

GENERAL OPTICAL COUNCIL

Trust, Assurance and Safety – Update and Matters for Decision

Governance

White Paper Proposals

Councils should have, as a minimum, parity of membership between lay and professional members to ensure that purely professional concerns are not thought to dominate their work

To dispel the perception that councils are overly sympathetic to the professionals they regulate, council members will be independently appointed by the Appointments Commission against clearly specified criteria and competencies

To enable councils to focus more effectively on strategy and the oversight of their executives, they will become smaller and more board-like, with greater consistency of size and role across the professional regulatory bodies

The Constitution of Council

1. The Government has completed its consultation on the draft Section 60 Order which will amend the Opticians Act 1989 to allow for the constitution of Council to be set out in secondary legislation, a Constitution Order. GOC's response to the consultation on the Section 60 Order is annexed – **Annex 1**.
2. The Constitution Order will specify a smaller, more board-like, Council with at least parity of membership between lay and registrant members to implement the relevant White Paper proposals outlined above.
3. Council decided in March 2007 that a new board-like Council should not have more than 13 members, including a separately appointed lay Chairman. In November 2007, Council decided that the registrant membership of Council should consist of 4 optometrists and 2 dispensing opticians. If Council were to be constituted as having 13 members, it would have a lay majority.
4. Whilst the legislation to enable the Constitution Order to specify a membership of Council with parity of membership between lay and registrant members is expected to be in place shortly, the timetable for having the legislation in place to enable a lay majority on Council is more protracted.

5. In practical terms, taking into account the legislative timetable and the timetable for the appointment of Council members, this means that GOC could have a smaller Council with **parity** membership in place for **April 2009**. However, a **lay majority** Council would not be able to be established until **early 2010**.

6. This leaves Council with a number of options as to how it may wish to proceed.

Option 1 – The current constitution of Council remains until the legislation is passed for a lay majority

7. Under this option, no changes are made to the current constitution of Council until the relevant legislation is passed to allow for a lay majority in early 2010

Option 2 – A newly constituted Council with 6 lay members and 6 professional members is established, with an additional lay member being appointed once the legislation is passed for a lay majority

8. Under this option, Council could plan for a newly constituted Council with parity of membership between professional and lay members to be established in April 2009. An additional lay member could be appointed to Council once the relevant legislation was passed. Whilst there would be uncertainty in the timing of such an appointment, the impact of such uncertainty on Council would be minimal.

Option 3 – A newly constituted Council with 7 lay members and 7 professional members is established, with 1 professional member having the length of their term of office set for 1 year only, to put into effect a lay majority upon their leaving Council

9. Under this option, Council could plan for a newly constituted Council with parity of membership between professional and lay members to be established in April 2009. One of the professional members could have their term of office limited to 1 year, and would not be replaced upon their retirement. By this time a revised Constitution Order should have been made allowing for a lay majority, and could be enacted to coincide with the retirement of the professional member in April 2010.

10. Should Council prefer this option, consideration will need to be given as to the impact on having an additional professional member for one year on the decision for registrant members to comprise of 4 optometrists and 2 dispensing opticians. Should the additional member be a dispensing optician, or be selected purely on the basis of their suitability to fill this role whether they are an optometrist or dispensing optician?

Council is asked to decide which of the above options to pursue. [Work will then commence with the Department of Health on the drafting of a Constitution Order. If options 2 or 3 are pursued, a draft Order will be considered by Council at its meeting in May 2008. The Department will then carry out a consultation on the Order in July 2008.]

Council member appointments

11. The Appointments Commission has indicated that it would be able to begin the process of appointing members prior to GOC's Constitution Order being formally made. However, appointments could not be confirmed until after the making of the Order (probably in September 2009). This will allow time for a Chair to be appointed prior to the other members. The Chair will then be able to be involved in the process of appointing the other Council members.

12. The Project Board has been working on a Person Specification for members of the Council – see **Annex 2 (to follow)**. This will be used by the Appointments Commission in the process of selecting and appointing Council members.

Council is asked to approve the person specification.

Committee member appointments

13. With a smaller, more board-like Council, focussed on strategic matters, it will be necessary to populate Council's committees with non-Council members. The future constitution of Council's committees, to support the new Council, has yet to be decided. However, it is likely that Council will need to make around 40-50 appointments to its committees, and provide for induction and training, before April 2009 to ensure that the new Council has a committee structure to support it.

14. In addition, the term of office of the current members of the Fitness to Practise Committee expires on 30th June 2010. The current members are able to serve for a further term. However, this will be subject to their willingness to serve further term and satisfactory performance evidenced through appraisal. In short, a further 40 appointments will need to be reviewed and made in 2009.

15. Forthcoming changes to the Opticians Act 1989 make provision for Council to use an independent body to assist it in the making of appointments to committees. As such, Council may decide to use an independent body, e.g. the Appointments Commission, to appoint non-Council members to its committees. Alternatively, Council may decide to establish its own Appointments Board.

16. **Annex 3 (to follow)** sets out the options for taking this work forward, and the costs, benefits and risks associated with each.

Council is asked to consider the options outlined in Annex 3 and agree which option to pursue.

Tackling Concerns

White Paper Proposal

In the adjudication of fitness to practise cases for all health professionals, panels should use the civil standard of proof rather than the criminal standard

17. The Health and Social Care Bill 2008 includes provisions which will make it a requirement for the Fitness to Practise Committee to apply the civil standard of proof, rather than the criminal standard as is currently the case, in fitness to practise hearings. It is expected that the Bill will receive Royal Assent on 28th June, 2008 with the relevant provisions relating to the standard of proof being enforced on 28th August, 2008.

18. At its meeting in November 2007, Council agreed that the Fitness to Practise Rules should be changed to include a rule mirroring the obligation in the Bill requiring the Fitness to Practise Committee to apply the civil standard of proof. In its discussions, Council emphasised the importance of guidance being available to the Committee on its application, particularly given the 'flexible' nature of the civil standard of proof.

19. A consultation document has been prepared on a proposed amendment to the Fitness to Practise Rules as well as guidance for the Committee – **Annex 4**.

20. The consultation will run until the end of May 2008. The Tackling Concerns Workstream will consider an analysis of the responses at its meeting of 4th June. Council will be asked to make the rule changes and approve the guidance at its meeting of 3rd July 2008.

Council is asked to approve the consultation document.

Communications

21. The Project Board recognise the critical nature of communications for the success of this programme. The following communications objectives have been agreed:

- Ensure key stakeholders understand the project aims, objectives and timetable (what we're doing, why and when) and what it will mean for them.
- Provide opportunities for stakeholders to participate in debate and influence decision-making.
- Create support for the GOC's position and actions.

- Maximise opportunities arising out of the project to increase the GOC's influence and reputation.

22. Two initial 'brainstorming' sessions have been facilitated by the Head of Communications with members of the Project Board and Tackling Concerns workstream. These have identified some of the main stakeholders for the project, and a number of key messages and project 'milestones' (key points for communication).

23. Work is now underway to refine the communications plan to identify immediate and future communications activities required, and to put these into place. For example, activities are likely to include a new dedicated area on the GOC website, further briefings to optical bodies and presentations to registrants at appropriate events.

24. Communications plans will be actively managed by the Project Board and workstreams.

Council is asked to note the planned approach to communications with stakeholders.