

GENERAL OPTICAL COUNCIL

**Minutes of the 136th Meeting of the Companies Committee
held on 23 October 2007**

- Present:** Mr B J Carroll (in the Chair)
Professor R Anderson, Mr M W Bateman,
Mr K Cavaye, Mr B Collison, Mr J Gordon,
Mr I Hamer, Mr M Hansford Dr G Harris,
Dr S T D Roxburgh, Mrs R Varley.
- In attendance:** Mr P C Coe, Registrar
Mr P J Ireland, Director of Corporate Resources

Apologies for absence

2725. Apologies were received from Mr D J D Perkins and Mr B Smith.

Declaration of Interests

2726. The Chairman of Council declared her interest as interim chair of the CHRE.

Confidentiality

2727. The requirement for Members and Advisers to adhere to the rules of confidentiality under Standing Orders 5.23 to 5.26 was duly noted.

Minutes of the 135th Meeting

2728. The minutes were agreed as a true and accurate record of the meeting and duly signed by the Chairman.

Matters Arising

2729. There were no matters arising.

Sale and Supply of Optical Appliances

(a) Contact Lenses

2730. It was noted that the GOC Standards Committee had met and considered revisions made by the College and ABDO to their guidance on powered and non-powered contact lenses. The Committee had been working with both bodies to eradicate any conflation between the different responsibilities between the sale and supply of powered and non-powered lenses. It was understood the College's Guidance Review Group, had accepted these changes and the Committee was now in touch with ABDO about changes to its guidance. It was intended that both sets of revised guidance would be taken to the public session of the GOC Council in November.

(b) Sale of Optical Appliances Order

2731. It was noted that Council had instructed its legal advisers to consider what revisions were needed to update the present Order. It was intended that any amendments necessary would be brought by a Working Group to the Standards Committee for its consideration in January 2008.

(c) Internet sale and supply of spectacles

2732. The Committee noted that Council had taken QC advice in 2006 as to how it would interpret the law on sale and supply of spectacles. The College and ABDO had reviewed their guidance in the light of this advice. It was intended that this guidance would be taken to Council in November. If Council was content that the revised guidance reflected its understanding of the law it would be in a position to consider potential prosecutions subject to its published protocol on a case by case basis.

White Paper – Trust, Assurance and Safety

A. Overall Progress of GOC Work

2733. It was noted that the legislative timetable for the first Section 60 Order was that the consultation on constitutional changes to the Opticians Act was due out within the next week.

2734. The Bill was due to receive its first reading in Parliament in the second week of November, with Royal Assent in June/July 2008. This timing meant that GOC provisions for the potential switch of FTP hearings to a separate adjudication body and implementation of the civil standard of proof would need to be in place by October/November 2008.

2735. It was noted that the requirement to move from the present criminal standard of proof to the civil standard of proof would mean a change to the “balance of probabilities” rather than “beyond reasonable doubt” at present. This would mean that the more serious the offence the greater the cogency of evidence needed to prove an event took place.

2736. It was noted that although the GOC now had powers to impose fines up to £50,000, which was considerably higher than that possible for other regulators, no fitness to practise panel had yet awarded a fine at this level.

2737. The Committee welcomed the position taken by the Revalidation Work Stream that concluded that any scheme needed to be “proportionate and appropriately targeted” but sought clarification on what was meant by “enhancing professionalism”. This was intended to mean enhancing the role of being part of a profession.

2738. It was noted that some of the issues being considered by the National Working Group on Tackling Concerns Locally, on which the GOC had representation, had looked at the role of the employer but in the context of the NHS as employer. However, where the NHS was far less likely to be the employer as was the case in optics, then some of the areas under discussion at NWG level should be shared with the Committee. Similarly, the NWG on non-medical revalidation had focused on revalidation through ‘appraisal’ as the prime mechanism whereas the GOC felt some form of assessment would be more appropriate.

2739. Expected in the new Bill are provisions for the setting-up of a separate adjudicator to consider fitness to practise cases. It is anticipated that initially the GMC only would move the adjudication of its cases over, although there may be provision for the GOC to follow shortly afterwards. Under these new arrangements, the regulator would continue to investigate and prosecute cases, but the separate body would determine on all cases. The individual regulator would issue indicative sanctions and the right to appeal cases would revert from CHRE to the regulator.

2740. It was noted the difficulty the Registration workstream had in reaching a definition of 'good conduct'.

2741. The Committee endorsed the Council's consultation response to the Performers List Review. It felt that the GOC was best placed to take full responsibility for local investigations.

B. Companies Committee Seminar

2742. The Chairman highlighted the composition of the Working Group and that those present were not members of the Committee and therefore were able to consider the White Paper from a fresh perspective.

2743. It was noted that the Working Group had very quickly identified who, in optics, were the key stakeholder groups.

2744. The Chairman was congratulated on bringing together such a high calibre group of outside advisers. It was felt the group worked very well and had supplied a valuable perspective on the current governance debate. More generally in relation to working parties, it also provided a key to how the GOC might operate in the future with the more Board-like Council.

2745. It was noted that the GOC had three representatives on two of the National Working Groups, which was valuable in terms of being close to some important issues and able to bring influence to issues related directly to optics.

2746. The Committee noted the indicative legislative timetable although slippage of the order of six to eight weeks to date had already occurred.

2747. Best practise was that an impact assessment be carried out by Council and although this had not yet started, it would be undertaken.

GOS Review

2748. It was noted that the Council had no locus in the GOS debate until and unless there were to be a mismatch with GOC Rules or regulations.

Optometrist Prescribing

2749. The Committee noted the progress made in the introduction of independent prescribing for optometrists. It was anticipated that there be a public consultation on the changes needed to existing GOC Rules in early November, followed by Rules being made by Council in March 2008.

CET Update

2750. The Committee noted that Council was considering what changes, if any, would be appropriate to the CET Scheme from the start of the next cycle in January 2010. Input from the CET Advisory Panel and feedback from Council's consultation on the scheme held in November 2005 would also inform this work. Amendments to the Scheme would be taken to November Council for approval. A report would be made to the next meeting of the Companies Committee.

2751. An operational review of the CET Scheme would also be undertaken in 2008 as stipulated in the contract with Vantage Technologies.

Consumer Complaints Mediation Service

2752. Tenders had been sought from interested parties to provide a consumer complaints mediation service, presently operated on behalf of Council by OCCS. A shortlisting panel would meet later this week, to consider all submissions and to recommend to November Council a preferred service provider with effect from 1 April 2008.

Date of Next Meeting

2753. The next meeting of the Companies Committee will be held on **Tuesday 12 February 2008 at 2.00 p.m.**