

GENERAL OPTICAL COUNCIL

**Minutes of the 209th Public meeting of Council held on 12 February 2014 at
12:45 in the De Vere, 17 Portland Place, London, W1B**

- Present:** Gareth Hadley (Chair), Brian Coulter, Morag Alexander, Paul Carroll, Peter Douglas, Rob Hogan, Liam Kite, Scott Mackie, Fiona Peel, James Russell, Helen Tilley and Selina Ullah.
- GOC attendees:** Samantha Peters, Alistair Bridge, Marie Bunby (7955-7971), Nicola Ebdon, Lisa Harmshaw, Mandie Lavin, Josephine Lloyd, Manori Izni-Muneer (7952-7978), Liz McAnulty (7995-8001), Simon Grier, Kiran Gill (7946-7995)
- Public gallery:** Jo Mullin, College of Optometrists; Ryan O'Hare, journalist, Optometry Today; Alan Tinger, Chairman, LOCSU (7946-7995); and Richard Wilshin, Administrator, Optical Consumer Complaints Service.

Welcome

7946. The Chair welcomed everyone to the 209th GOC public Council meeting.

Apologies

7947. No apologies were received.

Declaration of members' interests

7948. The following interests were declared:
- item 3 (procurement decisions re optical dispute mediation service): all practising registrants (i.e. Paul Carroll, Rob Hogan, Scott Mackie, James Russell and Helen Tilley) declared an interest as a 'user as a trustee'. These 'user as trustee' interests were **noted** and all members were permitted to remain in the meeting during the discussion on this item; and
 - item 13 (Council and Committee member fees): Brian Coulter declared an interest in the fee for the Senior Council member. This interest was **noted** and Brian was permitted to remain in the meeting during the discussion on this item as the item had been discussed in Brian's absence at the November 2013 Council meeting.

Minutes of the 208th meeting held on 14 November 2013

7949. The minutes of the meeting held on 14 November 2013 were **approved** as an accurate record of the meeting with no amendments.

Updated Actions – paper C01(14)

7950. Council **noted** the updated actions as circulated.

Matters Arising

7951. There were no matters arising from the minutes of the last meeting held on 14 November 2013.

Financial Performance Report – paper C02(14)

7952. Council **received** a paper providing the financial report for the nine months ended 31 December 2013 and the forecast outturn for 2013/14 as at quarter three. Council **noted** that actual performance for the nine months showed a surplus of £2.1m compared to a budget of £1.7m surplus; an overall positive variance of £444k to date and that the forecast position for the year end at this stage was expected to be a surplus of £378k which was £349k ahead of budget.
7953. Council **noted** the action being taken to address financial performance in 2013/14 as detailed in the paper. Items of particular interest to Council were:
- the work to develop a costing model to assist with modelling, monitoring and forecasting FTP costs was underway and progressing well;
 - savings of £25k had been made in respect of modifying the approach to transcribing hearings;
 - work was being undertaken to identify expenditure on legal fees for the year so far which could be expensed to the legal contingency reserve. Council **noted** that, whilst the paper referred to potential expenditure of £301k, the Executive were confident that the final amount was likely to be significantly less than this; and
 - due to the deferring the 'go live' date for the CRM project from November 2013 to April/May 2014, the expenditure on this project would now take place much later than planned.
7954. Council **welcomed** the continued diligence of the Executive as evidenced by their accurate forecasting.

Procurement decisions – paper C03(14)

7955. Council **considered** two procurement exercises which had recently been undertaken.

External Auditors

7956. Council **noted** that the previous external auditors, Crowe Clarke Whitehill had been appointed by Council in 2010 for a period of three years and that a re-tender had been undertaken in line with best practice. Council **noted** that the Audit and Risk Committee (ARC) had examined and approved the process for this procurement at its meeting on 20 January 2014 and confirmed that the process had met the requirements as set out in the GOC contracts and procurement policy.

7957. Council **considered** the recommendation of the ARC and **approved** the appointment of Hays Macintyre as external auditors for a period of three years to commence immediately (but with appointment being reviewed annually).

7958. Council **requested** that the Executive work closely with the new external auditors so they could be assured that there were no outstanding issues resulting from the departure of Crowe Clarke Whitehill.

Consumer complaints service

7959. Council **noted** that this service had last been tendered in 2007 and was currently provided by the Optical Consumer Complaints Service (OCCS).

7960. Council **noted** that three organisations had tendered for the contract – CEDR, Nockolds solicitors and the OCCS – and that due to the size of the contract the process had been procured in line with the GOC contracts and procurement policy and with EU tender requirements. Council had met on 31 January 2014 when they had reviewed the tender process and discussed in detail due diligence requirements.

7961. Council **considered** the recommendation of the Selection Panel and **agreed** to appoint Nockolds Solicitors to provide the optical dispute mediation service for a period of three years from 1 April 2014. Council **expressed** their gratitude to Richard Wilshin and his colleagues at OCCS for providing the conciliation service over the past few years.

7962. Council **acknowledged** the importance of this service to the public and the Executive assured Council that appropriate transition arrangements would be put in place to ensure that any ‘open’ cases were appropriately carried forward to the new supplier and that users of the service were clear who

they should approach from 1 April 2014.

Strategic Plan 2014-2017 – paper C04(14)

7963. Council **considered** the final draft of the strategic plan for the three year period starting 1 April 2014.
7964. Council **considered** and **noted** the responses to the consultation. The Chair thanked all stakeholders who had taken the opportunity to respond to the consultation and commented that the thoughtful observations provided had made the Plan much stronger as a result.
7965. Council **noted** the variety of responses received from across the nations and **suggested** that it would be useful to engage with all the nations regarding the work they were doing in order to share learning, developments and best practice. In particular, Council **noted** that the developments in technology and changes to public policy, especially in Scotland and Wales, raised issues concerning the scope of practice, particularly that of optometrists.
7966. Council **noted** that the consultation and stakeholder meetings had shown broad support for the strategic objectives set out in the Plan and that changes had been made following these to reflect the input received, namely:
- clarification of the GOC role in relation to standards which emphasised our statutory responsibility in this area and our intention to show leadership and develop a clear framework that would clarify the role of the College of Optometrists and ABDO in producing guidance;
 - emphasising our intention to introduce a research programme that would provide a systematic way of understanding the perspective of patients and the public, complementing our engagement with representative groups;
 - drafting changes to reflect specific comments that highlighted the need for us to provide additional context or clarity; and
 - including the outcomes sought in relation to each of the strategic objectives.
7967. Council **welcomed** the emphasis placed on standards as this was a major area of work for the next three years. Council **requested** that the Executive review the definition of 'standards' included in the Plan to ensure it was clear that standards included technical, professional and ethical standards.
7968. Council **discussed** the outcomes set out in the Plan and **questioned** how

the Executive planned to measure whether the objectives have been achieved at the end of the three years. The Executive advised that it was developing performance indicators to measure its success in achieving its objectives as part of the ongoing work to develop and refine the approach to performance reporting.

7969. Subject to the request to define 'standards', Council **approved** the Strategic Plan and **delegated authority** to the Chair and Chief Executive and Registrar to sign off the final version prior to publication.
7970. Council **noted** that the Strategic Themes briefing paper which had been used by Council at the Strategy Day in October 2013 to inform Council's thinking in setting its strategic priorities had been published following the November 2013 Council meeting. It was noted that the Executive would return to Council with an updated briefing paper in the autumn 2014 to update Council on developments. It was **suggested** that thought be given to linking the strategy day with developments in the nations, possibly by inviting speakers from the nations to the day.

Business Plan and Budget for 2014/2015 – paper C05(14)

7971. Council **considered** the business plan and budget for 2014/15. Thanks were extended to the Head of Governance who had led the development of the Business Plan and to the Finance Team for their contribution to improved budget planning.
7972. Council **welcomed** the planned outputs for each quarter and their link to the strategic objectives. Council also **welcomed** the proposed projects for the year, which they felt was a manageable number, namely business regulation, student regulation, illegal practice strategy, reviewing the approach the standards, Customer Relationship Management (CRM) system and property relocation.
7973. Council **approved** the Business Plan for publication.
7974. Council **discussed** the budget for 2014/15 and **noted** the amendments made to the budget as a result of the decisions and recommendations made by Council in November 2013. Items of particular interest to Council and discussed further were:
- the increased costs in governance and human resources. The Executive advised that some of the increase was due to the significant recruitment exercises which would be undertaken during the year for FTP Panel members, Council members and other statutory advisory committee members. Council **noted** that these recruitment exercises

did not happen every year and had therefore been budgeted for accordingly;

- the increased costs in FTP. The Executive advised that this was a result of the ongoing work to more accurately forecast expenditure in this area and took account of the significant changes in this area as of 1 April 2014 when the new FTP Rules would come into force. Council **noted** that the GOC had received 356 applications for Case Examiners and that interviews were under way. Council extended their thanks for the positive press coverage which had encouraged such a diverse background of applicants to apply; and
- Council **questioned** the high level of staff turnover which continued to exceed CIPD levels. Whilst high, the Executive advised that this had reduced over the last year. Council **noted** the activities being undertaken to reduce turnover, including conducting exit interviews, advertising all posts internally and conducting a review of reward.

7975. Council **noted** that, in November 2013, they had requested that the Executive present the 2014/15 budget as a surplus budget. Council **approved** the parameter of between 2.0% and 2.5% of income as a surplus budget level to be used in this budget and in future budget planning, subject to review by Council in subsequent years if required.

7976. Council **noted** the assumptions used to prepare the budget which Council **considered** were robust and reasonable.

7977. Council **noted** the contingencies put in place and **approved** the general contingency budget of £50k to be held by the Chief Executive and Registrar which would be used for any exceptional costs that arose during the year that could not have been foreseen at the time the budget was set.

7978. Taking the above discussion into account, Council **approved** the budget for 2014/15.

Illegal Practice consultation – paper C06(14)

7979. Council **considered** a draft consultation document on the illegal practice strategy and **noted** that the Strategy would focus on the following areas:

- handling of complaints in line with the GOC prosecution protocol for all types of illegal practice;
- collaboration with other enforcement bodies to address high-risk areas of illegal practice;
- production of guidance for the public on the safe purchasing and wearing of contact lenses (prescription and cosmetic);
- development of a voluntary code of practice on the supply of contact

- lenses (prescription and cosmetic) online; and
- undertaking further research and intelligence-gathering, including to evaluate the impact of the strategy and establish whether the initiatives had been successful.

7980. In relation to the point on collaboration with other enforcement bodies, Council **requested** that this also include collaboration with other healthcare bodies that had a role in promoting public health, including NHS England.

7981. Council **noted** that reducing the potential risk to the public arising from illegal practice was a complex problem and **welcomed** the proposed strategy which was designed to cover the full range of illegal practices from the misuse of protected titles to the illegal supply of prescription and cosmetic contact lenses. Council **acknowledged** the need to be proactive and creative and recognised the ongoing challenge involved in seeking to be proportionate and match the expectations of the public and stakeholders.

7982. James Russell, the Council Champion for this work, **endorsed** the strategy to Council which he felt enabled the GOC to be innovative and agile in this area of regulation.

7983. Council **approved** the draft consultation document for publication and **delegated authority** to the Chair and Chief Executive and Registrar to sign off the final version prior to publication.

7984. Council also **approved** for publication the final version of the Europe Economics report on illegal practice.

Draft equality, diversity and inclusion scheme – paper C07(14)

7985. Council **considered** the draft Equality Diversity and Inclusion (EDI) Scheme and action plan. Thanks were extended to Holly Perry, Governance Manager for developing the scheme and across the Executive for their input into its development. Council **noted** that Liam Kite and Gareth Hadley were the Council Champions for this work, both of whom had been fully consulted in its development and **commended** the work to Council. In addition it was noted that Morag Alexander had reviewed the draft scheme and her comments had been reflected in the final version.

7986. Council **considered** the commitment to equality, diversity and inclusion as set out on page 10 of the Scheme and **agreed** that this section articulated

Council's intentions in the long term. Council **requested** that the GOC Values be integrated within the scheme to ensure that the Scheme related to organisational values.

7987. Council **considered** the equality, diversity and inclusion objectives on pages 11 and 12 of the Scheme. Council **commented** that they considered the Scheme to be thorough and that they hoped it would enthruse practitioners and individuals to have due regard to their own duties and responsibilities in this area. Council **acknowledged** that the legislation covered goods, facilities and services and **welcomed** the intention to move hearings off site for 2014/15 which would assist to some extent in meeting obligations in this area. Council **agreed** that these were the right objectives for the GOC for the long term.
7988. Council **considered** the activities for 2014/17 as set out on pages 18 to 21 and **agreed** that these were the right activities to be pursuing during this Scheme.
7989. Council **considered** and **agreed** the consultation questions as set out in page six of the scheme.
7990. Council **considered** how the GOC could visibly demonstrate its commitment to EDI. Council **noted** that the Council Champions would take an active part in this project and that the Director of Resources would ensure that the Scheme and accompanying action plans were developed in line with the GOC duties and capabilities and were implemented effectively.
7991. Council **considered** the issues in relation to deliverability of the Scheme and **welcomed** that budget was available for engagement, training and monitoring via the CRM system and website. Council **agreed** that the action plan developed following the outcome of the consultation would need to be deliverable and highlight whether any additional resources might be required.
7992. Council **agreed** a twelve week public consultation on the draft Scheme and Action Plan from 21 February 2014 to 19 May 2014.
7993. Council **delegated authority** to the Chair and Director of Resources to sign off the final version of the Scheme prior to consultation and **noted** that the Executive would begin working to the draft Scheme with immediate effect.
7994. Council **noted** that a final draft Scheme and action plan for 2014-17 would

be presented together with the consultation response analysis and an analysis of our 2013 monitoring data, to Council at its meeting in July 2014. A report on progress made in 2014/15 would be presented to Council in February 2015 and thereafter on an annual basis.

Risk appetite – paper C08(14)

7995. Council **considered** a draft risk appetite statement for incorporation into the risk management strategy and policy. Council **noted** that the ARC had discussed this at its meeting on 20 January 2014 and were **content** to recommend the statement to Council.
7996. Council **welcomed** and **agreed** the statement for incorporation into the Risk Management Strategy and Policy which they felt articulated the current risk appetite.
7997. Council **discussed** the areas where the GOC could take a less risk averse stance and agreed the following:
- setting policy – aiming to take the lead in developing policy;
 - relationship with key stakeholders – recognising that stakeholders' interests were not always wholly congruent with those of the GOC and that this fact should not stand in the way of policy development; and
 - illegal practice – taking a robust attitude in respect of the limits of our powers.

Fitness to Practise (FTP) Rule Guidance – paper C09(14)

7998. Council **considered** the new FTP guidance for Case Examiners, the Investigation Committee (IC) and the FTP Committee which had been drafted in accordance with the General Optical Council (FTP) Rules Order of Council 2013 (No 2537) which will come into effect on 1 April 2014.
7999. Council **noted** that interviews for Case Examiners were under way and that the guidance would be used to train the Case Examiners so that they could take up their posts from 1 April 2014. Council **noted** that the guidance would be periodically updated to reflect changes in case law as necessary.
8000. Council **agreed** the draft guidance for publication and use from 1 April 2014 and **delegated authority** for approval of the final sets of guidance to the Chief Executive and Registrar.

Policies: reserves and investment – paper C10(14)

8001. Council **received** revised policies in respect of reserves and investment

which had been reviewed by the ARC in January 2014. Council **noted** that these policies formed part of the Financial Regulations which would be reviewed later in 2014/15 as part on the review of the Scheme of Delegation.

8002. Council **agreed**:

- that 'normal expenditure' be defined as 'monthly payroll and overheads plus one twelfth of all other budgeted annual costs';
- that the Income and Expenditure reserve be held at two (instead of three) months' 'normal expenditure';
- that the Legal Costs Contingency reserve be reduced to £500,000;
- amendments to the Reserves policy; and
- amendments to the Investment policy.

Council and Committee member fees – paper C11(14)

8003. Council **considered** the recommendation of the Remuneration committee in relation to fees for Council and Committee members. Council **noted** that they had discussed the fees at their meeting on 14 November 2013 and had agreed them in principle subject to the final budget for 2014/15.

8004. Council **noted** one amendment to the paper since November 2013 in that the Executive was now consulting members of the Education Visitor Panel on arrangements for their future remuneration and that a recommendation would be taken to the Remuneration committee in March 2014 and to Council in May 2014.

8005. Council **agreed** the fees for Council members, Committee members, the Investigation committee and Hearing Panel members as set out in the table in paragraph 25 of the paper. Council **noted** that the revised fees would come into effect from 1 April 2014.

8006. Council **agreed** to continue to review fee levels annually, in advance of setting budgets for future years and that the next review would be undertaken later in 2014 in time for budget setting in 2015/16.

Audit and Risk Committee (ARC) terms of reference – paper C12(14)

8007. Council **received** revised terms of reference for the ARC following the Committees review of its terms of reference in January 2014. Council **noted** that the changes recognised best practice and a change of focus for the committee during the year.

8008. Council **approved** the terms of reference for the ARC which would come into immediate effect.

Chair's Report – paper C13(14)

8009. Council **noted** a report from the Chair updating members on his activities since the Council meeting on 14 November 2013.

Quarterly Review (Q3) – paper C14(14)

8010. Council **received** the quarterly review updating them on activities undertaken by the Executive during quarter three 2013/14. Items of particular interest to Council and discussed further were:
- paragraph 64 – Council **asked** whether those who had not achieved the required minimum of six CET points by 31 December 2013 had been removed from the Register. The Executive advised that this had happened in some cases, however there were extenuating circumstances for some registrants which were being considered by the Chief Executive and Registrar;
 - paragraph 99.1 – in relation to the update from Wales, clarification was **requested** as to who the meeting had been held with as it had not been held with the Minister; and
 - Key Performance Indicators – Council **asked** whether the indicators would be reviewed over time to ensure they remained appropriate. The Executive advised that all the indicators would be reviewed in light of the new Strategic Plan, to ensure that appropriate focus was given to targets with a higher public protection implication.
8011. In respect of Scotland, Morag Alexander **advised** that Harry Burns, Chief Medical Officer for Scotland would be retiring shortly to take up the post of Chair of health inequalities at Strathclyde university.

Francis Inquiry – paper C15(14)

8012. Council **noted** an update on the Government's full response to the Francis Inquiry, recent related reports and progress in implementing our action plan to address the Francis Inquiry's findings.
8013. Council **highlighted** the following areas which they considered should be taken into account as the action plan was reviewed:
- language and communication – Council **noted** that communication was a consistent theme in FTP cases particularly in relation to manner and demeanour, however language competence was less of an issue. In addition, Council **noted** that the delivery of difficult news and how much information should be given to patients continued to be a challenge for registrants and that this would be picked up in the standards review; and

- whistleblowing – Council **noted** that there was currently no clear protocol for registrants to advise the GOC of serious adverse incidents or other concerns. Therefore it was difficult for the GOC to understand the extent of any issues in this area. Council **noted** that the Public Interest Disclosure Act had been extended to healthcare professionals which increased our responsibilities in this area. Council **agreed** that it should help registrants to know how to recognise record and refer incidents. The Executive advised that the GOC were part of a Duty of Candour working group which would work together to identify consistent approaches across the healthcare regulators and that this would also feature in the standards review.

Any other business

8014. Condolences were **expressed** to the friends and family of David Pyle (former GOC Council member and more recently Education committee member) who died on 6 February 2014. Council **requested** that the statement prepared by the Executive detailing David's involvement with the GOC over the last 16 years be appended to these minutes.

Date and time of next meeting

8015. The next public meeting of Council would be held on **Wednesday 14 May 2014** and the time and location of the meeting would be confirmed in due course.
8016. The meeting closed at 15.49.

David Pyle

We are sorry to learn that David Pyle, a member of our Education Committee and former Council member, recently passed away following a battle with cancer.

David's involvement with the GOC spanned 16 years, having initially been appointed as an Education Visitor in June 1997. His first visit was to the optometry programme in Coleraine. Since then David has attended over 100 GOC visits both as a visitor and more recently as an Education Committee member. Alongside his role as a GOC education visitor he was also an education adviser to ABDO and he chaired their examination board until 2002, when he was appointed as a lay member of the GOC Council, a position he held until 2010. During this time he chaired the GOC Education Committee and also sat on the Standards and Registration committees.

David began his professional life as a teacher and psychologist, and after ten years moved into universities to train teachers. He retired as pro-vice chancellor of Manchester Metropolitan University in 1997, after a career at Humberside and Leeds Polytechnics. Following his retirement David held a number of advisory and non-executive education posts including with the Teacher Training Agency, Schools Partnership Committee and Leeds Metropolitan University.

As well as working with the GOC he held Regulatory Board appointments with the Nursing and Midwifery Council, Hearing Aid Council, as an independent member of the Metropolitan Police Authority Misconduct Panel and a lay member of the Complaints Committee of the Bar Standards Board.

David's contribution to the GOC's work in respect of education and standards is unrivalled. He was involved in everything from the development of core curriculums for both optometry and dispensing in 2000, the establishment of the first statutory CET scheme in 2005, the College of Optometrists' Scheme for Registration, the entry standards for dispensing opticians and the first independent prescribing specialty qualification in 2009. David was involved in accreditation of the first optometry course outside of the UK, the establishment of the first core competencies, development of the GOC Codes of Conduct and designing the enhanced CET scheme in response to the revalidation agenda.

David was well known for describing himself as the man on the Clapham omnibus and was the first lay member of the GOC to take responsibility for representing the patient voice. He certainly fulfilled this role effectively not least thanks to his rather unusual prescription - tri-focal lenses! David will be sorely missed by all those who worked alongside him at the GOC and we give thanks for his dedicated service and substantial contribution to the work of the GOC.