

BRIEFING NOTE

Council meeting – October 2020

Subject

Clarification of appointment of chairs of Governance/HR and Audit/Finance/Risk committees

Background

An ad hoc group comprising the College President, the Interim Registrar and CEO, the Assistant Registrar, and members of the Governance/HR and Executive committees has been formed to clarify the originally intended appointment model for chairs of the Audit/Finance/Risk and Governance/HR committees.

The ad hoc group has held several meetings (October 7, 13, 19) to review terms of reference, and found the terms of reference for the Audit/Finance/Risk and the Governance/HR committees do not indicate how the chairs of these committees are to be appointed. The group sought input on this matter from Dr. Marta Witer, Council member and former member of the Governance/HR Committee, and Dr. Pooya Hemami, immediate past College President, as they were involved in prior discussions on this topic.

The ad hoc group will provide this information to the Governance/HR Committee prior to its meeting on November 9, 2020, when the Committee will draft the 2021 slate of candidates for College committees that will be recommended for approval at the December 4, 2020, Council meeting.

Decision for Council

To approve the updated terms of reference for each of the Audit/Finance/Risk and the Governance/HR committees that were originally approved on September 25, 2018.

Supporting Materials

- Updated terms of reference for Audit/Finance/Risk Committee using tracked changes
- Updated terms of reference for Governance/HR Committee using tracked changes
- Letter dated Oct. 20, 2020, to Council from Dr. Marta Witer
- Email dated Oct. 20, 2020, to Council from Dr. Pooya Hemami

Contact

Hanan Jibry, Assistant Registrar



Policy

3.9

Type:	Terms of Reference		
Name:	Audit/Finance/Risk Committee		
Status:	Approved (Council) to be updated	Version:	1
Date Approved:	September 25, 2018	Date Revised:	Draft Oct. 2020

COMMITTEE CATEGORY:

Standing

MANDATE:

The mandate of the Audit/Finance/Risk Committee is to facilitate Council’s ability to fulfill its legal, ethical, functional and fiscal responsibilities through:

- adequate policy development of financial and investment strategies for Council approval;
- gaining reasonable assurance regarding the integrity of the College’s financial reporting and management, including audits and controls;
- financial planning including annual budget, major financial assumptions and risks;
- liaison with and review of external auditors;
- oversee the College’s overall risk management framework (on both financial and non-financial matters); and
- any additional matters arising from time to time, at the specific request of the Council.

The Committee affords management, the auditor, and regulators a direct conduit to Council, without allocating to the Committee the ultimate decision-making powers of Council, except as may be provided for herein, or the responsibilities which have already been appropriately delegated to management.

AUTHORITY:

(By-laws §14.09) Council may, by Resolution, appoint and fill such Ad Hoc and/or Standing Committees as it deems necessary.

The Committee has the authority to:

- make recommendations to Council with regard to financial and audit issues;
- authorize investigations or studies of matters that reflect on the financial integrity of the College or such other matters as deemed appropriate by Council; and
- obtain expertise and assistance from outside legal, governance, financial or other advisors as required to assist in the execution of committee responsibilities.

REPORTING:

The Audit/Finance/Risk Committee reports to the Council. Committees must report to the Council at each Council meeting. Should any issues arise, they must be brought to the Council's attention in a timely manner.

STRUCTURE AND MEMBERSHIP:

The Audit/Finance/Risk Committee is appointed by Council and shall be comprised of at least five (5) Council members who may vote and of whom, where possible, at least two have relevant expertise and experience in finance and/or risk management. This composition will include:

- a Chair, who ~~shall~~ may be i) the current President of the Council; or ii) selected from Executive Committee members; or iii) selected from Executive Committee members voted on by Council a Council member;
- two members of Council; ~~the current President or Vice-President of the Council;~~ and
- at least two (2) Appointed Council Members (Public Members).

In order to maintain important communication with Council, the Executive and Governance/HR committees, two members of the Committee shall be selected from the elected members of the Executive Committee. The Audit/Finance/Risk Committee shall, as needed, convene sub-committees or task forces to support its responsibilities.

STAFF SUPPORT:

The Registrar/Assistant Registrar & Manager, Finance and Office Administration shall provide staff support for the Audit/Finance/Risk Committee as required.

TERM OF OFFICE:

(By-laws §14.10) The term of a Committee chair is 1 year. No person may serve as a Committee chair for more than 3 consecutive years.

When the Committee chair is not able to attend a meeting, hearing or proceeding, the remaining committee members shall designate a chair for the duration of the absence.

The term of office of the committee members shall be one (1) year, with no limitation on renewal.

FREQUENCY OF MEETINGS:

The Audit/Finance/Risk Committee shall meet as required to fulfill its mandate and based on the workload undertaken. Approved minutes of the Audit/Finance/Risk Committee meetings are circulated to Council for information with confidential information redacted as necessary.

QUORUM:

A majority of members constitutes a quorum at a committee meeting. For the purpose of determining quorum, a member may be present in person, or, if authorized by the Chair, by teleconference and/or by other electronic means.

DECISION-MAKING PROCESS:

Decisions of the Audit/Finance/Risk Committee shall ordinarily be decided by a consensus of the members present at the meeting. Should consensus not be reached, the Chair shall refer the question to be decided by a majority vote of the members. The Chair of the meeting shall not normally vote except in the event of a tie, in which case the Chair of the meeting may exercise a casting vote. All Committee members will support a committee decision once it is made.

CONFLICT OF INTEREST and CODE of CONDUCT

All members of the Audit/Finance/Risk Committee shall comply with the College's Code of Conduct and Conflict of Interest Guidelines. Conflict of interest shall be declared at the start of each meeting or the beginning of an agenda item.

RESPONSIBILITIES:

Financial Planning & Reporting

- Review and recommend for approval to Council quarterly financial results of the College to ensure that Council receives timely, meaningful financial reports that keep it properly informed of the College's financial situation.
- Participate in the development of a Long Term Financial Plan and ensure that the operations staffing plan is properly funded.
- Review the annual Financial Budget, developed by the Registrar, assess major budget assumptions, and make recommendations to Council prior to approval of the budget.
- Consider and make recommendations for changes to membership fees.

Financial Controls

- Ensure that the internal controls and information systems are operating effectively to produce accurate, appropriate and timely management of financial information.
- Ensure that the College has in place adequate procedures for:
 - the receipt, retention and treatment of complaints received by the College regarding accounting, internal controls or auditing matters; and
 - the confidential, anonymous submissions by employees of the College of concerns regarding questionable accounting or audit matters.

Finance policy development and maintenance

- Develop and recommend appropriate policies and procedures to ensure sound financial and investment practices are in place and recommend revisions as required to assist Council.
- Maintain a horizontal scan/global watch for accounting and finance policy development, best practices, and other opportunities relating to regulation and non-profit that could lead to growth and improvement of the accounting and finance activities of the College.
- Oversee, review and make recommendations to Council regarding compensation & per diem policies, and subsequent annual increases.

Investments

- Annually review the investment policy and recommend any needed revisions to Council.
- Review and advise the Council regarding the performance of investments held by the College.
- Meet with the portfolio advisor on an annual basis to monitor compliance with the investment policy.

Relationship with External Auditors

- Oversee the selection process for the engagement of the external auditors to ensure that their independence is maintained.
- Recommend to the College Council the appointment of the external auditors.
- Annual discussion with the external auditors prior to presentation of the draft audited financial statements to Council regarding the result of their audit and any issues, findings or concerns that they wish to raise relating to the College staff, accounting records, accounting practices and system of internal control.
- Assess the performance of the external auditors annually and conduct a comprehensive review every five years.

Compliance

- Review regular reports from management and others (i.e., external auditors) with respect to the College's compliance with laws and regulations relating to finances and gain reasonable assurance that the College's policies, procedures and programs in relation thereto are operating effectively and that the College's provisions with respect to such matters are sufficient and appropriate.
- Verify the establishment of policies and procedures for monitoring compliance with applicable laws and with the College policies as to authorization of expenditures, contracts and otherwise;
- Review the status of the College's tax returns.
- Discuss with legal, financial or other advisors any significant legal, compliance or regulatory matters that may have a material effect on the financial statements or the business and affairs of the College, or on the compliance policies of the College.

Risk Oversight

- Oversee the development, implementation and maintenance of the College's overall risk management framework and its level of risk tolerance to ensure they are in line with emerging trends and best practices.
- Review the design and implementation of risk management strategies across the College and the procedures for monitoring the adequacy and effectiveness of those procedures.
- Report to the Council on its consideration of the above matters, identifying those areas where improvement is needed and making recommendations as appropriate.

Risk Management

- Ensure Council is apprised of all legal actions and financial implications.
- Ensure the College is complying with their fiduciary and reporting responsibilities.
- Review, discuss and consider with the Registrar, staff and external auditors, their approach to risk assessment including an annual assessment and management of areas of greatest risk to the College and steps taken to mitigate or address those risks;

- Identify, document and review the range of risks the College is managing coupled with the risk mitigation strategies being used.
- Ascertain that policies and procedures are in place to identify and minimize risks and review such policies and procedures periodically.



Policy

3.8

Type:	Terms of Reference		
Name:	Governance/HR Committee		
Status:	Approved (Council) to be updated	Version:	1
Date Approved:	September 25, 2018	Date Revised:	Draft Oct. 2020

COMMITTEE CATEGORY:

Standing

MANDATE:

The purpose of the Governance/HR Committee is to facilitate Council’s ability to fulfill its functional and ethical responsibilities through:

- monitoring, development and review of governance & human resource processes¹;
- governance & human resource policy development and maintenance;
- Council training/development programs; and
- recruitment strategies, performance evaluation, and succession planning to secure strong balanced leadership for the College.

AUTHORITY:

(By-laws §14.09) Council may, by Resolution, appoint and fill such Ad Hoc and/or Standing Committees as it deems necessary.

REPORTING:

The Governance/HR Committee reports to the Council. Committees must report to the Council at each Council meeting. Should any issues arise, they must be brought to the Council’s attention in a timely manner.

STRUCTURE AND MEMBERSHIP:

The Governance/HR Committee is appointed by Council and shall be comprised of at least five (5) Council members who may vote and of whom, where possible, at least two have relevant expertise and experience in governance and/or human resources. This composition will include:

- [a Chair, who may be i\) the current Vice-President of the Council; or ii\) selected from Executive Committee members; or iii\) selected from Executive Committee members voted on by Council;](#)
- [shall be a Council member;](#)

¹ This policy does not pertain to the human resource processes in place for staff managed by the Registrar.

- [two professional members of Council](#)~~either the current President or Vice-President of the Council~~; and
- at least two (2) Appointed Council Members (Public Members).

[In order to maintain important communication with Council, the Executive, and the Audit/Finance/Risk Committee, two members of the Committee shall be selected from the elected members of the Executive Committee.](#) The Governance/HR Committee shall, as needed, convene sub-committees or task forces to support its responsibilities.

STAFF SUPPORT:

The Registrar shall provide staff support for the Governance/HR Committee as required. The [Manager, Policy and Governance, Policy Analyst](#) shall provide administrative support for the Governance Committee as required.

TERM OF OFFICE:

(By-laws §14.10) The term of a Committee chair is 1 year. No person may serve as a Committee chair for more than 3 consecutive years.

When the Committee chair is not able to attend a meeting, hearing or proceeding, the remaining committee members shall designate a chair for the duration of the absence.

The term of office of the committee members shall be one (1) year, with no limitation on renewal.

FREQUENCY OF MEETINGS:

The Governance/HR Committee shall meet as required to fulfill its mandate and based on the workload undertaken. Approved minutes of Governance/HR Committee meetings are circulated to Council for information with confidential information redacted as necessary.

QUORUM:

A majority of members constitutes a quorum at a committee meeting. For the purpose of determining quorum, a member may be present in person, or, if authorized by the Chair, by teleconference and/or by other electronic means.

DECISION-MAKING PROCESS:

Decisions of the Governance/HR Committee shall ordinarily be decided by a consensus of the members present at the meeting. Should consensus not be reached, the Chair shall refer the question to be decided by a majority vote of the members. The Chair of the meeting shall not normally vote except in the event of a tie, in which case the Chair of the meeting may exercise a casting vote. All Committee members will support a committee decision once it is made.

CONFLICT OF INTEREST and CODE of CONDUCT

All members of the Governance/HR Committee shall comply with the College's Code of Conduct Conflict of Interest Guidelines. Conflict of interest shall be declared at the start of each meeting or the beginning of an agenda item.

RESPONSIBILITIES:

GENERIC:

Ongoing review and recommendations to enhance the quality and future viability of the Council.

SPECIFIC:

Governance Excellence - Policy development and maintenance

- Coordinate the College's policy development program and to review all policy matters presented to Council.
- Review and implement any by-law changes required as a result of changes to the *Regulated Health Professions Act, 1991*, or any other relevant government legislation.
- Review governance policies and protocols found in the College by-laws and governance manual to ensure that these policies are consistent with current governance best-practices.
- Regularly monitor, evaluate and recommend practices that will promote and enhance governance excellence and best practices at both the Council and Committee level.
- Ensure that policies are created and periodically reviewed which define:
 - the roles and responsibilities of the Council;
 - duties and responsibilities of councilors and officers;
 - terms of reference for committees;
 - conflict of interest procedures; and
 - procedures for nomination, selection, and removal of councilors.
- Direct the College's strategic planning process and monitor related activities to ensure consistency with the stated direction
- Provide guidance and support, as requested, to policy development projects at task force or committee level and to make recommendations to Council with respect to policy direction, as required.

Facilitating Effective Council/Committee Functioning

- Facilitate the effectiveness of Council governance by reviewing processes related to the governance of Council and make recommendations to Council.
- Reviews processes related to the governance of statutory committees and make recommendations to Council.
- Review and recommend to Council the appointments of chairs and members to the respective statutory and non-statutory committees.
- Recommend interim appointments of chairs and members of committees to fill vacancies, to be ratified by Council at their next meeting.
- Oversee the process involving a potential sanction or disqualification of an Elected Council Member or Appointed Council Member in accordance with the provisions of Part 9 of the College by-laws.
- Disqualify an Appointed Committee Member in accordance with the provisions of Part 9 of the College by-laws.
- Receive and review annual performance, succession and development plans for Council, Council leadership and Committee chair positions.

- Review the Chair and Committee member compensation policy and make appropriate recommendations to Council.
- Review the evaluations of Council meetings to identify process improvements.
- Participate in the strategic planning process.

Council training/development programs

- Ensure that councillors are able to discuss, debate, and plan the following from a basis of knowledge:
 - the College's mandate, strategic plan, goals, objectives, programs and services;
 - the College's budget and financial statements;
 - the roles, duties and responsibilities of the Council, committees, individual councillors, the Registrar and related stakeholders.
- Ensure proper orientation, support and continuing education/training is available and provided for councillors.
- Determine councillors/committee members that should be encouraged to participate in further training/educational opportunities.
- Determine councillors/committee members that should be funded to attend educational/stakeholder conferences that the College targets for attendance.

Recruitment strategies, performance evaluation, and succession planning

- Ensure that:
 - the Council does not fall below or above the number of councilors, both optometrists and public members, required by the *Optometry Act, 1991*;
 - councillors understand and agree with the mission of the organization and the code of ethics for Council;
 - councillors understand and agree to the time and participation requirements of Council members;
 - councillors understand and agree to the obligations of Council members;
 - elections and appointments to the Council comply with bylaws and other requirements;
 - the Council, its committees, and its members are able to plan their activities with knowledge of the achievements, abilities, strengths, and limitations of current councillors, staff, and volunteers; and
 - Council has a succession plan in place to deal with a planned or unplanned departure of the Registrar.

Succession Planning

- Ensure that succession planning is in place to protect the organization in the event of the Registrar's prolonged unplanned absence or termination.
- Responsible for recruiting, appointing, orienting and evaluating the Registrar **during** the probationary period.
 - Ensure that, prior to appointing a new Registrar, the Committee has consulted with Council.

Registrar Evaluation/Compensation

- Review and recommend to Council, as appropriate, the Registrar evaluation process.

- Lead and oversee, alongside consultation with the President, the implementation of the Registrar evaluation process.
- Review and recommend to Council, as appropriate, the Registrar's annual goals and objectives.
- Ensure the annual performance review of the Registrar is completed.
- Coordinate evaluation and discipline actions associated with the Registrar, **after** the probationary period, in consultation with the Council as required.
- Review and recommend to Council, as appropriate, the compensation philosophy and guidelines for the Registrar.
- Ensure the employment contract of the Registrar and any related amendments are confirmed by Council.

October 20, 2020

To: COO Council

From: Marta Witer, Council member

Re: Governance Review

I was a member of the ad hoc Governance committee formed by the Pooya Hemami - president of the College, to review the governance structure at the College. Pooya was Chair of the committee. We retained a consultant specializing in board governance, who conducted a thorough review and made recommendations, based on his findings and current best practices.

The proposed structure included the formation of 2 new committees to spread out the responsibilities of the Executive committee more evenly and include more council members. We set out terms of reference for the following committees, outlined briefly below:

The Governance committee would be responsible for issues relating to human resources, including the review and recommendation of committees for each year. It would be composed of council members only, and include both public and professional members.

The Audit, Finance and Risk committee would be responsible for financial review and oversight, including risk review and analysis, which was felt to be an important aspect of its work. It would also be composed of council members only, including both public and professional members.

The Executive committee would be responsible for stakeholder relationships, as well as issues that would arise between Council meetings that needed immediate attention, including making decisions on behalf of Council, should the need arise. It would be comprised of the President, Vice-president and both public and professional members (total of 5), elected by Council each year.

It was recommended that the Governance and AFR committee chairs should be the Vice President and one other member of the Executive committee, ensuring open lines of communication between the Chairs of the committees.

The recommended committee structure was presented to the Council and a motion to make these changes was passed.

This is my recollection of events at that time, but this should be reflected in more detail in the minutes of our meetings

Marta Witer, Council member

From: [Pooya Hemami](#)
To: [Hanan Jibry](#); [Ira Teich](#)
Cc: [Patrick Quaid](#)
Subject: Letter to Council on Matters of Corporate Governance
Date: Tuesday, October 20, 2020 9:30:58 PM

Dear Members of Council,

It was my pleasure to participate as an invited guest on a teleconference called by an Ad-Hoc Council panel assessing the relationships between the HR/Governance, Audit/Finance/Risk (AFR) and Executive committees (EC). As Chair of the Governance committee in 2017 and 2018, I recall that the primary consideration for establishing the HR/Governance and AFR standing committees was to provide wider Council representation in corporate governance responsibilities. This has led to increased Council engagement and supports better succession planning. However, recent events such as when most of the HR/Governance committee's proposed by-law revisions were opposed by EC members, suggest there is merit in strengthening the associations between the EC and these two standing committees. Effectively, to have free-flowing levels of communication between the EC and these two committees, and to avoid unnecessary friction and/or overlap, it would be preferable to specify in the applicable terms of reference that the Chairs of these two standing committees (HR/Governance and AFR) should be members of the EC.

A curious situation exists in the current scenario where the Chair of HR/Governance committee is not elected by Council (directly or indirectly). This Chair implicitly has a significant level of responsibility or authority when it comes to the proposed selection or assignment of Council members and volunteer optometrists to the College's various committees (excluding the EC), as well as for the potential evaluation or discipline of such persons when indicated, and the performance evaluation and/or recruitment of the Registrar. Currently, this Chair is not elected by Council, unlike Council officer positions with comparable levels of responsibility (eg. President, Vice-President), and hence this Chair has much more limited accountability to Council in a practical sense. Typically, the HR/Governance committee would propose a Chair for its committee (and all other committees excluding the EC) at the beginning of each Council year. While it is ultimately up to Council to approve the selections, in practical or realistic circumstances, Council generally votes in favor of this committee's (or prior to 2019, the EC's) recommendations each year (as has occurred in each year since at least 2010), without debating or challenging the committee's recommendations. While Council has the authority to override or challenge the HR/Governance committee's recommendation, in practice, this hardly ever occurs (if even at all) and it appears very unlikely to occur in the future. Hence, the practical end-result is that the HR/Governance committee is unique in that it has the informal capability to direct or sustain its ongoing composition (as well as the composition of other committees aside from the EC) without very much effective accountability to Council. One way to provide Council with more direct oversight onto the activity of the HR/Governance committee, would be for it to elect the Chair of this committee (either directly, or indirectly by requiring the Chair to be a member of the EC, who is ultimately elected by Council). I believe that having the Chair of the HR/Governance committee elected by Council (either directly or indirectly) will provide the necessary oversight and accountability to Council. To summarize, I suggest that the terms of reference for both the AFR and HR/Governance committees be amended such that the Chairs of these standing committees must be members of the EC.

Please feel free to contact me if further clarification is requested.

Best regards,

Pooya Hemami OD MBA CFA
Past Member of Council (2010-19)