

To consider

OHPA Joint Co-ordination Group: Progress Report

Issue

1. At its first meeting on 24 June 2010, the Joint Co-ordination Group agreed to provide a regular report to Council on progress toward the creation of the Office of the Health Professions Adjudicator and the associated transfer of the Adjudication function. This will include a note of any 'by exception' issues that need to be brought to the attention of Council. This paper provides a review of progress.

Recommendation

2. To note the progress that has been made in establishing the Office of the Health Professions Adjudicator and the associated transfer of the Adjudication function (paragraphs 12-27).

Further information

3. If you require further information about this paper, please contact us by email: gmc@gmc-uk.org or tel. 0161 9236602.

Background

4. Strategic Aim Two in the 2010 Business Plan is to 'give all our key interest groups confidence that doctors are fit to practise', including that we will work with the Office of the Health Professions Adjudicator to prepare for the transfer of our adjudication function.

5. The White Paper *Trust, Assurance and Safety* committed to establishing a new independent body, the Office of Health Professions Adjudicator (OHPA), to conduct the Adjudication function in cases where a doctor's fitness to practise is in doubt. This was enabled by the Health and Social Care Act 2008.

6. OHPA was established as a legal entity on 25 January 2010. However, the elements of the Health and Social Care Act which will transfer statutory responsibility for Adjudication, have yet to be commenced. The Government has committed to having OHPA fully operational in April 2011 when the GMC's Adjudication function will be transferred across.

7. Both organisations recognised the need to plan and prepare for the transfer and we have been working closely with colleagues at OHPA to establish appropriate programme architecture and joint oversight arrangements.

8. The programme architecture is made up of the OHPA Programme Board - which is chaired by the Chief Executive of OHPA, an implementation group, and individual project delivery teams at both the GMC and OHPA. The project teams are split into seven work streams: Accommodation; Finance; HR; IT; Preparing GMC for post-transfer operations; Rules and Policy; and Stakeholder relations and internal communications. Day-to-day oversight of the work streams and their dependencies is provided by the GMC and OHPA programme management teams.

9. We have identified five key phases for the project. The first three phases cover the preparation required before OHPA goes live. The final two phases cover the period of adaptation after transfer and the business change activities that will be required in response to the changes that OHPA plan to make to its rules and procedures in 2012. The five stages can be broadly described as follows:

- a. Phase 1, May – August 2010: Plan/prepare for implementation.
- b. Phase 2, September – December 2010: Prepare for implementation.
- c. Phase 3, January – April 2011: Implementation and transfer.
- d. Phase 4, April – August 2011: Period of adaptation.
- e. Phase 5, September 2011 – February 2012: Respond to new OHPA rules and procedures.

10. To ensure robust governance, we have put in place joint oversight arrangements, with two groups. The first is the Joint Implementation Group (JIG), which acts on behalf of the governing bodies to consider joint proposals from the two management teams and resolves issues as they arise. The second is the Joint Co-ordination Group, which is responsible for reviewing and providing assurance to both governing bodies that risks are being managed, plans are being developed, and resources are in place. This group comprises OHPA non-executive directors and GMC Council members.

11. Finally, the governance arrangements also cater for other key interested groups, including the DH(E) and the Administrative Justice Tribunal Council, both of whom have a valuable contribution to make to the programme.

Discussion

OHPA's approach to effecting the transition

12. In March 2010, the OHPA Board decided that the most appropriate way to manage the transfer of the Adjudication function is to follow an 'adopt and adapt' approach. By doing so, OHPA intend to adopt (albeit with some variations) the GMC's rules, accommodation and infrastructure for the first 9 – 12 months of operations. OHPA will then look to further develop its rules and infrastructure once its operations have bedded down successfully.

13. This approach is welcomed by the GMC, although we would like to see some of the initiatives that will result in a reduction of adjudication costs implemented as soon as is practically possible. It is however, an approach that we have previously advocated and should mean that the level of disruption to those involved in our procedures is limited at the point of transfer.

First meeting of the JIG

14. The first meeting of the JIG took place on 21 April 2010.

15. At the meeting, the Group agreed the terms of reference and a set of joint objectives and dependencies. Key risks were also discussed in relation to transitional funding, the ongoing OHPA costing model and OHPA's accommodation needs. An outline programme plan was discussed but the Group agreed that further work was required in order to develop joint plans, and it was agreed that a revised, updated plan would be brought back to the next meeting for agreement.

First meeting of the JCG

16. The first meeting of the JCG took place on 24 June 2010 and was attended by four members of the GMC Council and all five members of the OHPA Board including the Chief Executive and Chair. The GMC's Deputy Chief Executive and Resources Director also attended the meeting.

17. The Group was given an overview of the programme by the OHPA Chair and Chief Executive and were then taken through an agenda that included a read-out of the JIG minutes, a paper setting out the joint objectives and dependencies and an update on the programme itself.

Transitional funding

18. At this stage the key issue facing the programme is whether funding for the transition will be made available by the DH(E). A commitment had been made by the previous government to fund the full cost of transition, however the current uncertainty around public finances and the ongoing review of departmental expenditure has created a level of uncertainty around this. Both organisations have submitted requests for funding and, at the time of writing, we are awaiting a final decision.

Further risks

19. As well as the concerns around funding, there were a number of other issues raised at the meeting. These include:

a. Issues in relation to OHPA's accommodation strategy. We remain concerned that OHPA's current proposal to relocate the Adjudication operation in London to a new location from 1 April 2011 will result in what, in effect, will be a dual charge for Adjudication accommodation, as we will have to fund both the rental costs on new OHPA property (through fees payable) and the costs of surrendering the empty space on the third floor of our Euston Road premises.

b. Issues in relation to OHPA's decision to invest in a standalone IT system. Members of the OHPA team suggested that the cost of purchasing and developing a new standalone IT system for OHPA were roughly the same as using/segregating the existing Siebel system. Our view, albeit based on high-level analysis, is that the cost of reconfiguring our existing Siebel system would in fact be lower. Levels of risk associated with this option would also be lower.

c. Issues in relation to pensions. OHPA appear to hold a different view on certain aspects of the transfer of pensions to the legal advice that we have.

20. We have written to OHPA setting out our concerns around these issues and have requested that they are dealt with through a meeting of the JIG. We are in the process of arranging this meeting and hope to be in a position to report the outcome of our discussions to members at the Council meeting.

GMC's role in setting standards

21. There was also a general discussion around the GMC's role in setting standards and a reassurance was provided by the OHPA Board that OHPA Panels would continue to take account of guidance that is published by the GMC once OHPA begins to consider fitness to practise cases.

22. Schedule 4 of the Health and Social Care Act will insert a new section into the Medical Act (s35ZA) which allows us to publish guidance about factors which we consider would indicate that erasure, suspension or conditions are appropriate, or there is no impairment, or that an applicant should not have their name restored to the register. The new section also requires OHPA to 'take account of guidance' in exercising its functions.

23. The Group agreed that a further discussion should take place at the next JCG meeting on this issue and suggested that a discussion paper prepared to facilitate the discussion.

Progress update

24. Despite the uncertainty surrounding the current funding situation, the Group noted that there had been significant progress made on key aspects of the programme. In particular:

- a. Work on OHPA's day one rules and the counterpart revisions to our Fitness to Practise rules is progressing well in readiness for a co-ordinated consultation programme that is due to commence in August 2010.
- b. OHPA have also begun to develop a set of 'ambitions' covering some of the more radical rule changes that they hope to implement in the future.
- c. The Facilities team have confirmed that there are no issues with the transfer of the St James's Buildings leases to OHPA. We have negotiated a lease break option to allow OHPA to move into 350 Euston Road on a temporary basis if required.
- d. The Finance team are working with the DH(E) and OHPA to develop the OHPA Fees Regulations ready for consultation in August 2010.
- e. The HR team held briefing sessions for all Adjudication staff in June 2010 to explain the transfer process and handle any questions. We have also convened a staff consultation forum to ensure staff are properly informed of, and involved in, all key aspects of the transfer.
- f. The Change Management team have completed an analysis of how we will operate in conjunction with OHPA from April 2011 onwards. The key process and system interfaces have been identified and a detailed implementation plan is now being prepared.
- g. The Communications team have agreed a joint communications strategy with colleagues at OHPA. An internal/change communications plan has also been prepared which complements the HR work stream plan.

JCG assurance

25. The level of uncertainty that currently exists regarding transitional funding and the outstanding issues highlighted at the meeting are clearly of concern and we will continue to update Council as we progress through these issues.

26. The risks around funding are clearly out of the control of either organisation now and we await the decision by the DH(E). We have however considered alternative plans that can be taken forward if funding is not made available. We will progress these further with colleagues at the DH(E), if such a decision is taken and will update Council accordingly.

27. All other issues will be picked up through a meeting of the JIG in line with the oversight arrangements that are in place.

Recommendation: To note the progress that has been made in establishing the Office of the Health Professions Adjudicator and the associated transfer of the Adjudication function.

Next steps

28. The next JIG meeting is due to take place on 14 July 2010. We have however written to the Chair of OHPA and suggested that this meeting is brought forward in order to deal with the outstanding issues raised in paragraph 19 in advance of the Council meeting on 13 July 2010.

Resource implications

29. There are no direct resource implications arising from the progress report. However, if there is a decision to restrict the level of transition funding that has been requested, we will need to consider the resource implications fully.

Equality

30. An Equality Impact Assessment is currently being undertaken by OHPA on behalf of DH(E). This will form part of the package of proposals that will go forward to the Privy Council in October 2010 when OHPA and GMC rules are submitted for approval. We are also considering what joint working can be undertaken in advance of the transfer with colleagues at OHPA and will bring this forward for a discussion at the Equality and Diversity Reference Group.