

GENERAL OPTICAL COUNCIL

Minutes of the 140th Meeting of the Companies Committee  
held on 3 March 2009

**Present:** Mr B J Carroll (in the Chair)  
Professor R Anderson, Mr M W Bateman,  
Mr K Cavaye, Mr J Gordon, Mr I Hamer,  
Mr M Hansford, Mr. A Sadiq (by telephone),  
Ms C Slade

**In attendance:** Mrs J D Taylor, Registrar  
Mr J Levett, Deputy Registrar and Director of Standards  
Ms K Fielding, Director of Communications &  
Information  
Mrs J Burrow, PA to Directors of Standards and  
Communications & Information

**Apologies for absence**

2837. Apologies for absence were received from Mr B Collison and Mr D Perkins.

**Chairman's Opening Remarks**

2838. The Chairman welcomed everyone to the 140th meeting of the committee. On behalf of the Committee, he congratulated Geoff Harris on his appointment as Chairman and Dian Taylor on being appointed as Registrar. He also welcomed new Committee Member, Claire Slade, and introductions were made around the table.

**Declaration of Interests**

2839. The Chairman reminded the Committee of the requirement for Members and Advisers to declare any personal interest under paragraph 6(a) of the Council's Code of Conduct. Mr I Hamer declared that he was now a member of CHRE Council but that he was not involved in the current audit of the GOC.

**Confidentiality**

2840. The Chairman reminded the Committee of the requirement for Members and Advisers to adhere to the rules of confidentiality under GOC Standing Orders 5.23 to 5.26.

**Minutes of the 139th Meeting**

2841. The minutes of the 139th Meeting of the Committee held on 14 October 2008 were agreed as a true and accurate record of the meeting and duly signed by the Chairman.

**Matters Arising**

2842. It was noted that, although this had been brought up at the last meeting, the minutes were still not sent to the Committee until the agenda for this meeting was distributed. It was explained that the Director of Corporate Resources had delegated the production of the minutes just before his departure and therefore their production and distribution had been delayed. The Director for Communications and Information had now taken over the responsibility for Companies Committee and

assured the members that the minutes for this meeting would be distributed within two weeks of the meeting as previously requested and agreed.

2843. The Registrar was asked whether the question of the sale of glasses on line as raised by Mr B Collison some time ago had been resolved. Mr Collison had purchased spectacles online and given them to the previous Registrar to pass on to the Legal team for investigation. These spectacles had been misplaced and therefore the legal team had not followed this up. The Registrar reported that a pair of glasses had been found but she needed Mr Collison to confirm that they were those in question. As he was not at the meeting this would be followed up after the meeting.

2844. The Registrar was asked if the total costs of the Vision Direct case had now been received and she was able to report that all the costs awarded had now been paid.

2845. Minute 2825 – There had been a factual error in the submission from the GOC on the CHRE Proposals for Investigation and Referrals to Regulatory Bodies and this was to be re-issued. The question was raised as to whether this had been done. Unfortunately due to staff changes no-one at the meeting knew; the Registrar to confirm.

2846. It was suggested that a list of Action Points should be attached to the minutes summarising action to be taken and by whom. This was agreed.

2847. Minute 2827(b) – The Director of Standards explained that there was a protocol for criminal prosecutions which sets out the criteria for the initial assessment as to whether a prosecution is pursued. The question was raised as to whether the Council has insurance to cover criminal prosecutions and the Registrar confirmed that it does. This had been looked at recently and premiums had in fact been reduced. She also confirmed the existence of legal reserves and a reserve fund for criminal prosecutions which had been utilised in the current year. The level of reserves had been reduced by half and the Council was now satisfied that it is as suitably covered as it can be.

2848. Business Plan and Budget – the Committee congratulated the executive on the transparency of this process.

2849. NHS sight tests – It was reported that the £19.80 paid by the NHS for a sight tests was worth less in real terms than the fee in 1948. In contrast, the standard of service, training, skill and equipment had advanced enormously. It was reported that the Optometric Fees Review Committee (OFRC) had agreed a three-year deal with the Department of Health. The scope of a sight test provided under the NHS was becoming a major issue and as part of the agreement OFRC would be meeting the DoH to discuss what it was reasonable for the NHS to expect the profession to provide for £19.80.

It was noted that as a result of the recession practices were closing and businesses were merging. Given this background and to avoid adding further to the burden on registrants it was essential that the tightest possible rein be kept on GOC expenditure.

2850. The Registrar was asked whether Rosie Varley was still acting Chair of CHRE. She confirmed that Mrs Varley was no longer acting Chair as Baroness Pitkeathley had been appointed.

## **White Paper - Trust Assurance and Safety**

2851. The Committee received updates on the items listed in **Paper CO(01)09**:

The Director of Standards gave the Committee the following information:

(a) *Section 60 Orders*

2852. The DH has set up a Project Board for the development of OPHA and the Director of Standards is a member of this. The Project Board will set up a reference group to oversee the appointment of the Chair and Chief Executive. The intention is to appoint the Chair in the summer followed by the Chief Executive. The Department is working towards the first cases going to OPHA in 2011. Initially these will just be GMC cases but assurances have been given that the GOC will be the second regulator to come under OPHA.

2853. There are 16 Section 60 Orders to go through but the original timetable is not being adhered to. The DH is seeking advice from CHRE as to legislative priorities. Revalidation may not be the subject of a separate section 60 Order.

(b) *GOC Constitution Order*

2854. This is on track for the establishment of the new Council on 1 April. The Director of Standards was asked when the Council will increase from 12 to 13 members and he confirmed that it would be a matter for the new Council.

(c) *GOC Committee Constitution Rules*

2855. It had not been possible for Companies Committee to be removed from the statute so it will continue for the time being as a statutory committee under the new Council. As few changes as possible had been made regarding this Committee, the main one being the removal of the requirement that a specified number of Council Members must be members of the Committee.

2856. During the consultation AOP and FODO had expressed concerns about the constitution of the FTP Committee and whether there should be business representation on this committee when considering a case against a business registrant. This will be revisited by the new Council. It was agreed that this should be included in the Companies Committee legacy document.

(d) *GOC Council*

2857. Geoff Harris had been appointed as Chair and interviews were now being held for Members. The Appointments Commission's final decision would be on 25 March. As all interviewees would have to be informed of their decisions, it was not expected that there would be an announcement at Council on 26 March. Therefore membership of Council would only be known a week before their first meeting on 2 April.

(e) *GOC Project Board and workstreams*

2858. There was nothing to report from the Project Board or workstreams

(f) *National Working Groups*

2859. The report of the Non Medical Revalidation group had been published. Reports from the National and Local Tackling Concerns groups had not yet been published.

## **GOC Consultation Framework**

2860. The GOC has a statutory duty from 1 April to ensure stakeholder involvement. The Committee received **Paper CO(02)09** which shows how the GOC will go about this and its principles. It incorporates a checklist at the end for staff to complete before anything is presented to Council for approval. The draft framework will go to March Council for approval. The Committee suggested that the optical bodies should be consulted on the draft document and have the opportunity to give the benefit of their advice before it was circulated more widely. It was agreed to do this before the draft goes to Council.

It was noted that the GOC should be explicit about the potential outcome of consultations and should not carry out a consultation in circumstances where decisions had already been made, although the Committee accepted that in the case of the change from the criminal to the civil standard of proof, the GOC was obliged to consult according to the rules. It was explained that this document was only one element of the GOC's overall stakeholder involvement strategy but was the first to be completed.

## **GOC Committees**

2861. The Committee received **Paper C(03)09**. It was agreed that his matter had already been covered in the discussion on the White Paper.

## **Companies Committee future role**

2862. The Chairman asked that this item be taken after items 10 and 11 of the agenda

## **Legacy Report to new Council**

2863. The Chairman referred the Committee to the suggested items for discussion as set out in the email sent to members.

2864. He explained that, in his quotation of the facilitator from the Companies Committee Working Group, the final sentence was in fact his own words.

2865. The Companies Committee 'ownership' of the Code of Conduct for Business Registrants had been recognised.

2866. The Chairman pointed out that it had been four years since the first complaints about the sale and supply of spectacles and three and a half years since he wrote his paper. Over the four years the market had become more established. It was pointed out by the Director of Standards that the DH had said that they would need very strong evidence to justify a change to the Sale of Optical Appliances Order. Indeed they had indicated that any change could lead to further de-regulation. There had been no complaints from the public.

2867. The matter of contact lens substitution was a very important one and would continue to be pursued by the new Council. The DH has indicated that it is willing to incorporate the necessary legislative change in a Section 60 Order. It was initially expected that the order would have been passed by now, but should hopefully be consulted on by this autumn. This could be subject to change. It will be contained in the legacy document to Council.

The legacy document will explain what the current issues are.

2868. The Director of Standards was asked who would draft the wording for the Section 60 Order. He explained that the DH would draft the wording and check with the GOC. There would then be a formal consultation. It was pointed out that there would need to be an option for substitution in certain cases e.g. discontinued lenses or on the clinical judgement of the practitioner. It was agreed that the differences between fitting and supply would need to be clarified.

2869. It was agreed that the Companies Committee Legacy document would be fleshed out from the e-mailed list by the Chairman and Director of Communications and Information and formatted as the ones from other committees.

### **Suggested Key Priorities for new Council**

2870. The Chairman said that his **Paper CO(05)09** was intended to start a discussion. It was agreed that the key areas should be Investigation, FTP and committees.

2871. There has been a recent CHRE consultation on how their audit of FTP cases would be conducted. They decided to limit their audit to 100 cases for each regulator which means that all of the GOC's cases will be audited in the first year but only a sample thereafter. For some other regulators (e.g. GMC and GDC) 100 will only be a small proportion of their cases.

2872. The viability of the sector was discussed. The GOC needs to reflect on its National regulatory role as issues like revalidation could be different in the four countries of the UK. The new Council should have flexibility. It was agreed that the Chairman's paper would go to the new Council as part of the induction pack for new Members.

2873. The Chairman reminded the Committee that in his report Niall Dixon had stated that regulators should be reflective of the groups they regulate. Therefore the new Council should be made aware of the important role of business registrants as major stakeholders and providers of 70% of optical service to the public. It was agreed that the Chairman would add this to his paper.

### **Companies Committee Future Role**

2874. The Registrar confirmed that the GOC will engage with the optical businesses as major stakeholders and recognised their role not only as employers and service providers but as providers of pre-registration training and CET.

2875. It was agreed that optical businesses would have a significant role to play in the implementation of revalidation. It would not be appropriate to adopt a model from other professions.

2876. The Director of Communications and Information suggested that companies representation could be taken forward in either of two ways: as a stakeholder reference group or as a GOC committee with a workplan and projects to complete. If it was to be a reference group, then it would provide input from businesses. If it was to be a committee then the work identified in the workplan would be completed by those who knew the market. The committee would contribute a lot to the GOC and other committees.

2877. The Chairman identified areas where the input of Companies Committee and its representatives had been valuable to Council in the past. They had produced

papers on the sale of optical appliances and on contact lenses and Alan Tinger had been appointed as an adviser to Finance and Procedure Committee.

2878. It would remain to be seen how the new Council would approach committees. The question was raised as to whether there was provision in the appointment of members of Council for there to be companies representation. It was confirmed that instructions from the Privy Council to the Appointments Commission stated that 'appointments should be made such that members of Council should have a knowledge of the professions'. This would not necessarily mean that there would be companies representation. It was noted that companies representation would mean that potential problems may be able to be identified and thereby avoided.

2879. The merits of Working Groups to deal with specific issues and set up with appropriate inter-committee membership was noted.

It was agreed that this should be added to the legacy document. The Registrar indicated that the legacy documents from all the committees would be brought together in one document listing all the issues to go forward to the new Council.

2880. It was agreed that the legacy document would be circulated to Companies Committee.

### **Revalidation**

2881. The committee received **Paper CO(06)09**. A report on appraisal systems was not yet available. There were amendments to be made after the College's CPD Working Group met with the researchers on 7 January. Revalidation will be a key workstream over the coming year or so.

2882. It was noted that revalidation will be expensive for both companies and registrants and attempts were being made to secure funding from the DH, both by the profession and by the GOC. It was suggested that revalidation might be deferred for a couple of years but it was pointed out that this would not be an option as the CHRE and DH are putting pressure on the GOC to take revalidation forward.

2883. It is possible that the GOC may be able to approve company appraisal systems for part of the revalidation process.

2884. Concern was expressed that there may be pressure to adopt the same system as doctors. It was noted that the Non Medical Revalidation Group had reiterated the need for individual solutions due to different levels of risks and systems of employment etc.

2885. A detailed project plan is being put together and it is intended that the scheme will tie in with the 2012-15 CET scheme cycle. It was noted that, if company appraisal systems were to be part of this, there would need to be enough notice for employers to be able to implement it.

2886. The mechanism for the Licence to Practise was discussed. It was suggested that GOC registration could itself constitute the License to Practise, with a separate annotation for 'non-practising registrants' as these would be the minority.

2887. The question of what would happen if a practitioner failed revalidation was raised. The Director of Standards explained that there would be remediation. The GOC would not provide this remediation but employers or other bodies might wish to do this.

2888. The DH report setting out the framework for a cost-benefit analysis of policy proposals on revalidation is expected in the next month or so.

#### **Continuing Professional Development**

2889. The College of Optometrists CPD scheme is being piloted over the summer and will roll out in October 2009. This is a College scheme and the GOC is not involved although the Director of Standards does attend their Working Group meetings. The Working Group is looking at whether CET could count as part of CPD. It is far wider than the CET scheme and covers more than just the core competencies, e.g. business management, health and safety etc. There has been discussion about web tools being developed. The scheme is voluntary and it could possibly be used as part of the evidence for revalidation.

2890. It was noted that ABDO has no plans for a CPD scheme for dispensing opticians.

#### **Sale and Supply of optical appliances**

2891. This had already been covered in previous items on the agenda.

#### **Standards Committee consultations**

2892. The Director of Standards reported that the Competencies consultation had produced some very detailed responses and therefore it had been decided to reconvene the Working Group and take firm proposals to the new Council early in the summer.

2893. The consultation on the codes of conduct is still in progress and ends in April. There had been a meeting with FODO who had expressed concerns on the whistleblowing element of the codes. The Director of Standards confirmed that there would be a stakeholder event towards the end of the consultation.

#### **Items for information**

2894. Members received **Paper CO(07)09** on GOC Working Groups, **Paper CO(08)09** on the CET Scheme and **Paper CO(09)09** on the Vetting and Barring Scheme. These were duly noted.

#### **Date of Next Meeting**

2895. The next meeting of the Committee will be decided by the new Council but is expected to be at the end of June.

2896. The autumn meeting will be held on **14 October 2009** at **2.00 p.m.** as previously indicated in the calendar of meetings.

*Kiri*  
*14/10/2009.*