

GENERAL OPTICAL COUNCIL

**Minutes of the 218th Public meeting of Council held on
Wednesday 11 May 2016 at 10:00 at 10 Old Bailey, London, EC4M 7NG**

Present: Gareth Hadley (Chair), Paul Carroll, Brian Coulter, Peter Douglas, Rosie Glazebrook, Liam Kite, Scott Mackie, David Parkins, Fiona Peel, Helen Tilley, Glenn Tomison and Selina Ullah.

GOC attendees: Alistair Bridge, Lisa Davis, Marcus Dye (paragraphs 8447-8449, and 8457-8458), Nicola Ebdon, Kiran Gill (paragraphs 8447-8449), Simon Greer, Lisa Harmshaw (minutes), Josephine Lloyd, Philippa Mann (paragraphs 8457-8458), Michelle Norman (paragraphs 8457-8458), Samantha Peters, Batool Reza (paragraphs 8457-8458) and Keith Watts (paragraphs 8436-8442).

External presenters: Andrew Smith and Clare Warnes, KPMG (paragraphs 8440-8442), Richard Edwards, Chair of the Illegal Practice Stakeholder Working Group and Clinical Advisor to the OCCS (paragraphs 8443-8446 and 8450-8452) and Jennie Jones, OCCS (paragraphs 8450-8452).

Welcome

8428. The Chair **welcomed** members, employees and those in the public gallery to the 218th public meeting of Council.

Apologies

8429. No apologies were **received** for the meeting.

Declaration of members' interests

8430. There were no interests to declare.

Minutes of the last meeting held on 10 February 2016.

8431. Council **approved** the minutes of the meeting held on 10 February 2016.

Updated Actions – paper C17(16)

8432. Council **noted** the progress made on the actions in the paper. In particular:

- **01(16) (test the updated booklet ‘*what to expect from your Optician*’ with patients/public prior to issue)** – Council **noted** that patient focus

groups were underway and being led by an independent research agency on behalf of the GOC and that the booklet would be revised in light of the outcome and then published online by the end of July 2016;

- **37(15) (registrant fees 2016/17)** – Council **noted** and **agreed** that this action, along with any others going forward where progress would not be made during the current business plan year would be removed and held by the Governance Team separately to ensure progress was monitored and appropriately reported to Council at the right time; and
- **03(16) (Continuing Education and Training end of year 2013-15 cycle)** – Council **extended thanks** to the Executive for taking the opportunity to make effective use of the optical press in relation to the end of the CET cycle and retention period.

Matters Arising

8433. There were no matters arising.

Chair's report – paper C18(16)

8434. Council **received** a report from the Chair updating members on his activities since the Council meeting on 10 February 201 which was **noted**.

Chief Executive and Registrar's report – paper C19(16)

8435. Council **received** and **noted** the content of the Chief Executive and Registrar's report. In discussion Council:

- **questioned** whether there was an expectation that the 21 per cent employee turnover would decrease. The Executive advised that GOC turnover was comparable with other regulators; and
- **asked** about the purpose of the meetings with CORU (Ireland's multi-profession health regulator) and the Gambling Commission. The Chief Executive and Registrar responded that that the meeting with CORU had sought to identify, at an operational level, how their systems and processes dovetailed with the GOC's as they were now responsible for registering optometrists and dispensing opticians in Ireland. In respect of the Gambling Commission, Council **noted** that the meeting had focused on the retail sector and online delivery. Council **acknowledged** that it was helpful to maintain dialogue and relationships outside of healthcare regulation where there were similar issues and interests as it provided helpful comparisons and learning opportunities.

STRATEGIC

Fitness to Practise (FTP) Hearings and Indicative Sanctions Guidance: revised guidance – C20(16)

8436. Council **received** a paper detailing the outcomes arising from the consultation on the revised Fitness to Practise Panels (FTP) Hearings Guidance and Indicative Sanctions (“the guidance”).
8437. In discussion, Council:
- **noted** that sixteen consultation responses had been received which showed general support for the proposed revisions (thirteen out of the sixteen responses);
 - **noted** the key actions taken as a result which included consistency in terminology, amendments to case law quotations, links to guidance documents to aid understanding; re-ordering/amending section titles and paragraphs to provide clarity; further guidance on warnings; stage of career; candour; raising concerns and how businesses operate; and changes in terminology for a bank of conditions which removed the requirement for registrants to provide documentation that was not within their control;
 - **offered** some further amendments which included: page 18 (sanctions: interim order review determinations), page 39 (financial penalty) and pages 45 and 59 (standards of practice for business registrants). The Council Champion **agreed** to liaise with the Director of FTP to finalise the wording prior to publication; and
 - **noted** that the additional guidance to be implemented in the near future in respect of consent and candour (see paragraphs 8447 to 8449 below) would be of further benefit to FTP Panellists, registrants and the wider public.
8438. Council **discussed** the ongoing difficulties in relation to engagement with patients and the public and **noted** the lack of responses from patient bodies on this occasion which Council **considered** was an area which required addressing. As a result, Council:
- **agreed** that the Chair would raise this with the other regulatory Chairs in order to ascertain their experiences and learning;
 - **noted** that the GOC was now a member of VISION 2020 UK and **requested** that the Executive discuss with them how the GOC might develop in this area; and
 - **suggested** that the Executive make more use of its statutory advisory committee members who also sat on external patient groups and/or represented patient bodies in order to seek their feedback on how the GOC could improve in this area as well as making more use of committee

members during consultations.

8439. Council **approved** the guidance set out in annex two and **delegated authority** to the Chief Executive and Registrar to approve the final version prior to publication.

Dealing with complaints more quickly and effectively: project scope – C21(16)

8440. Council **received** the draft Strategy for managing complaints more quickly and effectively (“Complaints Strategy”). Council **welcomed** Andrew Smith and Claire Warnes from KPMG who were in attendance to answer questions from Council on their report. Council **noted**:
- that the KPMG report attached at annex three was confidential and therefore not published;
 - the progress made to develop the draft complaints strategy and the four work streams agreed by Council in July 2015 had been completed;
 - that KPMG had assisted with mapping the end-to-end process which had resulted in 19 improvement opportunities which were now being implemented and that key performance indicators (KPI’s) were being established;
 - the intention to pilot the strategy to take account of feedback on the new processes; and
 - to present the final strategy to Council in November 2016 (not July 2016 as reported in the paper).
8441. Council discussed the paper and KPMG’s report and:
- **commended** the Executive on their positive attitude towards the project, change and improving performance and the work undertaken to date;
 - **noted** that the assistance provided by KPMG had allowed the Executive to focus on the day-to-day business whilst the project was underway;
 - **extended thanks** to KPMG for mapping the processes thoroughly;
 - **noted** that, although the process mapping exercise had taken time, it had proven to be worthwhile and **questioned** whether there was any learning for the whole organisation from the project in terms of being able to adopt a similar approach to help identify and implement improvements in future projects;
 - **noted** the assurance provided by the Executive that the target for concluding the majority of FTP cases within 52 weeks remained appropriate for public protection, was progressing in the right direction and that the pilot would assist in testing whether this was achievable;
 - **requested** a ‘benefits realisation strategy’ be developed, with milestones, as part of the pilot in order to demonstrate the expected gains against the improvement opportunities identified;

- **noted** that the internal departmental restructure had been positively received and would enable greater flexibility when dealing with fluctuations without undermining the process, by ensuring a suitable skill mix which could manage different parts of the process; and
- **noted** that the development and implementation of standard operating procedures would assist in reducing the impact of employee turnover and that a programme of relevant training would be embedded.

8442. In relation to the draft strategy Council **provided** the following feedback:

- paragraph two (first bullet) should also mention 'a transparent process';
- paragraph 15 should make reference to having 'evidence-based' key performance indicators (KPI's); and
- the strategy required a policy renewal date which Council **suggested** should be in line with the policy review process.

8443. Council **noted** the action plan for future work as set out in annex two of the paper and **received assurance** from the Executive that these were currently progressing on time.

Illegal Practice strategy: update – C22(16)

8444. Council **received** an update on the implementation of the GOC illegal practice strategy, including the development of the voluntary code of practice for online contact lens supply. Council **welcomed** Richard Edwards who was the Chair of the Stakeholder Working Group.

8445. Council **considered** the revised project scope and timescales as indicated in the paper, and in particular **noted** that:

- the customer research had provided insight into the behaviour of consumers in relation to choosing and purchasing contact lenses and that it was therefore appropriate at this time to focus on providing guidance for the public on the safe purchase and use of contact lenses (both prescription and cosmetic) which would be undertaken during 2016/17. Council **noted** the intention to engage a public relation (PR) agency to enable the GOC to maximise the impact of this work;
- a stakeholder engagement plan would be developed to address the full range of illegal practice (not just contact lens supply) which would include a targeted engagement with a range of stakeholders both within and outside of the optical sector;
- there would be continued collaboration with other enforcement bodies to address high-risk areas of illegal practice which would form part of the revised stakeholder engagement workstream;
- that the Executive would continue to handle complaints in line with the prosecution protocol for all types of illegal practice as part of the day-to-

- day handling of complaints;
 - further research and intelligence gathering would take place to assess the impact on public safety of the work to raise awareness of how to purchase and wear contact lenses safely, which would form part of the organisational research programme; and
 - the development of a voluntary code of practice on the supply of contact lenses (prescription and online) would be postponed until 2017/18.
8446. Council **approved** the revised project scope and timescales and **approved** the planned approach to raising public awareness of purchasing and wearing contact lenses safely.
8447. Council **discussed** the responses received to the consultation and feedback from stakeholders and **noted** that there was not enough available evidence to justify the inclusion in the code of practice of provisions relating to substitution at the present, but that this would be reconsidered in the light of any new evidence in a year's time. As a result Council:
- **requested** that the timeline for the project be amended to show the intention to review in a year whether there was any further evidence available in relation to harm to patients from substitution;
 - **agreed** that on the basis of the currently available evidence it was not appropriate to include substitution in the code and that this fitted with the GOC's intention to be an evidence-based regulator;
 - **extended** an offer to any stakeholders, including manufacturers, that might have evidence available, to share it with the GOC to inform the future debate; and
 - **noted** that the Opticians Act 1989, particularly Part IV thereof, was not fit for purpose: it was overly restrictive and failed fully to reflect developments in – and the demand for – the provision of optical services in the twenty-first century. This had a direct impact upon the capacity of registrants to do all within their competency to preserve eyesight and, through that, on the capacity of the Council to protect the public.

Standards strategic review: candour and consent guidance – C23(16)

8448. Council **received** an update on plans to produce supplementary guidance as part of the implementation of the standards for optometrists, dispensing opticians and optical students. In particular Council **noted**:
- that following Council's approval of the publication of new standards for optometrists, dispensing opticians and optical students it had been agreed that supplementary material, such as guidance and case studies would be developed in order to help registrants understand how some of the standards applied in an optical context;
 - four priorities for guidance were identified: candour, consent, care and

- compassion and the legal requirements of practice;
- a working group had been established to consider the necessity and content for each set of guidance;
- the draft guidance on candour and consent had now been developed and was ready for public consultation;
- the guidance on care and compassion had not been developed as the working group considered that it would not support understanding of this area as it was self-explanatory and did not constitute a complex area of practice; and
- the guidance on legal requirements of practice had also not been developed as the working group had considered that the guidance could not accurately describe the legal areas of practice and that attempts to do so would lead to misinterpretation and/or loss of meaning of the law which posed a risk to the GOC and that it would be more appropriate to collate the relevant legislation in one area of the website and produce regulatory statements as necessary on the basis of external legal advice.

8449. Council **extended thanks** to the working group and the Standards Committee for their advice and approved the proposed guidance on consent and candour for public consultation. Council **requested** that the following feedback be noted by the Executive as part of the consultation in order that the consultation was not delayed:

- taking into account Council's earlier discussion on involving patient groups and bodies in consultations (see paragraph 8438), feedback from such bodies should be sought on this occasion;
- in relation to the guidance on consent Council commented on the following areas which should be considered during the course of the consultation: i) obtaining explicit consent for eye examinations and how this applied to those suffering from such conditions as dementia; ii) the need for capacity training, particularly in Scotland where it was legal for optometrists to state that a person did not have the capacity to consent, however no training was currently provided on how to recognise this; iii) patients should be addressed in the language they understand the most; and iv) there was no mention of assent in relation to children and whether this should be included; and
- prior to publication of the finalised guidance there was a need to ensure that it read in plain English and used language that would be readily understood by those whom it applied.

8450. Council **acknowledged** and **agreed** with the working groups' reasoning for not developing guidance in relation to care and compassion and legal requirements of practice and **agreed** that it would be appropriate to gather the relevant legislation in one area of the website and produce regulatory

statements as necessary on the basis of external legal advice.

ASSURANCE

Optical Consumer Complaints Service (OCCS) annual report 2015/16 – C24(16)

8451. Council **welcomed** Jennie Jones and Richard Edwards who were in attendance from Nockolds Solicitors, the providers of the OCCS, to present their annual report for 2015/16. Council **noted** the key messages from 2015/16 which were:
- 969 complaints were received (compared to 652 in 2014/15) equating to a 55 per cent increase;
 - 98.6 per cent success rate mediating through to conclusion;
 - 99 per cent of enquiries were concluded with a resolution;
 - an increase of 88 per cent in practitioner enquiries;
 - the main causes of complaints from an optical/clinical point of view included prescription and test accuracy, varifocal dispensing issues and prescriptions dispensed in a different practice;
 - from a consumer point of view the main cause of complaint related to practitioner relationship and breakdown of trust;
 - 92 per cent of enquiries concerned consumer issues;
 - 49 per cent of enquiries were about goods and services which the OCCS were feeding into the sector as learning;
 - a quarter of enquires obtained the contact details of the OCCS via their practitioner;
 - consumer engagement is improving – six percent of enquiries came via consumer organisations (previously one per cent);
 - 90 per cent of enquiries were resolved within 45 days (compared to an industry standard of 90 days); and
 - complaints are now received from all four nations, were representative of the respective populations and there were no issues to highlight.
8452. Council **noted** the key areas of focus in 2016/7 which were:
- continuing to share valuable insight with the sector which would include speaking with multiples and independent representative organisations and attending CET and event workshops;
 - sharing guidance and insight with consumer groups such as Which? and SAGA;
 - supporting the sector during the implementation of new practice standards for registrants and optical students; and
 - furthering the work with the GOC to achieve effective and proportionate complaint resolution within the sector.

8453. Council **welcomed** the findings in the annual report and:
- **extended thanks** to Nockolds for providing assurance to Council that , during 2015/16, the contracted service had been effectively provided;
 - **agreed** that there was much for the profession to consider especially in relation to section four (who complains and why) and the emphasis on communication;
 - **questioned** what work the OCCS was undertaking to identify any issues related to diversity, such as with vulnerable or old patients and **noted** that the OCCS was continuing to work with organisations such as SeeAbility and Age UK to ensure that vulnerable consumers had appropriate accessibility to complaint routes which could be raised themselves or on their behalf;
 - **questioned** why the OCCS was dealing with laser eye surgery complaints and **noted** that the OCCS input extended to the involvement of the optometrist in the process only and that the complaints were currently related to expectation management;
 - **suggested** that the OCCS give consideration to displaying posters in practices to accompany the leaflets already available;
 - **questioned** why the OCCS was considering changing their name which Council **noted** was as a result of discussions with practitioners and that the term 'consumer' suggested a one-sided service which was not the case. Council further **noted** that the OCCS was continuing to consult and gather feedback at this stage; and
 - **noted** that in the two years of operation the OCCS had received two corporate complaints about their service, both of which had been resolved via an internal review process.

The meeting was adjourned at 12:25pm for lunch and reconvened at 13:05pm

Financial performance report: quarter four 2015/16 – C25(16)

8454. Council **received** a paper, which set out the quarter four financial report for 2015/16, which was the provisional outturn for the year ended 31 March 2016.
8455. The main headlines in the report **noted** by Council were:
- actual performance for the year to date showed a surplus of £402k compared to budget £38k surplus and overall positive variance of £364k;
 - income for the year ended 31 March 2016 totalled £7.5m compared to the budget of £7.7m which was a negative variance of £210k (or 2.7 per cent);
 - the reasons for the variance in income were: i) the delay in relocation resulting in the delayed investment of sale proceeds; ii) receipt of £53k additional proceeds from the sale of 41 Harley Street as a result of inflation between the contract exchange and completion dates; and iii)

registration income was lower than budget by £62k as a result of differences between the expected and actual pattern of new applications;

- total expenditure for the year ended 31 March 2016 amounted to £7.1m compared to a budget of £7.7m, which was a positive variance of £574k; and
- project expenditure, which is charged to the Strategic Reserve, amounted to £245k for the year ended 31 March 2016 which was the same as budget.

8456. Council also **noted**:

- the actions that were still required to finalise financial performance for the year ended 31 March 2016 as set out in paragraph 24 of the paper;
- that the external audit was due to commence on 10 June 2016;
- that it remained the intention to present the draft annual report for 2015/16 to the Audit and Risk Committee (ARC) on 12 July 2016 and to Council on 26 July 2016, although this remained challenging; and
- the plans for utilisation of reserves in 2016/17 – that transfers of £150k and £250k respectively are made to the strategic and special reserves in accordance with the proposals in the budget approved by Council in February 2016 – however these amounts might require adjustment depending on the impact of the additional work on the overall results for the year.

8457. In discussion of the report Council:

- **agreed** that budgeting was improving;
- **welcomed** the work undertaken to train and develop the various teams across the GOC to improve budgeting;
- **queried** how zero-based budgeting was working across the organisation and **noted** that this was only undertaken in FTP during 2015/16 as part of the restructure and the speeding up of internal processes and would be considered for other areas on a case by case basis;
- **noted** the provision of £100k of corporation tax for the year which was expected due to the uplift in the value of 41 Harley Street prior to the completion of the sale. Council **noted** that the GOC had been able to offset more costs than previously thought and therefore some of the provision had been retained in the year end accounts; and
- **noted** that the underspend of the provision for research was as a result of activity deferred until 2016/17.

Performance and management information report: quarter four 2015/16
– paper C26(16)

8458. Council **received** the performance and management report for quarter four of 2015/16 and **noted** the following:

- an additional annex had been appended to the published performance report which demonstrated the progress made on improving information governance processes which included mandatory training, monthly ‘toolbox’ talks, undertaking compliance checks and regularly reviewing and monitoring the action plan;
- three out of eight performance indicators had been met during the quarter as demonstrated on the performance dashboard and those indicators which were below target level had improved since the previous quarter;
- the FTP indicators had been amended to a rolling annual figure to reduce the impact of quarterly fluctuations caused by low numbers of cases, which showed an improving trend in performance over time;
- data analysis on illegal practice cases was continuing to improve;
- member recruitment was busy and campaigns to recruit education visitors had been added;
- the progress made on equality and diversity and the engagement of Castrum, a Poole-based IT company who would be securely processing EDI monitoring information to enable the GOC to collect and analyse data on the diversity of registrants;
- the trends and lessons learnt as a result of FOI requests and corporate complaints; and
- the progress being made in the monitoring and review of policies and procedures.

8459. In discussion, Council:

- **welcomed** the introduction of password protected confidential meeting papers and **noted** that it was hoped papers would be online in the future;
- **welcomed** the introduction of mandatory information governance and EDI training for all employees and members and **noted** that consideration was being given to requiring contractors to undertake the same training;
- **suggested** that consideration be given to how registrants access and book CET and whether more use could be made of apps and that the GOC make use of Facebook, Twitter and LinkedIn in engaging with others; and
- **noted** the percentage of editorial coverage which is positive or neutral about the GOC and **requested** that more consideration be given to how to capture the positive comments especially from GOC registrants.

OPERATIONAL

Management of Interests policy – paper C27(16)

8460. Council **received** the draft Management of Interests policy for approval following its consideration by the ARC. Council **noted**:

- the policy would replace all other guidance previously available and would

- apply to all employees and members;
- the differences in how the declarations of interests would be published in relation to SMT and members and all other employees; and
- the views of ARC in relation to the appropriate separation of roles for 'independent members' and that ARC did not consider there was a conflict (or the perception of a conflict) in either case.

8461. Council **discussed** the draft policy and:

- **questioned** what would happen if Case Examiners did not consent to having their interests published. The Executive advised that going forward this would be made a condition of appointment and that current Case Examiners would be consulted before this was implemented;
- **requested** that the Executive review the 'status' of Case Examiners which they considered was more akin to a member role;
- **agreed** with the view of the ARC that '*members cannot be identified as an independent member if they are a member of more than one committee*' should be removed on the basis that this did not represent a conflict (or a perception of a conflict);
- **agreed** with the view of the ARC that '*a gap of two years between being an independent committee member and other member roles*' which is the same approach taken for Council members not being able to become a member of the GOC for a period of two years after being a Council member should apply to independent members, should be removed on the basis that this did not represent a conflict (or a perception of a conflict);
- **approved** the policy; and
- **agreed** that the policy should be trialled for a period of one year from 1 September 2016.

Reserves policy – paper C28(16)

8462. Council **received** the reserves policy for approval on the recommendation of the Audit and Risk Committee (ARC). In particular Council **noted** and **agreed** with the recommendation from ARC that:

- the investment reserve be continued but that caution should be counselled in respect of the long term maintenance of a large cash reserve because of the possible negative publicity with stakeholders this might generate, from the perspective of future retention fee levels and the planning of longer term finances; and
- that a balance needed to struck between maintaining a higher level of reserves reflecting the higher cost base for the organisation renting rather than owning its premises, and the requirement to use funds generated from past retention fees within the principles of careful management and achieving good value for money for all work carried out by GOC.

8463. Council to **agreed** to modify the Reserves Policy in accordance with the suggested changes detailed in annex one.

External audit work plan and fees – C29(16)

8464. Council **received** the external auditors draft audit plan and fee for approval and:
- **noted** the planning letter and that ARC had approved the terms, content and scope of the audit;
 - **noted** that ARC was satisfied of the processes and procedures that the external auditors have in place to ensure its independence; and
 - **agreed** the fee of £14,880 as proposed by haysmacintyre for the 2015/16 audit, as recommended by ARC.

Council and Committee scheduling 2017/18 – C30(16)

8465. Council **received** a paper which presented the proposed schedule of Council and Committee meeting dates for 2017/18 and:
- **agreed** the Council meeting dates for 2016/17 which included those for member induction, performance and evaluation and business planning;
 - **noted** that the Executive would consult with the members of the statutory and non-statutory advisory committees on meeting dates; and
 - **delegated authority** to the Chief Executive and Registrar to finalise the schedule for 2017/18 and in future years with no need to secure formal Council resolutions.

Council forward plan – paper C31(16)

8466. Council **noted** the forward plan of activity for the Council for 2016/17. Council **requested** an update on the progress of the quality assurance project at the July 2016 public Council meeting.

Any other business

8467. There being no other business, the meeting closed at 13:50.

Date and time of next meeting

8468. The next public meeting of Council would be held on **Tuesday 26 July 2016** at 10 Old Bailey, London, EC4M 7NG. The time of the meeting was to be confirmed.