

GENERAL OPTICAL COUNCIL

Minutes of the 174th Meeting of Council held on 3 July 2008

Chandos House, London

Present: Mrs R Varley (in the Chair),
Ms M Alexander, Professor R S Anderson,
Mr N Andrews, Miss R E Bailey, Ms M Black,
Mrs J S Brower, Mr D A Cameron, Mr. B Carroll,
Mr D Cartwright, Mr K Cavaye, Miss K S Devlin,
Mr I Hamer, Dr G Harris, Mr S Heatherington,
Mr. R Hogan, Dr P M Kyle, Mr K P Lewis, Ms G Morgan,
Mr D W Pyle, Mr N J Rumney, Dr S T Roxburgh,
Mr J Russell, Mr A Sadiq, Professor M Salmon,
Professor A Tomlinson, Miss J Underwood, Mr C Wass,
Ms S Wild

In Attendance: Mr P C Coe, Mr P J Ireland, Mr J Levett, Ms L Oakley,
Mrs J D Taylor, Ms J Burrow, Miss N Ford, Mr G Tinsley.
Ms M Carter, GOC Consultant

Chairman's Opening Remarks

6599. The Chairman stated that this 174th meeting of Council was a landmark meeting. It coincided, with the 50th anniversary and she particularly asked Members to join her in thanking Linda Kennaugh for her organisation of the previous evening's celebratory dinner and also to thank all the Council's staff whose work has made the achievements of this year possible and who have contributed far above the odds in what has been a period of enormous change and enormous pressure. In recognition of this the Chairman had decided that it would be appropriate to give the staff an extra day's holiday this year to mark the 50th anniversary, and she invited Linda Kennaugh to convey to staff that the GOC would close on the Friday before the August Bank Holiday in order to allow the staff to take back a little of the extra time that they have given over the year.

6600. The Chairman also reported to members that in the Health and Social Care Bill passed through the Lords on 30 June. The Bill would, on receipt of Royal Assent (expected in July) entirely change the constitutional basis and the *modus operandi* of the GOC.

6601. The final milestone which the Chairman highlighted was the retirement of Peter Coe as Registrar to the Council, which Members would mark at lunchtime. The Chairman recorded publicly the Council's appreciation and acknowledgement of the tremendous leadership that Peter had provided during seven and a half years of continual reform.

Apologies for Absence

6602. Apologies for absence were received from Mr P Grey and Ms K Fielding.

Declarations of Interest

6603. Members were reminded that they must declare to the meeting any matter in which they had any actual or perceived personal or professional conflict of interest that might influence their judgement. The Chairman declared her role as interim Chairman of CHRE.

Confidentiality

6604. The Chairman reminded Members that this was a meeting held in public and not covered by any requirement for confidentiality.

Minutes of the 172nd Meeting held on 19 May 2008

6605. The Minutes of the last meeting held on 19 May 2008 were approved as being a true and fair record of the meeting.

6606. Attention was drawn to Minute C6577 which states: "Members agreed that the new Council should fully engage with employers". It was acknowledged that the discussion had attempted to reconcile the fact that the White Paper emphasises the role of employers which in most health care professions is essentially the NHS, with the position in optics where the optical companies are major employers. While it would not be appropriate for the GOC to talk about companies, in optics the regulator should engage with optical companies in the wider perspective of providers of CET, revalidation and as the service providers to the vast majority of optical services.

Matters arising from the 173rd meeting: for information

6607. Council noted the membership of Committees for the period 1 January 2009 until the new Council is in place (anticipated 1 April 2009).

6608. The Chairman clarified that when Council is reconstituted in April, the committee membership will need to be revisited, bearing in mind the decision of the current Council taken in March 2008 that, for an interim period, the committees, although reconstituted, will be populated by existing Council members. However, there is no clarity currently as to which Council members will wish to continue as either Council member or Committee member from 1 April 2009.

6609. The Chairman reported on the arrangements for the appointment of the new chairman and members of Council. A number of meetings had been held with the Appointments Commission with a view to advertise both the chairman and member posts in the first week of September; the intention being that the chairman should be appointed by the Appointments Commission at their meeting in November and should then make himself/herself available to sit on the panel for the recruitment of members. It was anticipated that the members will be appointed some time in the first quarter of 2009, depending upon the availability of the new chairman to take forward those interviews. The Chairman reported that in the meantime, the Appointments Commission had agreed that those members of Council who would have retired at the end of December and who are willing to serve in exceptional circumstances from January to March can be reappointed for that exceptional period, so allowing Council and Committees to be properly constituted until such time as the new Council and Committees take up office.

6610. **RESOLVED:**

Council noted that on the Audit Committee, the chairmanship was down as an *ex officio* member in error and Council charged the Registrar with its correction.

6611. With regards to Minute 6566, the Chairman confirmed that no response had been received from the RCOphth to her letter following the discussion at March Council meeting in Belfast, but that the GOC letter was in response to a letter from the RCOphth, and so there was no need to have a continuing dialogue.

ITEMS FOR DISCUSSION AND/OR DECISION

White Paper update for information

6612. Council received **paper C(18)08** presented by the Director of Standards. This gave the latest position on the White Paper implementation. While most of the matters covered in the paper were for information, the Director particularly highlighted the following three issues.

GOC's Constitution Order

6613. The Director reported that the GOC has been in liaison with the Department of Health over the preparation of the Constitution Order, which the Department had assured would be ready for consultation by the end of July. Council was reminded that at its last meeting, it had received a paper that outlined the various matters that were expected to be covered in this Order. The Director reported on those matters which were still under discussion with the Department. The Director reported that some of those matters have been addressed.

6614. The Director drew attention to two critical issues: firstly Council had previously decided that for its registrant members there should be four optometrists and two dispensing opticians. It had been expected that formulation would be put in the Constitution Order, but because of resistance in the Department, the intention now was simply to say that there should be six registered members; the rationale being that there should be no element of representation on Councils. The Director said that the GOC intended to challenge this point very strongly arguing that the four and two formulation should be included in the Order. The dialogue with the Department was continuing.

6615. In the meantime, in discussions with the Appointments Commission assurances had been given that whatever is included in the Order, the appointments process could be tailored in accordance with the Council's specification to ensure that there are appropriate numbers from each profession. The Chairman reported that she had personally had that conversation with the Commission.

Committee Constitution Order

6616. Since the last Council meeting, it was reported that work had begun on drafting the revised Committee Constitution Rules to put into effect the decisions made by Council in March 2008. Council had expressed its wish for the rules to state the minimum number of optometrists, dispensing opticians and non-registrant members to be included in the Committee Constitution Rules, but for there to be flexibility effectively to top up those numbers. Unfortunately, following receipt of legal advice it appeared that a formulation of that kind where merely a minimum number is stated would not be lawful under the Act. The Act requires that the constitution of statutory committees is made in accordance with the rules; consequently there would be no flexibility for Council to top up the numbers.

6617. In light of that advice the Director explained that the approach taken had been to take the minimum numbers agreed by Council and to state those as actuals in the rules; provision would then be made under Standing Orders for advisers to be appointed to those committees. However, as such a proposal would be different from the decision that was taken by Council in March, Council was asked to confirm that it was content with that approach to the Committee Constitution Rules.

6618. The Director of Standards confirmed that as an alternative the facility to state a minimum and a maximum was available to Council under the rules, provided the proportion of the committee members who are optometrists, dispensing opticians and lay are maintained.

6619. **RESOLVED:**

That (1) save for the Investigating Committee, the draft Committee Constitution Rules be amended to stipulate a maximum number of members for each Committee; (2) the upper parameter in each case to be double the minimum that was agreed at the March meeting of Council, provided the respective member proportions (Dispensing Opticians, Optometrists and Lay members) in each committee as agreed by March meeting of Council was maintained; and (3) the Investigating Committee constitution to remain as agreed at the March meeting of Council.

Standard of Proof

6620. Finally, the Director of Standards reminded Members that it was reported that the Council had now agreed with the DH the precise wording of the rule enabling the introduction of the civil standard of proof at FTP cases. The agreed wording of the draft Rules had now been agreed with the Department (attached as an annex to **Paper C(18)08**, together with a draft consultation on amendments to the FTP Rules to introduce the change standard and the draft Guidance on the Application of Rule 50A: The Civil Standard of Proof) allowing the consultation on the Rules to commence.

6621. The Director explained that because of this delay, the Council would not be in the position to issue its own consultation document and then separately consult on a draft statutory instrument, which the Department had indicated would be necessary. Fortuitously, in order to maintain the agreed timetable for the introduction of the civil standard of proof, the Department had acceded to the issue of the consultation document with the draft statutory instrument as one document. Furthermore, the Department had agreed to a two-month consultation rather than a three-month consultation.

6622. **RESOLVED:**

Council granted permission for the consultation on the introduction of the civil standard of proof to be issued.

White Paper issues requiring decision

To agree the process to make the Rules relating to the Standard of Proof

6623. The Council received for consideration **Paper C(19)08**, on the mechanism for introducing the change to the GOC's Fitness to Practise Rules on the civil standard of proof.

6624. The Director of Standards introduced the paper stating that it contained an outline of the legislative changes that will introduce the legal requirement for the Fitness to Practise Committee to apply the civil standard of proof in hearings. The paper also outlined the steps that had been taken to implement the change to the standard of proof and the Department of Health had been sent a draft statutory instrument that introduced the rule change and a proposed timetable for consultation and to introduce the rule.

6625. Council was asked to note that the enforcement date of the rule change would need to be aligned with the start of the relevant provisions in the Health and Social Care Bill. As a result, it was likely that Council would need to make the rule change before its next meeting on 20 November by way of convening a further quorate meeting to make the necessary rule change in September.

6626. **RESOLVED:**

that a quorate meeting of Council be convened to agree the General Optical Council (Fitness to Practise) (Amendment in Relation to Standard of Proof) Rules 2008; the provisional time and date being 8.30 am on 30 September 2008, dependent on availability of Council members and on suitable arrangements being made.

Remuneration arrangements for the Chair and Council members from April 2009

6627. The Council received **Paper C(20)08** seeking a resolution on the overall remuneration structure to be paid to the Chair and Council members to apply from April 2009.

6628. The Paper outlined the details that are required by the Appointments Commission in order for it to advertise for the post of Chair and Council members in the first week of September.

6629. The Paper also outlined the remuneration packages that are currently received by the Chair and Council members and provided two options to choose from. When deciding which option to adopt, Members were asked to note the recommendations set out in Niall Dickson's report published in June 2008.

6630. Council was asked to consider the following options:

Option 1 – no change to the current remuneration structure;

Option 2 – move to an annual honorarium.

The Paper outlined the advantages and disadvantages of both options.

6631. Council was also asked to note that the Appointments Commission would be advertising for Council Member posts for other regulatory bodies around the same time and in deciding which option to adopt Council should ensure the GOC was able to attract the best candidates.

6632. **RESOLVED:**

on the show of hands, Members voted that (1) option 2, (annual honorarium) be adopted; and (2) from April 2009, for member posts, the remuneration will be £12000 per annum. The Chair will receive £35000 per annum (3) it is expected that an average commitment of 2-3 days per week will be required for the Chair and 2-3 days per month for members, including travelling time and time spent preparing for meetings; (4) the new Board will be reimbursed for corporate responsibility as a member, which is 365 days a year; (5) this will not be pensionable and the Chair and members will be eligible to claim allowances, at rates set by the GOC, for travel and subsistence costs incurred necessarily on Council business.

Independent Prescribing of Medicines by Optometrists

6633. Council received **Paper C(21)08** which outlined the background and the details that are required to create the new specialty of independent prescribing for optometrists.

6634. The Director of Standards reported that the GOC consulted several policy proposals to amend its rules to introduce the new specialty which culminated in the decision to amend the registration rules and also change the CET rules to rationalise the CET requirements for those who hold more than one specialty in therapeutic prescribing.

6635. The paper provided a summary of the proposed changes and a description of the work and activities that will be permitted by those with register entries as an independent prescriber. The paper also outlined that the Registration Rules would

require those applying for the speciality to have details relating to the work and activities.

6636. The paper also explained that the CET rules will need to be amended to allow those with more than one speciality to be treated as having a single speciality for the purposes of calculating CET points. An example of how this would be calculated was provided.

6637. Finally, the paper proposed to amend the Registration Rules and Contact Lens (Qualification etc.) Rules to make it clear that optometrists do not need a speciality to fit contact lenses and dispensing opticians who are training to gain their contact lens speciality may also fit. It was clarified that dispensing opticians fitting contact lenses while training should do so under supervision.

6638. Members sought clarification under item 9:

“The rules will provide for the registrar to make an entry onto the register of the speciality only if they are satisfied” – presumably the registrar – “that the applicant has had adequate practical experience relating to the work or activities of an independent prescriber. The registrar may remove the speciality from a person if they are not satisfied that they have adequate practical experience”.

6639. It was clarified that the second sentence related to the Registrar’s power to remove on retention if he/she is not satisfied that during the course of the previous registration year, the registrant with independent prescribing speciality had not had adequate practical experience as an independent prescriber. Essentially this amounts to revalidation of the independent prescriber on retention each year. It was explained that such a power was a reflection of the recommendation of the Committee for the Safety of Medicine, which stipulated that power be provided for so that their concerns, which were about quality assurance etc, could be met.

6640. **RESOLVED:**

Subject to those clarifications, Council adopted The General Optical Council (Therapeutics and Contact Lens Specialties) Rules Order of Council 2008, which were duly signed.

Audited accounts for 2007/08

6641. The Council received **Paper C(22)08** being the draft audited report and financial statements for the year ended 31 March 2008.

6642. The Director of Corporate Resources reported that the draft accounts had been presented to Finance and Procedure Committee on 3 June 2008 and were duly approved, subject to some minor amendments to be recommended to Council.

6643. The Audit Committee met on 12 June 2008 and received the draft Statutory Accounts and the Audit Report Findings from the Council's auditors (Baker Tilley LLP) who were present at the meeting. The Committee also had a private meeting with the auditors.

6644. The Chairman of the Audit Committee reported that the Committee was satisfied that the financial statements and audit report processes were properly conducted and recommended these to the Council for adoption.

6645. Members questioned the reasons for the increase in the cost of human resources from £52,000 to £180,000. The Director responded that recruitment costs had risen significantly and are a reflection of having to replace posts where people have left. On the training and development side, the Council has invested in change management programmes in the previous financial year in order to brief the executive and staff in terms of the change to the new Council.

6646. **RESOLVED:**

that under Section 32(2) of the Act, Council adopt the audited Report and Financial Statements for the year ended 31 March 2008.

Policy on the management of Council's financial reserves

6647. The Council received **Paper C(23)08** being the draft Policy on the management of Council's Financial Reserves. Council was asked to receive and adopt the policy.

6648. The Director of Corporate Resources reported that on 3 June the Finance and Procedure Committee had considered a draft policy on the management of Council's financial reserves. The draft policy proposed a move away from the present formula of 50% of the planned annual expenditure to be replaced with a risk-based methodology as described in the Paper. The Committee concluded that it would recommend the draft policy to Council for approval.

6649. The Director reported that the Audit Committee had also been asked to consider the draft policy at its meeting on 12 June 2008. The Committee concluded that:

- it was content that the draft policy adequately addressed the issue of risk and that due process had been followed in the development of the policy;
- that the risk assumptions be reviewed annually along with the scoring methodology to ensure the policy was kept up to date;
- that Council reserves should be reported against these four reserve funds as from the financial year 2008/09. Some reference as to how the policy had been arrived at should be made within the statutory account, together with the process adopted to review it on an ongoing basis.

6650. Subject to the conditions listed above, the Audit Committee was satisfied with the proposed change of methodology and agreed to recommend it to Council for approval.

6651. **RESOLVED:**

that Council adopt the revised policy on the management of Council's financial reserves.

Recommendations from Finance and Procedure Committee for revised budget for 2008/09

6652. The Council received **Paper C(24)08** being a revised budget for the year to 31 March 2009. Council was asked to approve the recommendation of Finance and Procedure Committee that additional expenditure of £143,307 be agreed for the year to 31 March 2009

6653. The Registrar reported that additional costs of implementing the White Paper legislation and staffing costs had been identified, which were not known when the 2008/09 budget was concluded. These costs were considered in detail at two meetings of Remuneration Committee which agreed a final figure of £143,307 would be recommended to Finance and Procedure Committee for consideration.

6654. The Registrar reported the Finance and Procedure Committee had scrutinised these costs and considered whether, in a deficit budget year, the deficit could be increased from -£227,439 to -£370,439. It considered the effect on cash flow in the current year and the estimated year end impact on Council's reserves. The Committee concluded that these additional costs could be met from reserves in 2008/09, but that the recurring expenditure commitment would need to be met by increase retention and registration fees in 2009/10.

6655. The Finance and Procedure Committee would recommend to the November Council meeting how the budget requirements of the 2009/10 business plan can be met. The Registrar stated that his projection for the registrants' fee for 2009/10 was in the region of £200 (based on the additional costs that have been brought to Council including the current extra cost of £143,000). He acknowledged that while such an increase would be a matter for considerable comment in the autumn, there had not been a rise in fees for the last four years.

6656. The Registrar also acknowledged that it was not possible currently to anticipate what further issues there would be. It was likely that some additional tasks would need to be undertaken in the next financial year and, therefore, in the autumn's range of committee meetings, there will be a fundamental challenge to the Council as to what tasks could be foregone at the moment to allow for some of these additional new tasks to take place

6657. The Council went on to consider at length the Appointment Commission costs associated with the recruitment of the new Council, which amounted to (an estimated) £50,000. The Registrar confirmed that this additional cost was not included in the extra £143,000 additional expenditure identified. He advised that the Executive would not be seeking to take the Council recruitment costs from reserves but would instead identify costs savings in the current budget to cover this additional unforeseen expenditure. Members rigorously debated the most prudent way of accounting for the recruitment costs, and whether these costs should be met from reserves in addition to the figure of £143,000. The Registrar adamantly insisted that the recruitment costs should be met from savings.

6658. **RESOLVED:**

that Council approve the recommendation of the Finance and Procedure Committee (1) that additional expenditure of £143,307 be met from reserves in 2008/09; and (2) that the additional unforeseen costs of recruiting the new Council (estimated at £50,000) be recorded and that this additional cost be met by savings in operating expenditure in the current year.

Audit Committee terms of reference

6659. Council received **Paper C(25)08**, being a revision of allocation of roles and responsibilities of the Audit Committee. Council was invited to approve the revisions.

6660. The Director of Corporate Resources presented the following revisions to the Audit Committee's terms of reference for Council's consideration and approval:

- To note that under reference 12.2 and 12.3 the Committee has no statutory responsibilities or delegated responsibilities;
- To add additional item (8) under 12.4 of the committee's responsibilities;
- To note that the composition of the committee under 12.5 is three Members, as specified; and
- That the decision reached at March Council in 2007 of the position of the Chairman or Deputy Chairman of any other committee is properly reflected in the composition of the committee.

6661. **RESOLVED:**

that Council approve the revised terms of reference for the Audit Committee as detailed in the Council Paper C(25)08.

Education handbooks

Optometry Independent Prescribing Handbook

6662. Council received **Paper C(26)08** being a proposed Handbook for Optometry Specialist Registration in Therapeutic Prescribing. Council was invited to consider the Handbook for approval.

6663. The Director of Education clarified that under Section 12 of the Opticians Act the Council has responsibility for establishing the content and standard of education and training and to take into account any advice received by Education Committee and must, if considered appropriate to do so, establish and publish revised competencies or requirements.

6664. In preparation for the enactment of legislation to implement optometry independent prescribing and the amendments to the GOC Registration Rules, the Education Committee had developed this Handbook.

6665. This Handbook has undergone extensive consultation with relevant stakeholders, including all Council members and the feedback from the consultation exercise was taken into account when developing the final version. The Handbook is now recommended to Council by the Education Committee.

6666. Once approved the Handbook will be used for the accreditation of new Therapeutics Training Programmes and may, in light of experience, be amended in future after an initial period of use.

6667. Members sought clarification on the requirement under Section 2.1.1 for two years relevant experience (in the diagnosis and management of eye conditions) before embarking on Independent Prescribing training. Members discussed whether the two years experience should be gained before embarking on the clinical placement or the entire course.

6668. Members considered the implications of asking applicants to demonstrate prior experience in their intended area of practice. It was clarified that Appendix 6 (a list suggesting suitable evidence of relevant experience) had been developed to meet this Department of Health requirement and this issue had been extensively debated by Standards Committee, Therapeutics Working Group, the IP Handbook Working Group and during consultation.

6669. Clarity was also required around Section 2.8 APL/APEL Arrangements. Members were concerned as to what elements of the programme APEL would exempt them from. It was explained that the exemption would allow those with suitable prior experience or learning to be exempt from undertaking elements of the theoretical training and the institutions theoretical assessments in modules 1 and 2. It does not allow exemption from the clinical or placement assessments.

Handbook for the Approval of Schemes for Registration for UK trained Optometrists

6670. Following a recommendation from Education Committee the updated Scheme for Registration Handbook was approved.

Handbook for the Approval of Training Institutions and Providers of Schemes for Registration for UK training Dispensing Opticians.

6671. Following a recommendation from Education Committee the Dispensing Optics Handbook was approved.

ITEMS FOR INFORMATION

Preparation of the Annual Report for 2007/08

6672. Council received **Paper C(27)08** being an outline of the arrangements for the production of the Annual Report. The Chairman had asked for a copy of the report to be circulated to Council for comments ahead of its publication.

6673. The Chairman commented future Annual Reports should be brought to Council for approval.

Date and Time of Next Meeting

6674. The next Council meeting will be held **10:30 am** on **Thursday 20 November 2008** at Chandos House, Queen Anne Street, London. (The venue was later changed to Durrants Hotel, George Street, London)

6675. A provisional teleconference meeting of Council has been scheduled for **8:30am** on **Tuesday 30 September 2008** to agree the General Optical Council (Fitness to Practise) (Amendment in Relation to Standard of Proof) Rules 2008.