

## GENERAL OPTICAL COUNCIL

### Approaches to the statutory requirement for stakeholder involvement

#### **Introduction**

1. This paper sets out options for engaging key constituencies in the decisions of Council. Engagement is a broad concept, which can range from involving representatives of relevant groups in policy and decision-making processes, to one-way communications which inform and raise awareness but do not give stakeholders any say in what goes on.
2. The GOC must decide on the structures needed both to satisfy itself and to demonstrate to others that it is properly informed of the views of stakeholders and that these are taken into account when decisions are made. Therefore, this paper deals primarily with the 'higher end' of the engagement spectrum, concentrating on interactive forms of engagement, though of course these do not operate in isolation from the wider communications agenda.
3. Decisions made about stakeholder involvement will depend to some extent on Council's view of the role of committees. In crude terms, Council will need to agree whether committees exist solely to deliver the work within their agenda, or whether they play a role in facilitating stakeholder involvement.
4. Members should also be aware in discussing these issues that decisions in principle to structure stakeholder involvement in a particular way may have a bearing on the constitution of committees. Instances where this may be relevant have been flagged within this paper.

#### **Background**

5. The GOC's new statutory *Duties of co-operation* will come into force this summer. They state:

- (1) In exercising their functions, the Council (including their staff and their committees) shall –
  - (a) have proper regard for –
    - (i) the interests of persons using or needing the services of registrants in the United Kingdom, and
    - (ii) any differing interests of different categories of registrants or prospective registrants
  - (b) co-operate, insofar as is appropriate and reasonably practical, with public bodies or other persons concerned with –
    - (i) the employment (whether or not under a contract of service) of individual registrants,
    - (ii) the education and training of individual registrants or of other health care professionals,

- (iii) the regulation of, or the co-ordination of the regulation of, other health or social care professions,
- (iv) the regulation of health services, and
- (v) the provision, supervision or management of health services.

(2) In carrying out its duty to co-operate under sub-paragraph 1(b), the General Council shall have regard to any differing considerations relating to practising as an individual registrant, or carrying on business as a business registrant, which apply in England, Scotland, Wales or Northern Ireland.

6. Engaging with stakeholders is important for good governance and effective public protection. It can provide a positive opportunity to test organisational strategy and policies, and may bring fresh perspectives and new ideas to all levels of debate and decision-making. Stakeholder engagement can contribute to sustaining the confidence of the regulated professions in the work of the regulator, as well as that of public and patients. Ultimately, it will enhance the Council's confidence in its own decisions as well as giving greater legitimacy to the Council in the eyes of its stakeholders.

### **Current approach**

7. The Council has traditionally involved stakeholders through representative membership on Council. Committee membership is almost entirely drawn from the pool of Council members, hence reflects the representative approach to membership. Committee constitution rules dictate the balance on statutory committees. Some representation is provided through nominated advisers to particular committees (most notably FODO's nominations to Companies Committee).

8. At the next level, some specific stakeholder forums have been created to inform decision making. An example is the CET Advisory Panel. Regular dialogues also take place with key groups, including the professional bodies and universities. Further along the spectrum, there has been some wider consultation on policy with individual registrants and patient representative groups.

### **Gaps in current approach**

9. The current approach has been successful in some respects. However, new structures will be needed to reflect the changes to Council and committee structures as a result of the White Paper. We will also need to close some gaps in the current approach in terms of meeting the new statutory 'duties of co-operation'.

10. Not all stakeholder groups are represented on Council or its committees. Without much larger committees, it would be impossible to adequately represent even the registrants/potential registrants group, given that there are five different categories of registration, three specialties, and a wide geographical spread. Specific stakeholder forums and opportunities for dialogue have been largely focused on professional and representative

bodies, and have rarely included patient groups or representatives. Finally, consultation has been ad hoc in the absence of guidelines about what type of decisions should be the subject of consultation. Participation in consultation has also been patchy, with public and patients' views again largely absent.

11. The new statutory definition of the GOC's key stakeholder groups may raise questions about the future status of Companies Committee. Currently Companies Committee has a unique status, as its purpose is to represent the views of business registrants rather than to deliver a programme of work in the same way as the other statutory committees. Given that the duties of co-operation identify seven distinct stakeholder groups, it may in future appear anomalous to provide this forum for a single group.

### **Options appraisal**

12. The options below set out a number of different structures which can be used to achieve stakeholder engagement. These are not necessarily alternatives, indeed it is unlikely that the GOC will be able to meet its duties of co-operation by employing any of these methods in isolation.

#### **Option 1 – modified representative model**

13. Council members will no longer be elected or nominated. However, much of the detailed work concerning policy and its implementation will now take place at committee level. Membership of committees is one means of ensuring appropriate stakeholder involvement. Using the existing advisers system as a model, each committee would identify the necessary expert input to carry out its work.

#### **Pros/cons**

14. This option ensures stakeholder involvement in decision-making at a high level. However, consequently it would not be appropriate to include individuals who lacked the appropriate expertise or competencies to participate at this level. As a result, this option is unlikely on its own to provide sufficient input from all categories of stakeholders to meet the requirement.

#### **Option 2 – requirement to consult**

15. Currently there is no requirement or guidance about what information should be available to Council and its committees in order to make a decision. Committees would be required to consult on policy decisions in accordance with a written consultation framework. The requirement could be included in standing orders. The consultation framework would identify the types of decisions where committees would need further evidence of stakeholder views, in order to meet the duties of co-operation. The committee would be required to consider an impact assessment in respect of these decisions, to include an appraisal of the likely effects on each category of stakeholder.

#### **Pros/cons**

16. As a public interest body, the GOC should consult as a matter of course. Having a written framework would help to ensure best practice and a

consistent approach, and avoid obvious built-in bias or manipulation. However, it can be difficult to achieve good participation and balance from consultations. For example, there is likely to be greater interest from registrants than patient groups in many topics of consultation. Resources may be an issue, with charities in particular often unable to respond to large numbers of consultations. Finally, this method can promote a fairly surface or single-issue engagement which may mean it is best used in conjunction with other methods.

### **Option 3 – standing advisory group(s)**

17. A standing advisory group or groups would be established, with a broad cross-section of membership to include representatives of each of the stakeholder groups. If multiple groups were established, these might be attached to each of the statutory committees, with a separate group attached to Council to ensure appropriate engagement with strategic and governance issues. The groups would meet on a regular basis (eg twice a year) and provide feedback on the overall agenda as well as contributing to specific policy debates.

#### **Pros/cons**

18. The GOC has already used standing advisory groups successfully, for example the CET Advisory Panel. Such groups provide a broad range of input and experience which informs debate, but maintain clear separation between the stakeholder advisory function and the management and decision-making responsibility of the committee. Having groups attached to a particular committee can help to improve the focus and quality of debate. However, ensuring adequate representation from all stakeholder groups may mean these groups would need to be fairly large.

19. An advantage of including a cross-section of stakeholders in a single group is the opportunity for groups with competing interests to understand each others' perspectives and potentially for compromise positions to be reached. The Council would need to consider how members were selected, appointed and performance managed, as well as issues around payment, confidentiality etc. Questions of reasonableness and proportionality may come into play around the available resource. This may lead to adjustments (eg the number of groups/number of meetings per year).

### **Option 4 – stakeholder reference groups**

20. The Council may choose to create a number of stakeholder-specific reference groups which it could approach on an ad-hoc basis with questions of policy. These would provide a flexible resource – for example they may be a 'virtual group' of employers responding online or by email, a small sub-group of these might take part in a focus group event, or there might be an annual event once a year to bring them together in a conference/seminar-type setting.

## **Pros/cons**

21. These groups would work well alongside consultation to explore particular aspects of policy in depth and to supplement expert input to committees. The same issues of recruiting, managing and paying participants would apply as in Option 3. This method may also be open to manipulation, and may lack the depth of engagement offered by standing advisory groups.

22. Separate reference groups can prove unsatisfactory as an overall approach to stakeholder involvement, due to the likelihood of each group reaching conclusions on party lines. The Council would then be left with the problem of weighing competing interests. It may also prove difficult to sustain interest and commitment from participants without regular interaction, though there would be ways to avoid this (eg regular newsletters, and/or pursuing the annual forum idea).

## **Assumptions about committee model**

23. The options above assume that committees have management responsibility for decisions taken. This would be a fairly logical consequence of opting for statutory committees. An alternative approach would be for Council to delegate responsibility not to the committee, but to the Executive. In this case, Council may take the view that the primary role of committees is to provide stakeholder input, rather than fulfil an operational function. The committee would then itself effectively become a standing advisory group, obviating the need for a further 'outer circle' of stakeholder input in this way.

## **Recommendation**

24. It is recommended that the Council adopts an approach which combines several of the above options in order to achieve the benefits of the different approaches whilst mitigating the risks attached to using any one in isolation. Option 1 does not require further work, though if it is endorsed, the committee constitution arrangements (see paper 15(08)) should be considered in the light of this decision. If option 2 is endorsed, the Executive will prepare a draft consultation framework/policy for approval.

## **Council is asked to endorse options 1 and 2.**

25. In relation to options 3 and 4, further work is needed to outline options and costs relating to the structure and number of groups and frequency of meetings, and to develop suggested approaches to recruitment/appointment/performance management/remuneration etc.

Therefore, **Council is asked to indicate whether it wishes to further develop either or both of options 3 and 4.**