

GENERAL OPTICAL COUNCIL

Minutes of the 176th Meeting of Council held on 20 November 2008 at

Durrants Hotel, George Street, London

Present: Mrs R Varley (in the Chair),
Ms M Alexander, Prof R Anderson, Dr N Andrew,
Miss R E Bailey, Mrs M Black, Mrs J S Brower,
Mr D Cameron, Miss K S Devlin,
Mr I Hamer, Mr K Cavaye, Dr G Harris,
Mr S Heatherington, Dr P M Kyle, Mr K Lewis,
Ms G Morgan, Mr D W Pyle, Mr N Rumney,
Mr J Russell, Mr S A Sadiq, Prof M Salmon,
Prof A Tomlinson, Miss J Underwood

In Attendance: Mr B Carroll, Mrs D Taylor, Mr P Grey, Ms K Fielding,
Ms L Kennaugh, Mr J Levett, Ms L Oakley, Mrs A Samra,
Ms C Millington, Ms M Claridge.

Chair's Opening Remarks

6694. The Chair opened the public session of Council and welcomed guests and extended a particular welcome to Kate Webb, a Senior Policy Analyst with CHRE.

6695. The Chair opened the meeting with the announcement of the appointment of Geoff Harris as the new Chair of Council to take up office from 1 January 2009, and that Dr Harris would be appointed as Chair of the newly constituted Council from 1 April 2009, subject to achievement of legislative changes. Mrs Varley said she was delighted by Dr Harris' appointment, and to know that she would be leaving the GOC in the hands of someone who had the leadership skills, knowledge, wisdom, fine intellectual capacity, and commitment to carry forward the work that is in train.

6696. Dr Harris commented that the professions regulated by the Council are amongst the best known and most respected professions in the country. He commented also that the regulator is clearly at the leading edge of healthcare regulation, wielding influence both nationally and internationally. That, in good part, was due to the Chair's exceptional leadership of Council and the quality and competences of its Members and the professions it regulates.

6697. The Chair stated that, although this would be the last meeting of the Council she would chair, the formal speech she gave at the GOC's 50th anniversary dinner was to stand as her farewell address. In that address, she spoke of the need for the various players in optics to work more closely together in order that their influence should be stronger and their activities more focussed. The Chair stated she was therefore delighted by two developments within the previous two weeks: the announcement that FODO and AOP would work more collaboratively through joint committees; and the announcement that RNIB and Action for Blind People are to come together.

6698. The Chair paid tribute to the talented and dedicated people that she had worked with over her 10 year term including the Chief Executives, staff and optical partners.

Apologies for Absence

6699. Apologies for absence were received from Mr D Cartwright, Mr R Hogan, Dr S Roxburgh, Mr C Wass and Ms S Wild.

Declarations of Interest

6700. 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.

6701. The Chair declared her role as interim Chair of CHRE had come to an end and announced that Dame Jill Pitkeathley had recently been appointed as the substantive chair.

Minutes of the 174th and 175th Meetings held on 3 July 2008 and 11 September 2008 respectively.

6702. The Minutes of the meetings held on 3 July and 11 September 2008 were approved as being a true and fair record of the meeting.

Matters arising from the 174th and 175th Meetings: for information

6703. The Council noted that Privy Council approval had now been received for the General Optical Council (Therapeutics and Contact Lens Specialties) Rules Order of Council 2008, and General Optical Council (Fitness to Practise) (Amendment in Relation to the Standard of Proof) Rules Order of Council 2008.

6704. With regards to Minute 6614, it was queried whether an update had been received as to the relative number of each profession to be stipulated in the Constitution Order. The Director of Standards reported the Department of Health's response to the consultation on the Order which closed 7 November 2008 had not yet been received.

ITEMS FOR DISCUSSION AND/OR DECISION

CHRE Regulator's Performance Review Report 2007-08

6705. It was noted the CHRE's annual performance review, published in August 2008, in which the GOC won praise as an efficient and effective regulator with a clear focus on emphasising public protection. Acknowledged as areas of strength were the Council's internal governance processes, particularly the Codes of Conduct and appraisal systems in place for Council and FTP Hearing Panel members.

6706. Council was asked to consider the action plan for addressing the areas of concern highlighted in the report. The Acting Registrar highlighted the following areas:

- concerns that conditions imposed by Fitness to Practise panels did not appear alongside registrant's records on the GOC website had now been addressed;
- the setting of more challenging timescales for processing fitness to practise cases would be included as part of a wider project of reviewing GOC-wide service standards in 2009;
- cost effective options for adopting a formal IT-based cases management system were being investigated by the Director of Legal & Fitness to Practise. The Audit Committee had requested that the GOC check our understanding of the CHRE's expectations of it in this regards; this matter would be attended to.

- the introduction of a scrutiny function, to be considered in 2009/10, would address concerns that there were no internal audit systems of Fitness to Practise decisions.
- concerns were raised that there were no written guidelines on referral of cases by the Investigation Committee for a final stage hearing; these would be prepared for discussion by the end of 2008/09 year.
- the Education Committee Working Group's proposals on greater patient and public involvement in our statutory education visits will be taken to March 2009 Council.
- concerns that the Council does not currently use key performance indicators (KPIs) had been identified in the 2009/10 Business Plan as an area to be addressed with the newly constituted Council from 1 April 2009.

6707. In view of her declared conflict of interest, the Chair requested that the Deputy Chair take the discussion on the CHRE report,

6708. The Deputy Chair stated that this was an excellent assessment enabling the Council to look forward with some encouragement towards 2009, thinking that it can be assured but not complacent about the standards maintained. He commented on the strong and efficient working relationship with CHRE which enables the Council to address issues and deal with them effectively.

6709. A query was raised as to whether the objective of internal audits of Fitness to Practise (FTP) decisions, had been clarified. The Director of Legal & Fitness to Practise believed there to be two intents behind this: to review internally the quality of decisions made by the Fitness to Practise Committee which must be done in a proportionate and careful manner in order not to compromise the independence of the Committee; and to enable a formal mechanism to be instilled by which we learn the lessons of individual cases and, where appropriate, forward to the Council Committees for consideration and development.

6710. In response to a query as to what was meant by a 'formal IT-based case management system, the Director advised CHRE is keen to ensure that sufficient IT resources are employed to ensure cases do not become delayed or fall off the radar. Review of the best way in which to meet CHRE's recommendations was in the early stages, with consideration currently being given as to IT options available. The Director advised that the GOC would be in communication with CHRE to ensure the system agreed upon best meets their views on what is necessary and what is proportionate to the needs of the GOC.

6711. It was clarified that the making of conditions visible against registrants' records, referred specifically to sanctions imposed at a public FTP hearing, and did not include warnings issued by the Investigating Committee.

6712. **RESOLVED:**

that Council was satisfied that the steps being taken to address CHRE's concerns were adequate and proportionate.

Draft Business Plan and Budget

6713. Council received **Paper C(32)08** concerning the setting of the registration fee for 2009-10 and the approval of the Registration Fee Rules. Included in the appendices were the draft business plan and budget for discussion only. These would return to Council in March 09 for approval.

6714. The Chair commented that she was deeply aware that the proposed registration fee represented a very significant increase in fee at a time when optical professionals and optical businesses are going through a very difficult time because of the global economic situation. She wished to assure Council and members of the public that the GOC had been through a detailed, robust and independently validated process to arrive at the recommendations before Council, and that the recommendation came with the full and considered approval of the Finance and Procedure Committee, who made their recommendations with confidence but with reluctance.

6715. The Chair reminded Council that, for the last four years, there had been no increase in the registration fee. Council had previously taken the view that, at a time when it was making surpluses and adding to reserves, it would not have been right to increase the registration fee. The Chair commented that this was not to say that the GOC's costs had not risen over that period of time but, until this year, it was able to meet those increases in costs from income and from the interest on reserves. The Chair commented that this exercise had been hugely demanding and particularly complex this year, due to the enormous period of change in preparation of the new Council.

6716. The Chair also commented that the budget was lean, with all contingencies removed and a recommendation that the committee members' fees should remain at the 2008-09 rate; although this recommendation would be a matter for approval by the new Council when it comes into existence on 1 April 2009.

6717. The Chair paid tribute to the executive for the work undertaken which was recognised as a difficult process, discharged with skill. The Chair also paid tribute to Alan Tinger, adviser to the Finance and Procedure Committee, who had provided a considerable amount of time and expertise to the process.

6718. Council was asked to consider the Finance and Procedure Committee's proposal to set the registration fee at £219.00 for the 2009-10 year, representing a £50 increase (29%) on previous years.

6719. Members raised concerns regarding the effect of the fee rise for dispensing registrants who have a limited amount of regulated functions in their daily work but incur additional burdens such as continuing education, constraints on behaviour and (in future) revalidation, whilst their incomes are lower than that of optometrists. It was reported that it was considered likely to result in a considerable reduction in dispensing registrants, with a possible drop of 25% resulting in loss of income to the Council of £273,750 and more importantly, the role of the GOC, in terms of delivering public health, may be seen to be compromised by the resulting fewer regulated dispensing opticians.

6720. Members suggested three options to encourage dispensing registrants to maintain their GOC registration: (1) Council ensures it is diligent in its husbandry of finances which should be beyond reproach, ensuring the registration fee is kept at a minimum; (2) the introduction of staggered payments for registrants be considered; and (3) consideration also be given to a tiered fee structure.

6721. The Chair endorsed the point concerning the need for diligence and husbandry in financial matters, recognising the responsibility to registrants to keep the cost of regulation as low as possible, whilst remaining an effective regulator. The Chair recognised that the latter two suggestions were matters which required further exploration: initial legal advice, as to staggered payment dates, indicated it would be difficult to introduce staged payments in the current year, due to the need to revisit rules; and there was precedent for a tiered fee structure in other regulatory bodies. The Chair asked that Council's commitment to investigate these suggestions be minuted.

6722. Council members endorsed the fee proposal, the rigorous process undertaken in arriving at the fee, and Member's suggestions for maintaining dispensing opticians' registration.

6723. Concerns were also raised that, with the matter of future business registration left unresolved, the increased registration fee may lead to a decrease in business registrants. It was suggested the new Council undertake a wholesale review of business registration.

6724. **RESOLVED:**

on a show of hands, Members voted unanimously that the registration fee for 2009-10 be set at £219.00 and that the Registration Fee Rules be amended accordingly.

6725. Council was asked to consider proposals for the charging of penalties to cover administration costs for late payment of the registration fee. It was proposed full registrants would incur a penalty of £20.00, and student registrants a penalty of £10.00. It was also proposed that a restoration fee of £20.00 be adopted for students, while the restoration fee, for fully qualified registrants, remain set at £70.00.

6726. With regards to student registrants, discussions were held around the date of the retention deadline and it was noted that these are currently subject to ongoing debate by the Registration Committee. In addition the proportionality of the penalty in relation to the student registration fee was discussed. It was noted that difficulty arose as a lesser charge would not cover the associated costs of administering late payments.

6727. **RESOLVED:**

that Council approve the Finance and Procedure Committee's proposals for amendment of the Registration Fee Rules such that (1) the student registration and retention fee remains unchanged at £20.00; (2) a new additional late application fee of £10.00 for students, renewing after 15 July but before 31 August, be adopted; (3) a new additional student restoration fee of £20.00 for students applying for restoration to the registers after 1 September be adopted; (4) a new additional late payment fee of £20.00 for fully qualified registrants who renew after 15 March but before 31 March, be adopted; and (5) the additional fee for registrants to restore to the register after 1 April remain at £70.00. In addition Council committed to undertaking a piece of work reviewing retention deadline dates and late payment and restoration fees, in future and the introduction of staggered and/or tiered fees structure.

Revalidation

6728. Council received paper **C(33)08** concerning the Revalidation Workstream's draft response to the Non-medical Revalidation National Working Group's draft report which outlined several high-level principles to be taken into account by the regulators in developing their revalidation systems.

6729. **RESOLVED:**

that Council approve the broad principles of an approach to revalidation in optics, as set out in the paper C(33)08.

Committee Constitution Rules

6730. Council received **Paper C(34)08** and was invited to make the rules which will amend the constitutions of its statutory committees. Tabled at the meeting was a revised version of the rules that were included in Council's papers, reflecting minor technical drafting amendments requested by the Department of Health but which did not affect the substance of the rules. The Director of Standards advised that the rules had been drafted in such away as to allow Council as much flexibility as possible with regards to their future operation.

6731. Included in Council's papers was an analysis of responses received from the consultation undertaken with respect to the proposals for rule changes. The Director advised that a number of responses concerned the way in which Council would implement the rules changes and that the draft before them was capable of incorporating these suggestions.

6732. The Director drew Council's attention to two issues which arose from the consultation response of AOP and FODO:

- Firstly, that statutory committees' membership should reflect the constitution of Council (parity of lay and professional membership). The Director advised a preferred approach would be to constitute committees in accordance with the committee's function.
- Secondly, that when considering allegations against business registrants, the Fitness to Practise Committee should include either a business registrant or a responsible officer from a business registrant. The Director commented that after discussions with the Director of Legal and Fitness to Practise, and the Project Board, it was felt there would be considerable practical difficulties in implementing this suggestion, particularly with respect to commercial conflicts of interest.

6733. The Chair of the Companies Committee asked that the latter issue be considered by the new Council, at a future date.

6734. **RESOLVED:**

that Council make the Rules which will amend the constitutions of the Council's statutory committees.

Consultations for approval

6735. Council was asked to approve and authorise consultation on the draft General Optical Council Welsh Language Scheme (**Paper C(35)08 referred**).

6736. Council was asked to approve for consultation amendments to the Code of Conduct for Individual Registrants and the Code of Conduct for Business Registrants (**Paper C(36)08 referred**). Council asked that a minor drafting amendment in the introduction be made: replacing "may put your registration at risk" to "will put your registration at risk".

6737. **RESOLVED:**

Council granted permission for the consultations on the General Optical Council Welsh Language Scheme, and for the consultation on amendments to the Code of Conduct for Individual Registrants and the Code of Conduct for Business Registrants (subject to the agreed amendment at Minute 6736) to be issued.

Guidance for approval

6738. Council received **Paper C(37)08** and was asked to approve draft guidance on the following issues:

- on warnings issued by the Investigation Committee;
- to registrants who are to undergo a performance assessment;
- to performance assessors who are to conduct performance assessments;
- to expert witnesses, including performance assessors, who are to write expert reports in Fitness to Practise cases.

6739. The Director of Legal and Fitness to Practise spoke to these documents, advising that the intention was for these to be approved as 'living' documents in order that subsequent amendments, in light of lessons learnt from Fitness to Practise processes, would not be returned to Council for approval each time.

6740. **RESOLVED:**

that Council approve the proposed guidance, for warnings and performance assessments.

Qualifications on the GOC Register

6741. Council noted the updated list of qualifications for publication on the GOC website.

ITEMS FOR INFORMATION

Committee Membership 2009

6742. Council noted the process followed to date to identify member preference for committee membership from 1 April 2009.

Any Other Business

6743. To mark the end of her 10 year term as a Member, Ms Moira Black, the Honorary Treasurer and Chair of the Finance and Procedure Committee, was presented with a gift with the thanks of the Council.

6744. The Chair of the Remuneration Committee announced the post of Registrar and Chief Executive was to appear in the *Sunday Times* on 23 November 2008 and on the micro-site, of the Council's website, on 21 November 2008. Interviews were scheduled to be held in the week commencing 19 January 2009.

Date and Time of Next Meeting

6745. The next Council meeting will be held at **10.30am** on **Thursday 26 March 2009** at Chandos House, Queen Anne Street, London.