

GENERAL OPTICAL COUNCIL

**Minutes of the 186th meeting of the Council held on 17 June 2010 at
the Hilton Birmingham Metropole Hotel, National Exhibition Centre,
Birmingham B40 1PP**

Present: Anna Bradley (in the Chair),
Morag Alexander, Paul Carroll,
Brian Coulter, Peter Douglas, Robert Hogan,
Kevin Lewis, Fiona Peel, Nicholas Rumney,
James Russell

In attendance: Dian Taylor, Rosalyn Hayles, Jon Levett,
Lesa Oakley, Clare March, Ami Samra,
Philip Hallam, Maria Claridge, Joan Burrow

Alan Tinger, GOC Financial Consultant
Walter Merricks, Chair of OHPA

Interim Chair's welcome

7136. The Interim Chair welcomed Members and guests to the 186th meeting of the Council and recorded the Council's appreciation of Geoff Harris's work as Chair and previously as Deputy Chair of Council. She acknowledged his steering of the new Council through its first year of existence, establishing new ways of working in line with current best practice and the achievement of a five-year strategic plan for 2010-15 which has put the new Council on a firm footing to build on for the future. The new coalition Government had changed and dramatically increased the workload of the Strategic Health Authorities and he had felt that he could not give the time he would wish to the Council. It should be ensured that what had been set in place continued.

7137. The Council had met in private before the public meeting to collect their thoughts after the Chair's resignation and the interim Chair confirmed that it had been agreed that the momentum that had been achieved would be continued. This would be made more difficult by changes in the senior team for various reasons. It was important that the Council supported the staff through this. It was intended that it would be 'business as usual' at the GOC.

7138. The Interim Chair confirmed that she had been appointed until at least December and that the recruitment process for the new Chair would not begin until later in the year. She also confirmed that she would not just be 'holding the reins' until a new Chair was appointed and that decisions would be made if they needed to be during this period.

Apologies for absence

7139. Apologies for absence were received from Liam Kite.

Declarations of interest

7140. 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. None were declared.

Minutes of the 184th meeting held on 25 February 2010

7141. The Minutes of the 184th meeting held on 25 February 2010 were signed as being a true and fair record of the meeting.

Matters arising from the 184th meeting: for information

7142. Members received **Paper C(11)10** being an update on the matters arising from the previous meeting and progress on action taken. No further matters were raised.

ITEMS FOR DISCUSSION AND/OR DECISION

Office of the Health Professions Adjudicator (OHPA)

7143. The Interim Chair thanked Walter Merricks (the Chair of OHPA) for attending and confirmed that she thought it would be helpful to put things on record after the more informal discussions the previous evening over dinner. She noted that this would afford Council the opportunity to ask any specific questions to Mr Merricks after his excellent briefing the day before.

7144. In answer to a question as to whether there was a formal structure for setting OHPA's establishment in place, he confirmed that there was a clear set of milestones.

7145. The first and most significant in a policy sense was that in the first week of August a series of consultation papers would be published: Draft Rules which have to be in place by 1 April 2011 for the GMC's transfer of its FTP hearings responsibilities to OHPA, Transitional Rules that the Department of Health (DH) will make for this purpose and Fees Rules to enable OHPA to get the running costs from the General Medical Council (GMC) from 1 April 2011 onwards. There will also be a set of draft Rules about the de-coupling of adjudication from the GMC.

7146. OHPA will also take the opportunity to set out their policy ambitions as to how they will change the regime in the medium term, first of all setting out how the seamless transition will work on 1 April 2011 and the longer term vision set out.

7147. At the same time they will be doing a lot of practical things, finalising negotiations with the Government on funding as they are being funded by the DH for set up, negotiations for the GMC hearings suite and FTP staff in Manchester which they will take over responsibility for. Although they will take over the GMC hearings suite in London initially, they have made it clear that they will move out of that at some time in the future to premises which will house the staff, hearings suite and the OHPA team, who are currently housed in a DH building. There is also an IT and estates strategy. They will take on most of the GMC's adjudication staff.

7148. Starting with the GMC will be a pilot for all that follow, giving OHPA an opportunity to test out how it works and learn for when the GOC joins thereafter.

7149. Mr Merricks was then asked if the GMC Panel would be going forward.

7150. He confirmed that there is in existence quite a large GMC Panel and the GMC is already listing cases and engaging its panellists to hear cases in April 2011 and beyond so OHPA/GMC are already putting hearing dates in the diary. GMC have been encouraged to do this and are effectively doing it on OHPA's behalf. OHPA will inherit a going concern which they will not have had any influence in altering or changing, but will take it over and then start adapting it.

7151. Mr Merricks had spoken the previous evening about efficiency in processing cases relating to the fact that they are getting longer. He was asked if he regarded that any part of OHPA's role was to drive down costs.

7152. His reply was that reducing delays and costs is undoubtedly part of the task for OHPA and he could see considerable scope for being able to do that. There are problems when regulators are investigators, case presenters and responsible for adjudication in trying to control the length of hearings. It may not be in other parties' interests to co-operate. In other parts of the legal system co-operation is required by the rules. OHPA will put in place rule structures, discipline structures, and sanction structures that ensure that they do get proper co-operation to make sure that what comes before an FTP panel is a case where it is clear what the issues are, what is in dispute and not wasting time on matters that are not in dispute. For example, a large amount of time seems to be spent recording matters that are not in dispute and this does not seem to be a sensible use of time as FTP panels are expensive operations to run. They should be seen to be used sparingly so OHPA will need to make sure they get the best out of the panels. OHPA believe that there is quite substantial scope for doing that. It will take time but they are confident that they can bring the cost of hearings down and speed things up which will be in the best interests of the public as well. In discussion with the GMC and the GOC, OHPA will make estimates of what they think is the right balance between bringing down costs and speeding up the passage of cases through the FTP system.

7153. Mr Merricks had mentioned the relationship with the DH and was asked if OHPA had any contact with the appropriate departments in the devolved administrations.

7154. He confirmed that the DH in England takes the lead on these matters for the time being and the representatives of the devolved administrations have been at meetings and involved in discussions. They have agreed that for the time being the DH England will be taking forward the structural set up in relation to OHPA. One of the issues that had been discussed on an informal basis was the extent to which OHPA should be holding hearings in devolved regions.

7155. It was confirmed that one of the interesting things for OHPA would be that, if the General Pharmaceutical Council requests them to take over their adjudication functions, there is a Pharmaceutical Society of Northern Ireland which is a separate body and it would be assumed that they would not wish their adjudications to be held anywhere other than in Northern Ireland. The possibility of hearings being held in a greater variety of locations would be seen as attractive.

7156. It was noted that this would be a big change for the professions and the public and Mr Merricks was asked to highlight OHPA's communications strategies and how they are going to gain the confidence of the public and the professions as they develop this.

7157. He confirmed that the first job would be to get the smooth transition going as it is a major task. They will not be making major changes in the first instance. Of course they will be trying to help the profession understand with the support of the professional bodies, in terms of the medics, the BMA and obviously the GMC as to what this actually means for registrants. As far as the public is concerned it is the rationale that drove the Government and Parliament to support the idea of OHPA.

7158. OHPA does need to make sure that the public understands that this is going to be an independent body. It will be quite a complicated message because, in the first year they will be funded by the GMC, but funded under compulsory powers. OHPA will have the right to make levies and must make it clear that the GMC are not paymasters and cannot dictate what OHPA do.

7159. It was asked, as all the healthcare regulators are working with CHRE to a set of standards that they are performance reviewed against each year, whether there was any intention of looking at those standards in respect of the FTP hearing side for indicators of success for OHPA. It was also asked if there would be a comparison in the first year of operation between the performance of the GMC and then the performance of OHPA in delivering those hearings.

7160. One of the things OHPA is definitely intending is to speed up and reduce costs. They won't be able to do much of that in year one simply because, by the time they get to April, there will be a virtually full schedule of cases. Probably a whole year's worth will be pre-booked for them so it will be difficult in year one to deliver significant changes.

7161. It will be a slightly frustrating time for OHPA as they will have ambitions to do things very differently but they will have to do things the same largely. Clearly there will be financial benchmarks that they will inherit and they will need those benchmarks in order to be able to do a fair allocation of their costs in relation to the GMC and then they will be able to make a fair allocation when they take on the work for the GOC to make sure that GOC cases are not subsidising GMC cases or vice versa. They will need to develop unit costs which have not really been developed at all so far. In terms of costs they will need to build a quite sophisticated model which they will be able to track over a period of time and that will help their efficiency and productivity measures. That will be one of the key features that they will be hoping to build.

7162. The Interim Chair acknowledged and welcomed the good working relationship with OHPA. The Director of Legal and FTP had been working closely with Walter Merricks and the team and this was enormously helpful to the GOC. The GOC's concern is to ensure that the set up of OHPA is done in a way that creates the flexibility and possibility for the GOC to join and feel comfortable with it without feeling overly dominated by GMC. She asked that Mr Merricks commented on that.

7163. Mr Merricks replied that, in the current climate, the GMC is very much a partner in what OHPA is doing and they have structural relationships with all their key heads. There is joint representation on a programme board which is tracking progress every month. There is a joint implementation group of non exec board members and GMC Council members and a similar one at Chief Executive level and that engages both organisations. Once they get past 1 April 2011 their relationship will change quite significantly. OHPA will be independent. The arrangement in the Act is that the Treasury has the opportunity to see fair play and to approve the financial levies that OHPA will be making on the regulators so there will be an opportunity for an external body to become involved in that.

7164. The same pattern would be expected to happen with the GOC which is a much smaller body than the GMC and it was hoped that there would be resources to enable the GOC to track the progress with the GMC. It was not expected that a full time member of staff would be allocated to attend the many meetings that they will be having. OHPA will be looking for a partnership with the GOC as the closer we work over the coming months the better for both OHPA and the GOC.

7165. The Interim Chair thanked Mr Merricks for his contribution to both the Council dinner and the public meeting and he left the meeting.

Strategic Plan 2010-15

7166. The Council received **Paper C(12)10** being a report on action since the last Council meeting. It had been agreed at the April Council seminar that a small group of Council Members along with the Registrar and members of the Executive would meet to recommend a mechanism for taking the work forward.

7167. The Group recommended that there should be two workstreams:

- Patient Safety: standards, supervision and accountability
- Regulation and the global market: implications for patient safety

7168. It was also recommended that the Council should be the Project Management Board and that four Council members should be on each Workstream Implementation Group. The operational level should be lead by the Executive, drawing on relevant expertise.

7169. It was noted that the groups would not necessarily need to meet in person and that their business could be conducted by email or telephone

7170. The Interim Chair asked that Members who wished to be involved let her know so that she would be in a position to discuss the membership of the groups with the Registrar.

7171. **RESOLVED:**

- i **that there would be two workstreams:**
 - **Patient Safety: standards, supervision and accountability**
 - **Regulation and the global market: implications for patient safety**
- ii **that Council would act as Project Management Board, four Council members would be on each Workstream Implementation Group and the operational level would be led by the Executive, drawing on relevant expertise.**
- iii **Members indicate their preference for members of the two groups to the Registrar, who will discuss and agree the final group membership with the Chair**

Performance review

7172. Council received **Paper C(13)10** being the Key Performance Indicators. It was noted that this was a work in progress and Members were asked for their comments. It was suggested that there should be a more sophisticated way of reporting and that proposals for this should be brought to the September meeting of Council.

7173. It was suggested that a small group of Council members should meet with the Executive to develop the KPIs. Some members had already been involved so it was proposed that Anna Bradley, Fiona Peel, Peter Douglas and Rob Hogan should be asked to form this group.

7174. It was agreed that there should be a core data set and that Council should know where it was starting and what benefit would be gained. It was suggested that there should be organisational wide KPIs if possible.

7175. Council also received **Paper C(14)10** which were the RAG reports on projects and it was noted that there were no red items.

7176. There was one amber item relating to online retention. The Assistant Director of Registration confirmed that this was a delay in one part of the process which would not affect the whole.

7177. In the FTP section there was an amber item for an external firm to be appointed to carry out a review of the relevant decisions for the introduction of a scrutiny function. The Director of Legal and FTP confirmed that this would be taken up by the interim Director in the summer after her departure. The Director assured Council that this would be able to be completed before the CHRE review in December.

7178. It was noted that there was no budget provision for this and the Financial Controller confirmed that savings had been made and there was £25,000 from the Change Management Reserve that could be used.

7179. **RESOLVED:**

that the Interim Director of Legal and FTP must ensure that an external firm is appointed to carry out a review of the relevant decisions for the introduction of a scrutiny function as soon as possible after appointment and that this must be completed before the CHRE review in December; and that monies from the Change Management Reserve be utilised.

Financial position

7180. The Chair of the Audit Committee asked Council to note **Paper C(15)10** which was the draft audited accounts. He reminded Council that there were new external auditors and so it had taken longer for them to create their own system. He informed Council that there was a deficit of £61,000 after tax. This was a much improved position than the deficit of £289,000 which had been anticipated. This was due to cuts and good budgetary control. He commended the good work on the production of the figures as nothing had been changed on the Income and Expenditure and no adjustments had been made.

7181. The Auditors had commented that a number of internal financial controls would need to be reviewed and revised. These had already been identified and changes had been made for improvement.

7182. It was noted that the accounts were shown in the form that had been historically used but it was suggested that they may not need all the detail shown. This would be reviewed and reported. The reserves of circa three months turnover had been maintained.

7183. The Audit Committee had reviewed the accounts and recommended them for Council's approval.

7184. **RESOLVED:**

that the accounts be approved.

7185. Council noted that the Council meeting in 2011 would be in July rather than June and that this would mean that there would be more time for the final accounts to be prepared for that meeting.

Revalidation

7186. The Council received **Paper C(16)10** which was in two parts: an update on the development of the CET scheme as an evidence base for the future revalidation scheme and the recommendations of the Revalidation Working Group on whether to adopt a 'licence to practise' as part of the plans for revalidation.

7187. The Director of Standards confirmed that he had been in touch with the DH and, contrary to speculation following the Secretary of State's announcement on a delay to revalidation programme for doctors, non-medical revalidation was continuing as planned. Members were informed that Ministers would be reviewing all non-medical revalidation programmes in July.

7188. The Director confirmed that work was still in progress on CET enhancement for revalidation purposes and that more detailed proposals would be brought to the next meeting. The enhancements being developed include minimum requirements:

For optometrists,

- 'Peer review' CET involving the review of patient records and decision making;
- An assessment of clinical skills around the Methods of Ocular Examination and Ocular Disease competency areas;
- CET in the Communication competency area;
- CET in the Professional Conduct competency area;
- CET in the Contact Lens competency area.

For dispensing opticians,

- CET in the Communication competency area;
- CET in the Professional Conduct competency area;
- CET in paediatric dispensing;
- CET in Low Vision.

Requirements for specialty areas are also being considered.

7189. A review of the approval process and criteria for CET events is also being undertaken and an event for CET providers will be held on 30 July in Birmingham.

7190. Members were informed that a consultation document on the licence to practise had been issued on 23 April and a consultation event had been held on 25 May. Three options were listed in the consultation document:

- Option 1 – only those active in clinical practice are revalidated (identified by their having a licence to practise)
- Option 2 – all registrants are revalidated
- Option 3 – all registrants are revalidated but to different degrees

7191. The Revalidation Working Group had met to consider the results of the consultation and there had been no clear outcome. It was noted that the optical bodies also had differing views. The conclusion of the Working Group had been that there should not be a licence to practise but that all registrants should be subject to revalidation (Option 2). The Working Group believed that this would cause the minimum confusion to patients, the public and employers.

7192. In discussion it was noted that some data on proportionality was not yet available and that it was important that what is put in place is proportionate to risk. Although it was thought that Option 2 was probably what should be adopted, it would be unwise to rule out Option 1 as this may be the only way to ensure that registrants who are not in clinical practice are not disadvantaged.

7193. It was noted that, if any changes to the Opticians Act, rather than GOC Rules, were required, the DH would need notification by the end of the summer for it to be in place for 1 January 2013. Introduction of a licence to practise would need a change to the Act.

7194. It was agreed that the DH should be notified that the GOC may possibly wish to go for a licence to practise. More detail would be brought to September Council and then a final decision would be made. It was also agreed that data on proportionality and the number of non-practising registrants on the register, who might be disadvantaged by Option 1 should be circulated to Council before the September meeting if it was available.

7195. **RESOLVED:**

- i. **that the DH should be notified that the GOC may wish to have a licence to practise.**
- ii. **that the data on proportionality and the number of non-practising registrants on the register, who might be disadvantaged by Option 1 should be circulated to Council before the September meeting if available.**

Competencies

7196. The Council received **Paper C(17)10** being details of the revised competencies required for qualification as an optometrist, a dispensing optician and a dispensing optician with contact lens specialty. It was noted that the competencies for therapeutic prescribing were structured to meet the requirements of the National Prescribing Centre and therefore had not been changed.

7197. The Director of Standards confirmed that the competencies had been different for optometrists and dispensing opticians as they had been developed at different times by different groups.

7198. Standards Committee had agreed that they should be changed to be consistent in the structure and terminology used. It was noted that the work of the World Council of Optometry (WCO) and the Optometry Association Australia (OAA) with regard to structure had been drawn upon. A consultation on the structure had taken place between August and November 2007.

7199. Thereafter, ABDO and the College of Optometrists had been invited to make proposals on how the competencies should be developed and a consultation had taken place between December 2008 and January 2009. Volunteers from ABDO and the College had then undertaken work on the competencies during 2009 following the consultations. Standards Committee considered the revised competencies when it met in April 2010 and recommend these revised competencies to Council for approval.

7200. It was noted in discussion that, in some places, the competencies were unclear and not consistent. It was agreed that the Director of Standards would look into this and report back to Council but that the competencies would be approved.

7201. **RESOLVED:**

that the revised competencies for qualification as an optometrist, a dispensing optician and a dispensing optician with contact lens specialty be approved dependent on the Director of Standards reporting back on issues raised.

Complaints protocols

7202. The Council received **Paper C(18)10** being the Audit Committee's recommendations for amendments to the present protocol for complaints procedures against the Council. The Committee had reviewed the protocols and some changes had to be made due to changes in legislation and others to rectify problems with the existing protocol.

7203. It had been decided that there should be two separate protocols, one for staff and committee members etc. and a separate one for Council members. A separate protocol for Council members was advisable as they are appointees of the Privy Council and a decision to remove or suspend a Council member lies with the Privy Council.

7204. It had been pointed out to the Director of Standards that there was a provision in the protocol for Council members that the Chair could decide that a complaint was groundless and no further action would be taken. A similar provision was not available to the Registrar in the staff and committee members' protocol and it was agreed that this should be rectified. It was also suggested that it should be made clear in the protocol that the Audit Committee would review any decisions to ensure that the complaint had been dealt with according to the protocol. It was agreed that the protocols would be approved subject to the amendments agreed.

7205. **RESOLVED:**

- i that, with the suggested amendments, the two protocols be approved.**
- li that the Director of Human Resources and Organisational Development was asked to ensure that references to related GOC policies were cross referenced and brought to Council as a set.**

Equality and Diversity Scheme

7206. The Council received **Paper C(19)10** being the updated Equality and Diversity Action Plan for 2010-12. The Registrar thanked her Executive Assistant, Naomi Ford, and Morag Alexander for their work on this. It was confirmed that a number of items had been already been completed, some would be completed in the next two years and some were ongoing.

7207. Council was asked to consider whether there should be an Equality and Diversity working group to oversee the implementation of the Action Plan. The Registrar confirmed that some of the other regulators had Equality and Diversity Working Groups. Morag Alexander confirmed that she would be happy to give assistance to the Executive, but that the Council as a whole should oversee the plan's implementation.

7208. **RESOLVED:**

that Council monitor the implementation of the Equality and Diversity Action Plan by receiving regular reports at public meetings.

Committee appointments

7209. It was confirmed by the Director of Human Resources and Organisational Development that there had been a good response to the advertisement for the remaining committee vacancies and that interviews would be held on 21, 22, 24 and 28 June. The vacancies to be filled were noted:

- Education Committee – one lay member
- Registration Committee – one optometrist
- Fitness to Practise Committee – two dispensing opticians
- Standards Committee – one dispensing optician
- Investigation Committee – one dispensing optician

7210. It was agreed that Council would meet by teleconference to approve the appointments approximately two weeks after the interviews. It was noted that there was a Strictly Confidential item which would require a teleconference and that this could be done at the same time.

7211. **RESOLVED:**

that Council would meet by teleconference to approve the remaining committee appointments

ITEMS FOR INFORMATION

CHRE Performance Review

7212. There was no update on this item.

Determinations of FTP hearings

7213. The Council received **Paper C(20)10** being the determinations of FTP hearings since February 2010.

Stakeholder engagement activity

7214. The Council received **Paper C(21)10** being information on GOC stakeholder engagement activity.

Health & Safety update

7215. There was no update on this item.

Council meeting dates 2011 & 2012

7216. The Council received **Paper C(22)10** being the Council meeting dates for 2011 and 2012.

Any other business

7217. No further items were raised.

Date and time of next meeting

7218. The next Council meeting will be held at **09:30** on **Thursday 23 September 2010** at 41 Harley Street, London W1G 8DJ.

7219. It was noted that the GOC Stakeholder Reference Groups induction day will be held on Wednesday 22 September 2010.