

**GENERAL OPTICAL COUNCIL**

**Minutes of the 202nd Public meeting of the Council held on 24 October 2012 at the General Optical Council, 41 Harley Street, London, W1**

**Present:** Anna Bradley (in the Chair), Morag Alexander, Paul Carroll, Brian Coulter, Peter Douglas, Robert Hogan, Liam Kite (para 7664-7677 & 7684-end), Kevin Lewis, Fiona Peel, James Russell and Selina Ullah.

**In attendance:** Samantha Peters, Nicola Ebdon, Linda Ford, Simon Grier, Phil Hallam, Lisa Harmshaw, Michelle Jex-Brown (7673-7683) Mandie Lavin and Kisha PUNCHIHEWA (7664-7668 & 7673-end),

**Apologies**

7664. Apologies were **received** from Nicholas Rumney.

**Declaration of members' interests**

7665. No new or additional interests were declared.

**Minutes of the 201st meeting held on 28 June 2012**

7666. It was **noted** that Kevin Lewis had been present at the meeting. Subject to this amendment the minutes were **approved**.

**Updated Actions - paper C33(12)**

7667. Members **noted** the updated actions as circulated.

**Other Matters Arising**

7668. The following matters were arising:

- 7646 (funding arrangements) – Council **noted** that all the regulators were waiting for a response from the Council for Healthcare Regulatory Excellence (CHRE)/Public Standards Authority (PSA) as to whether the fee would be levied in the next financial year;
- 7648 (CET Workshops) – Council **noted** that workshops for education providers had been held in September 2012 with good attendance. As a result provider-specific Continuing Education and Training (CET) packs were being developed which included an introduction to the new IT systems and paperwork. A further workshop, which would be the final opportunity to engage with providers before the end of the current cycle, was being planned for November 2012. Council **noted** that the

dedicated provider section on the website would go live (in test format) from 1 December 2012. It was **agreed** that Council Members would be invited to attend the November workshop and would be advised when the website test was live so that they could feedback their comments; and

- 7651 (independent prescribing) – Council were advised that the Executive had met with the independent training providers and the Working Group to progress the development of the handbook. Council noted that the Education Committee would be considering amending the requirements to allow the integration of the theory and practical aspects of the specialist training at their next meeting. The revised handbook including such changes if supported would be presented to Council in due course. Council **noted** that the barriers to qualification for those seeking to become independent prescribing optometrists in Northern Ireland would be resolved by the proposed handbook amendments.

### **Chair's Report**

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7669. Council **noted** a verbal report from the outgoing Chair which covered the following points:
- Council Members appraisals had been undertaken during August and September 2012 which were being used to form the basis of decisions regarding reappointment for those Council Members who were eligible for reappointment on 31 March 2013;
  - the GOC was now responsible for developing and managing processes for appointments and reappointments of Council Members and Chair, following the abolition of the Appointments Commission. The processes for the selection and appointment of a Chair were currently with the CHRE/PSA for their consideration before a recruitment campaign could be launched;
  - this was Anna Bradley's final Council meeting before she stepped down as Chair on 31 October 2012. In line with its Constitution Order, Council had appointed Brian Coulter to act as Interim Chair until a new Chair was appointed, which was likely to be in February 2013;
  - Council had participated in the successful recruitment of two new Directors. Peter Douglas had sat on the Selection Panel for the appointment of Josie Lloyd (Director of Resources) and the outgoing Chair had sat on the Selection Panel for the appointment of Alistair Bridge (Director of Policy and Communications). It was **noted** they would take up their posts on 1 November 2012 and 5 November 2012 respectively;
  - The outgoing Chair had attended several meetings with stakeholders during the last quarter including meetings with ABDO, FODO, AOP and

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the Optical Confederation; and

- two weeks ago, the GOC had chaired a Forum meeting with the Chairs of the other health regulators. The Chair of the CHRE, Jill Pitkeithley, had been invited to discuss strategy and the transition to the PSA. Council **noted** that a combined Chairs and Chief Executives Forum also existed and that the Chief Executive would be happy to raise any issues on behalf of Council Members at future meetings. It was **agreed** that the minutes of Forum meetings once agreed and timetable for future meetings would be shared with Council.

7670. On behalf of Council, Brian Coulter thanked Anna for fulfilling the role as Chair so successfully and for leaving the GOC with a legacy as a better and more confident regulator which would enable the good work and programme of regulatory reform and restructure to continue. Anna thanked her fellow Council Members for their support and commitment during her time as Chair.

### **Optical Consumer Complaints Service (OCCS) presentation** – paper C34(12)

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7671. Council welcomed Richard Wilshin (Administrator) and David Burt (Chair) who presented a report on the work of the OCCS to Council. Items of particular interest to Council and discussed further were:

- the OCCS advised that the number of complaints about unregistered practices was continuing to grow, with the majority of complaints regarding spectacle prescription and poor service;
- the OCCS also raised a number of issues that they thought were emerging from the complaints received, however these were impressions which were not supported by appropriate analysis. Council asked a number of questions about complaint analysis and monitoring and suggested a number of ways that the evidence base might be improved for policy purposes. For example:
  - outcomes were currently only measured as to whether a complaint was successfully or unsuccessfully resolved. The level of public benefit was not being measured, however the OCCS did advise that they were planning to develop internal monitoring arrangements in the future; and
  - data was not being gathered on complainants profiles i.e. locality, age, ethnicity or types of complaints by optical practice size and Council suggested that this would be worthwhile in helping to target messages to appropriate audiences.
- more data was needed to establish the effects of competition between the commercial pressures on optical practices and practitioner professionalism on complaints; and

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- the OCCS had not commissioned an external audit of its work.

7672. Council **noted** that the GOC Companies Committee would be considering complaints handling in the optical sector at its November 2012 meeting. Whilst Council was mindful of ensuring the OCCS's independence and ongoing credibility, it was **agreed** it was important for the GOC and OCCS to share data and capture trends to help develop Council's understanding of issues for strategic planning purposes and accountability, whilst also improving the processes for complaints handling.

### **Quarterly Review** – paper C35(12)

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7673. Council **noted** the quarterly review report for Quarter 2, which aimed to provide information and assurance to Council on the variety of work taking place across the GOC and the sector. Council **agreed** that the review provided a helpful and clear snapshot of GOC work and industry issues.

7674. It was **noted** that the CHRE Effectiveness and Efficiency Review would raise significant challenges for Regulators.

7675. It was **noted** that the Law Commission were expected to reach conclusions at the end of November 2012 and a draft Bill would be published in the New Year. It was **noted** that the Executive would continue to engage with the Law Commission until summer 2013.

7676. Council **thanked** the Fitness to Practice (FtP) Team for the hard work they had put into the CHRE Fitness to Practice Audit. Council **agreed** that it was clear that the team were following good practice which provided Council with strong assurance that the work was being delivered and sound decisions were being made.

7677. In relation to the Performance Report, Council **noted** that the reason that the Core Activity Performance Indicator (CAPI) for registration processing time had not been achieved in September 2012 had been due to the large volume of applications received as student registration for the year began. Council **requested** that the Executive consider how they could plan for this predictable increase in demand so as to ensure the standards continued to be met during busy periods.

7678. It was **noted** that the Standards Review would include a review of the Registrant Code of Conduct.

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7679. In relation to the Regulatory Report, Council **noted** that it was the GOC's policy to ensure that when the Courts made a cost order in the GOC's favour, the monies were recovered. Council **noted** that the Court would take into account means to pay at the time of awarding the order and that installment payments were sometimes considered.
7680. In relation to the Financial Report, Council **noted** that there was a wider variation from budget than desired by Council, due to a number of factors. It was **noted** that the under spend in Education and Standards was due to a timing issue with an invoice and did not represent any issues going forward.
7681. In relation to the Risk Report it was **noted** that the Audit Committee wished to make Council aware that there was considerable work required in this area.
7682. Council questioned the variance from budget and sought clarification from the Executive as to the reasons. The Chief Executive advised that the current financial year's budget had been set tightly to avoid the under spend seen previously, however a combination of factors including the overspend within FtP and Human Resources (HR), had led to the variance. Council **noted** that there would be further discussion as to the Council's reserves policy and it was expected planned transfers from the GOC's reserves would reduce the variance.
7683. Council **noted** that during the last quarter the GOC had seen three staff leavers (an attrition rate of 5.4%, compared to 8.2% in the public sector), four new starters and 1.06 average sick days per employee (compared to 7.9 in the public sector).

### **CHRE Performance Report – paper C36(12)**

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7684. Council **noted** the CHRE Performance Report and that the overall assessment of the General Optical Council in 2011/12 showed it had met the majority of the Standards for Good Regulation. Items of particular interest to Council and discussed further were:
- Council **noted** that the Policy and Communications Director would support the development of this work once he took up post on 5 November 2012 in order that the proposed response and any issues can be considered by Council at its November 2012 meeting;
  - Council expressed concern about the length of time and resource put in to preparing the report. Council **noted** that the GOC would continue to improve how it reported outcomes and demonstrated impact with a focus on the delivery of the standards in its submission. There would

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also be less narrative on future delivery of business plan commitments as this was not required by the CHRE/PSA; and

- Council **received** feedback from Selina Ullah and Liam Kite who had attended the Performance Review meeting with the CHRE. Both agreed that the CHRE had commended the GOC Executive for the improvement in the quality of the GOC's submission. The CHRE/PSA's questions had been focused and relevant and the GOC's Executive had been fully prepared for the questions asked. They also commented that the CHRE recognised the resource put into the GOC's submission, had been willing to listen to the GOC perspective and had given advice on how to draft the report.

7685. Council **advised** the Executive to focus the response closely on the questions asked by the CHRE which reflected GOC performance against the standards, and not questions related to performance against the GOC Business Plan. Council **confirmed** that it did wish to have Council Members attend the annual Performance Review meeting in 2013 and that the Council forward plan would be updated to include discussion of the key issues prior to submission and consideration of the results after publication.

### **FTP Rule 15 Consultation Results – paper C37(12)**

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7686. Council **noted** the responses received to the consultation on the proposed amendments to Rule 15 of the proposed new fitness to practice rules. Items of particular interest to Council and discussed further were:

- Council **discussed** whether it should be mandatory (rather than good practice) for the reviewing case examiners to be different from those who originally considered the case to avoid a case examiner “auditing their own work”. The Executive advised that as there were a limited number of case examiners a mandatory requirement could cause difficulties in cases where it was not possible for a reviewing examiner to be different (for example, in the event that all case examiners knew the person involved or had a close link). In addition, currently the Investigations Committee reviewed its own decisions and there had been no issues and the Department of Health were content with the proposal for good practice;
- Council **requested** clear guidance on conflicts of interest which would be especially relevant for Members sitting on other Committees who may wish to become a member of the Investigations Committee or a case examiner; and
- Council **noted** that the FtP Team would be working closely with the Communications and Registration Teams to encourage good quality candidates to apply to become a case examiner. In addition, it was

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**agreed** Council would be sent the case examiner advert so that Members could circulate it amongst their networks.

7687. Following discussion, Council **agreed** the following:
- the case examiners would be the decision maker in the Rule 15 review;
  - the decision of the two case examiners to review must be unanimous, failing which the original decision not to refer would stand;
  - that it would be good practice (rather than mandatory) for the reviewing case examiners to be different from those who originally considered the case and that this would be made clear in the Guidance (which would be kept under review), rather than the Rules; and
  - that guidance would be formulated to assist case examiners with this aspect of their work.

### **Draft FTP Transitional Rules – paper C38(12)**

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7688. This item was withdrawn from the agenda. Council **noted** that the Department of Health had now provided the Executive with advice on how the draft Transitional Rules should be formatted. The draft FTP Transitional Rules would be re-presented to Council in due course.

### **Revised CET Rules 2012 – paper C39(12)**

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7689. Council **ratified** their decision taken by email on 15 October 2012 to formally “make” the Continuing Education and Training Rules 2012 in order for them to be presented to Privy Council on 7 November 2012 and Parliament on 14 November 2012. Council **noted** the difficulties the Executive had been dealing with in relation to the challenging legislative timetable and expressed their gratitude to the Executive for the work involved.

### **Committee Reappointments – paper C40(12)**

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7690. Council **received** a paper requesting the reappointment of statutory Committee members from 1 January 2013 to 31 December 2013. Council **noted** that whilst it was the intention to appoint Members of the statutory Committee’s for terms of up to four years, the Committee Constitution Rules required appointments to a Committee (with the exception of Registration Appeals and Fitness to Practice) to be made annually by Council.
7691. Council also **noted** that the terms of office for the statutory Committee Members would expire at various points throughout 2014 and that the Governance Team would be involved in the development of reappointment and appraisal processes required to support

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reappointment recommendations which would be put forward for Council's consideration.

7692. Council **discussed** the Membership of the Committees and expressed their concern regarding the potential conflict of interest from some Members who sat on more than one Committee. Council **agreed** the recommended Committee reappointments until 31 December 2013, subject to Committee Members only being reappointed to either a committee which advises Council in relation to policy issues or a Committee which makes recommendations/decisions to or on behalf of Council on the application on policy/rules.

### **Any other business**

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7693. There were no items of other business. The meeting finished at 12.50.

### **Date and time of next meeting**

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7694. It was **noted** that the next meeting would be at 10.30am on Thursday 22 November 2012 at the General Optical Council.