

## GENERAL OPTICAL COUNCIL

### *The future statutory status and constitution of GOC committees*

#### **Introduction**

1. At its meeting of 13 March, 2008, Council decided that, in response to the reforms to be introduced by the White Paper, it wished to move to a smaller Council of 12 members (6 lay members and 6 registrant members) in April 2009. Thereafter, the new Council may decide to move to a lay majority Council of 13 members once the relevant legislation is passed to enable this (probably early 2010). The revised constitution of Council will be set out in a Constitution Order which will replace Schedule 1 of the Opticians Act 1989. Work has now commenced on the drafting of a revised constitution order for GOC.

2. In addition to revising its own constitution, Council will need to revise the constitution of its statutory committees. The Committee Constitution Rules currently set out the constitution of the GOC's statutory committees - see **Annex 1**. These rules will need revising for three principle reasons:

(i) The current Committee Constitution Rules refer to Schedule 1 of the Act, and hence the rules will need to be amended to reflect the amendments to be made to the legislation regarding the constitution of Council;

(ii) The smaller number of members of Council will mean that there will not be sufficient members to populate Council's various statutory committees, and hence provision will need to be made in the Committee Constitution Rules to allow for committee members to be appointed who are not themselves members of Council. Currently, the rules determine for a number of the GOC's statutory committees that they are composed entirely of members of Council;

(iii) The White Paper directs that Councils should become smaller and more board-like to enable a focus at Council level on strategy, governance, and holding to account those responsible for carrying out operational duties. It is envisaged that committees, along with the executive, will be responsible for carrying out and the oversight of some operational duties, as well as providing advice to the Council.<sup>1</sup> As pointed out above, a number of the GOC's statutory committees are composed entirely of members of Council. The Committee Constitution Rules will need amending to allow for an appropriate separation of roles between those who carry out and oversee operational duties and provide advice and those who act as governors on Council to whom the

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<sup>1</sup> Thus the White Paper states:

*'The intention is to ensure that councils focus on strategic rather than operational issues with the aim of assuring excellence in delivery in the long term.'* (p.27)

*'Council members' sole function should be to act as strategic board members and they should not be engaged in operational matters where impartiality and independence are paramount.'* (p.66)

former are accountable and whose advice will need to be challenged and probed by Council.

3. Each of GOC's statutory committees (with the exception of the Registration Appeals Committee, the Fitness to Practise Committee, and the Hearings Panel) has been asked to consider their future constitution in the last round of meetings. In addition, Standards Committee and Companies Committee have been asked to consider whether they wish to be retained as statutory committees of GOC. The views of the committees are set out below, and summarised in **Annex 2**.

4. Once the Council has decided how it wishes its statutory committees to be constituted, work will begin on redrafting GOC's Committee Constitution Rules to reflect the wishes of Council. It is anticipated that rules will be drafted to be made by Council in November 2008.

5. At its meeting of 13<sup>th</sup> March, 2008, Council decided that, for reasons of continuity, that the existing membership of committees be maintained for a transitional period. Therefore, whilst the constitution of the committees may change under revised rules, as far as possible the existing membership of the committees will be retained under the revised constitutions.

### **The status of Standards Committee and Companies Committee**

6. At its meeting of 22 November, 2007, Council decided that at least Registration Committee, Education Committee and Investigation Committee should be retained as statutory committees. As to whether Standards Committee and Companies Committee were to be retained as statutory committees was not decided.

7. Council will now need to come to a final view on the status of Standards Committee and Companies Committee. This is because the Department of Health intends to consult on a Section 60 Order in July 2008 which, if necessary, will include the provisions removing any of the GOC's existing statutory committees from the statute.

8. Standards Committee felt that since one of the core functions of the GOC was the maintenance of standards of optometrists and dispensing opticians, it would be inappropriate for the committee tasked with oversight of this area not to have statutory status. It was noted that Council had decided in 2005 to change Standards Committee's status to a statutory one and nothing appeared to have happened subsequently that would suggest the necessity of reversion to non-statutory status.

9. Companies Committee felt that it should be retained as a standing, but non-statutory, committee of GOC. The Committee felt that it was important that the new Council had flexibility to adapt the constitution of the committee to changing circumstances, and was particularly mindful of the need for its membership to reflect the employment context within which the vast majority of primary eye care is delivered and within which the majority of individual registrants operate. The importance of the role of employers in Niall Dickson's report was noted – 'It is important (for regulators) to engage with employers at a policy level to ensure the regulator can effectively reflect the current context within which their registrants are working' (section 4.23). It felt that flexibility on the part of Council with regard to the constitution of the committee was

crucial here, and that this could only be delivered if Companies Committee had a non-statutory status. The Committee was mindful that the hand of the new Council should not be tied with respect to the constitution of the committee.

10. If Council agrees with the recommendation of the Committee, GOC will advise the Department of Health that it wishes Companies Committee to be removed from the Opticians Act 1989 as a statutory committee of GOC. This will be achieved through the planned 'Structures and Governance' Section 60 Order which the Department will consult on during the summer of 2009. The future constitution of Companies Committee as a non-statutory committee will not then be set out in rules, but in standing orders which are determined by Council and do not require Privy Council approval.

**Council is asked to consider** the recommendations of Standards Committee and Companies Committee and decide:

- (a) Whether Standards Committee should be retained as a statutory committee; and
- (b) Whether Companies Committee should be retained as a standing, but non-statutory, committee.

### **The size and composition of statutory committees**

11. The Committee Constitution Rules set out the size and composition of each of GOC's statutory committees. Each committee was asked to reflect on its current size and composition, and come to a view as to how it should be composed under the new Council. The committees came to the following conclusions:

#### *Education Committee*

12. The Education Committee felt that its current composition represented an appropriate balance between optometrists, dispensing opticians, medical practitioners and lay members. In considering how its membership should be constituted, the committee considered the expertise needed to carry out its core functions in order to command the confidence of GOC stakeholders and reflect the perspectives that need to be taken into account when formulating its views. It was felt that in order to ensure an appropriate level of educational expertise the ability to appoint advisers is also required. As such, the Committee felt that it should consist of:

- (a) Three lay persons;
- (b) Five optometrists;
- (c) Four dispensing opticians; and
- (d) Two registered medical practitioners.

#### *Investigation Committee*

13. The Investigation Committee considered that its existing size and composition (i.e. nine members, of whom three are optometrists, two are dispensing opticians, three are lay and one is a registered medical practitioner) was appropriate. It provides the appropriate balance to enable the variety of complaints considered by the Committee properly to be considered. A reduction in numbers would make it more difficult for

members to give sufficient attention to what can be a daunting caseload; an increase would risk the committee becoming unwieldy.

#### *Registration Committee*

14. The Registration Committee considered that it should consist of:

- (a) A 'legislative minimum core' of at least one optometrist, one dispensing optician, and one lay member;
- (b) In addition, it should include at least one member from an educational or training background and at least one member who is employed by a corporate body to provide a business perspective to the committee's work.

It was felt that the ideal overall size was ten members, with two each of the above.

The Committee should be able to appoint additional persons to advise it who could provide other perspectives.

#### *Standards Committee*

15. It was felt that Standards Committee's current composition represented an appropriate balance between optometrists, dispensing opticians, medical practitioners and lay members and that rather than require specific sector representatives, there should be the option to include a business registrant and the ability to appoint advisers in areas where expertise was needed. As such, the Committee felt that it should consist of:

- (a) Three lay persons;
- (b) Three optometrists;
- (c) Two dispensing opticians; and
- (d) One registered medical practitioner

**Council is asked to consider** the recommendations of Education Committee, Investigation Committee, Registration Committee and Standards Committee and decide the future size and composition of each committee.

#### **Quorum**

16. The Committee Constitution Rules set out the quorum of each statutory committee. The committees came to the following views regarding their future quorum:

#### *Education Committee*

17. Education Committee considered that the quorum of the committee should remain unchanged, i.e. five including one lay member, one optometrist member and one dispensing optician member.

#### *Investigation Committee*

18. The Investigation Committee was of the view that its quorum should remain five members, including at least one optometrist, one dispensing optician and one lay member.

#### *Registration Committee*

19. Registration Committee considered the quorum should be one optometrist, one dispensing optician and one lay member.

*Standards Committee*

20. Standards Committee considered that the quorum of the committee should remain unchanged, i.e. five including one lay member, one optometrist member and one dispensing optician member.

**Council is asked to consider** the recommendations of Education Committee, Investigation Committee, Registration Committee and Standards Committee and decide the future quorum of each committee.

**Chairman**

21. The current Committee Constitution Rules direct that each committee should elect its chairman. Each committee was asked whether, under the revised arrangements, it wished to continue to elect its chair, or whether the chair should be appointed by the Council into this role. The committees came to the following conclusions:

*Education Committee*

22. Education Committee felt that this matter should be left to Council to determine.

*Investigation Committee*

23. The Investigation Committee considered that the new Council should take the decision as to whether its chair was, in future, elected by the Committee or appointed by Council.

24. Concern was expressed that for the chair to be a member of Council would involve too great a burden being placed upon one individual. Countering this, the suggestion was made that, should the chair be a non-Council member but the deputy (or other members) were Council members, this could lead to tensions between the chair and those committee members who sat on Council. On balance, it was considered the role of Chairman should be reserved to a member of Council.

*Registration Committee*

25. Registration Committee felt that this should be left to the new Council to decide.

26. The committee discussed at some length the possibility that the chair of the committee could be the senior executive of the Council who had executive responsibility for the registration function. The new Board, through the office of the Chief Executive, would hold the senior executive responsible for delivering the strategic objectives of registration matters to Council. That person would need to be able to set the agenda for the Registration Committee, and would be accountable to the Board for its delivery. This would not be the case if the Chairman was elected by the committee or a person appointed by Council who was not accountable to the Board. This suggestion was discussed in relation to the appointment of the Chairman to all statutory committees and not just Registration committee.

*Standards Committee*

27. Standards Committee felt that this should be left to Council to decide, to ensure there was consistency of approach across the statutory committees.

**Council is asked to consider** the recommendations of Education Committee, Investigation Committee, Registration Committee and Standards Committee and decide what should be included in the rules on the appointment or election of the chairs of the committees.

### **Term of office of Committee members/chairman**

28. The maximum term of office of members of Standards Committee is not presently set out in the Committee Constitution Rules or in Standing Orders. Council has reviewed the membership on an annual basis, and the chairman of each committee is elected by the committee membership annually.

29. Under the revised arrangements, the maximum term of office of committee members could be set out in the rules (to be confirmed by DH) or in Standing Orders. This would ensure that the membership of committees was regularly refreshed. Similarly, the maximum term of office of the Chairman could be set out in the rules or in standing orders.

30. Each committee was asked to consider whether maximums term of office should be set out in the rules or in standing orders, and if so, what this should be. The committees came to the following conclusions:

#### *Education Committee*

31. Education Committee felt that this matter should be left to Council to determine.

#### *Investigation Committee*

32. Investigation Committee considered that this decision should properly be taken by the new Council.

#### *Registration Committee*

33. Registration Committee felt that terms of office should be left to the new Council to determine in order to ensure consistency across all committees. It noted the need to stagger appointments from a standing start so that members' terms of office did not all end on the same date.

#### *Standards Committee*

34. Standards Committee felt that this matter should be left to Council to determine.

**Council is asked to consider** the recommendations of Education Committee, Investigation Committee, Registration Committee and Standards Committee and decide whether maximum terms of office for each committee should be set out in rules or standing orders.

### **Disqualification for appointment, and the suspension and removal of members**

35. It is expected that the Constitution Order for Council will include provisions relating to the disqualification for appointment as a member of Council, and provisions

relating to the suspension and removal of members. An example of the provisions expected to be included in the Constitution Order are annexed - **Annex 3**.

36. To secure stakeholder confidence, the same level of probity and integrity should be expected of members of the GOC's committees as are expected of its Council members. Therefore, provisions relating to the disqualification for appointment, and the suspension and removal of Council members, should arguably also be adapted to apply to members of the GOC's committees. Each committee was asked to consider Annex 3, and discuss whether such provisions should be adapted to be included in the Committee Constitution Rules. The committees came to the following conclusions:

#### *Education Committee*

37. Education Committee felt that this matter should be left to Council to determine.

#### *Investigation Committee*

38. The Investigation Committee considered that that provisions of the nature set out in Annex 3 were appropriate.

#### *Registration Committee*

39. Registration Committee was content that the provisions of Annex 3 be incorporated in the Committee Constitution Rules, but that this should be consistent across committees.

#### *Standards Committee*

40. Standards Committee felt that this matter should be left to Council to determine.

**Council is asked to consider** the recommendations of Education Committee, Investigation Committee, Registration Committee and Standards Committee and decide whether provisions relating to the disqualification for appointment, and the suspension and removal of members, be included in the Committee Constitution Rules to mirror those included in the Council's Constitution Order.

### **Consultation**

41. Council is only statutorily obliged to consult on the rules for the constitution of Companies Committee, and not its other statutory committees. Therefore, if Council agrees with the recommendation from Companies Committee that it should lose its status as a statutory committee, there will remain no statutory obligation to consult on the required rule changes. However, Council may still wish to consult with stakeholders on its proposals for the revised constitution of its statutory committees. If so, a consultation document could be prepared setting out the proposed changes, and the reasons behind them. There will also be an opportunity to discuss the proposals at a planned event to be held with stakeholders on White Paper issues at the end of July.

**Council is asked to consider** the approach it wishes to take with regard to consultation with stakeholders on the planned reforms to the constitution of its statutory committees.