Given the overlap in competencies for additional supply, supplementary prescribing and independent prescribing, it would be necessary to clarify the position with regard to dual specialty. It was suggested that an option might be to introduce one specialist qualification to cover the whole area of prescribing. From the Education Committee's perspective, this issue had to be resolved before developing a new handbook, especially as some optometrists were assuming that there would be one overarching qualification that would enable them to undertake all three categories of prescribing, and were waiting for this before undertaking specialist training.

1090. Other major issues related to maintenance of competence, and in particular requirements for CET, retention and restoration to the Register. The suggestion was made that the first cohort of specialist independent prescribers would be an ideal group with whom to pilot a revalidation scheme. The Therapeutics Working Group would consider all the issues in detail and would report back to the Standards and Education Committees.

Advisory Panel

1091. Consideration was given to a proposal that an advisory panel be established to assist the staff in dealing with complex enquiries on issues relating to GOC Rules **(SD(32)07)**. Members felt that it was not for the GOC to interpret its own Rules and that it was more appropriate, as happened already, to defer to the professional bodies for advice and guidance. The proposal was therefore not agreed.

The Registration of Teachers and Lecturers in Optics

1092. Consideration was given to a tabled paper on mechanisms for reviewing the GOC's arrangements for student registration, including consideration of the need for teachers to be registered **(SD(33)07)**. The Director of Education attended to speak to this item. Since Members had not had an opportunity to study the paper, she suggested that they might want to consider it outside the meeting and contact her with any comments.

1093. A major issue related to a recommendation from the Education Committee that all teachers and supervisors should be GOC registrants, that registration should be continued throughout teaching and supervisory responsibilities and that future advisers appointed to Council or its Committees should be registrants. It was suggested that it would be helpful to establish a small working party of representatives from the Education, Registration and Standards Committees to debate the issues in detail and advise the Registration Workstream. This was agreed.

1094. RESOLVED

To establish a small working group of representatives from the Education, Registration and Standards Committees to discuss in detail issues arising from teacher and student registration.

Equality and Diversity Scheme

1095. Members received, tabled, a draft paper setting out an equality and diversity scheme for the GOC **(SD(34)07)**. Members were asked to consider this outside the meeting and to send in their comments. The draft would be revised to take account of any comments and be submitted to the Council at its meeting in November.

Any Other Business

1096. Mention was made of a recent *Which* report that criticised the quality of some eye examinations. The GOC had issued a press response at the time and it was felt inadvisable to take any further action vis-à-vis *Which*. The article had, however, demonstrated the public's lack of knowledge about the role of the GOC and the content of an eye examination, and had highlighted the need for public education.

Date and time of next meeting

1097. It was noted that the next meeting of the Standards Committee would be held on **Thursday 17 January 2008 at 10.30 a.m.**