

What will the Council look like in the future?

(1) Responsibilities and composition



This paper is the first of a series on the constitution of the Royal Pharmaceutical Society's Council. The second paper, which will look at achieving the right balance within the Council structure, will be published later this month. The papers are intended to promote discussion and comment from all those with an interest in the governance of the Society, to help the Modernisation Steering Group formulate proposals for consideration by the Council.

HOW YOU CAN CONTRIBUTE TO THE DEBATE

Written comments should be submitted by 15 July to the project manager for the Society's modernisation programme (see Section 11 below).

Readers of *The Pharmaceutical Journal* may also respond to the first two papers by completing a questionnaire distributed with the 29 June issue.

1. BACKGROUND

- 1.1** In May 2002, the Council set the direction of travel for the Society. The Council has decided that the Society should retain its integrated regulatory and professional roles within a reformed organisation, meeting modern regulatory requirements and firmly based on the public interest. Within this framework, the Society's principal duties would remain those of regulating, developing and leading the profession of pharmacy in the public interest.
- 1.2** The next step is to consider the responsibilities and composition of the governing Council of this reformed Society.
- 1.3** In April 2000, the Society's Health Act Working Party conducted a preliminary consultation on the composition of the Council and election of Council members.¹ The feedback received then indicated overall support for:
- 1 A small increase in the size of the Council, up to a maximum of around 30 (some respondents thought that a smaller Council would help efficient decision-making);
 - 1 Increased lay membership of Council, particularly to reflect stakeholders such as patients, consumers and other health professions (and, to a lesser extent, academia);
 - 1 Government chief pharmacists attending Council meetings but without voting rights.
- 1.4** Policy concerning the regulatory bodies for health professions has developed further in the last two years and the Government's requirements of such bodies have become clearer. The Council has decided that the Society should continue to be the regulatory body for the pharmacy profession. This means that the Society's proposals for reform will need to meet modern regulatory requirements. This paper explores the options available within that framework.
- 1.5** We are working to a tight timetable. The Government plans to establish the Council for the Regulation of Healthcare Professionals (CRHP) by early 2003. This Council will oversee the bodies regulating health professionals and will look for consistency between them. Subject to Parliamentary approval, it will have power to require changes to a regulatory body's rules. By the end of this year, we need to be able to demonstrate that our plans for reform are well advanced.

2. CURRENT SITUATION

- 2.1** The Council governs the Society. It is responsible for determining strategy and major policy. The Council has a duty to manage the Society's affairs and, subject to the Byelaws, can regulate the conduct of proceedings at Council meetings and of its committees through which it exercises its powers.
- 2.2** The Council is established under the Society's Charter and comprises 21 elected pharmacists. In addition, three members are appointed by the Privy Council under the Pharmacy Act 1954.
- 2.3** The collective responsibilities of the Council may be summarised as being to:
- (i) Lead strategic development and policy
 - (ii) Make rules governing the Society's regulatory functions, including setting standards for practice, education and conduct
 - (iii) Ensure the proper exercise of regulatory and law enforcement duties
 - (iv) Represent the Society's policies and views to others and promote the profession of pharmacy in the public interest
 - (v) Monitor the efficiency and effectiveness of the organisation and set priorities for activities and expenditure
 - (vi) Determine the overall organisational and management framework of the Society, including staffing levels and the establishment of committees
 - (vii) Ensure high standards of corporate governance
 - (viii) Act as trustee for the Society's trusts and funds

3. PROPOSALS FOR A FIRST ORDER UNDER THE HEALTH ACT 1999

3.1 The Society's Health Act Working Party began work in 1999, resulting in proposals for a first Order under the Health Act. These were intended to modernise the Society's disciplinary machinery, provide a more appropriate range of sanctions and allow for the introduction of mandatory continuing professional development.

3.2 The Society's proposals for a first order under the Health Act² described a framework within which four committees would be concerned with aspects of professional regulation:

- 1 Investigating Committee
- 1 Disciplinary Committee
- 1 Appointments Committee
- 1 Professional Competence Audit Committee

These committees would act within delegated authority. They would therefore be committees of the Society rather than committees of the Council, as is the present Statutory Committee.

3.3 Of these committees; the Investigating Committee, the Appointments Committee and the Professional Competence Audit Committee would all have a professional majority of no more than one. The Disciplinary Committee would comprise three pharmacists and two lay people together with a legally qualified chairman. No changes were proposed to the composition of the Society's Council.

3.4 These proposals were passed to the Department of Health, which is liaising with the Society on its future requirements. The Government has not yet issued any proposals for new legislation.

4. RESPONSIBILITIES OF THE COUNCIL

4.1 The collective responsibilities of the Council listed above (at 2.3) remain valid. However, the context within which the Council fulfils those responsibilities has changed significantly in the past two years. This context needs to be taken into account if the Council is to continue to meet its responsibilities to the public and the profession.

4.2 The Kennedy report on children's heart surgery in Bristol³ and the Government's response to it⁴ introduced a broader, more integrated approach to professional regulation which goes far beyond disciplinary processes.

4.3 This modern definition of professional regulation includes all the processes that combine to assure competence and fitness to practise. These include functions such as: controlling entry to the profession, education, registration, setting and enforcing standards, promoting good practice, training, continuing professional development, assessing competence, providing support for improvement, revalidation, dealing with poor performance and misconduct, and removal from the register. This, together with underpinning activities such as research and communications and the necessary supporting activi-

ties such as finance, information technology and facilities management, represents the large majority of the Society's activities. If the Council is to retain its overall control of the Society, it will need to be able to take responsibility for this wider, more integrated regulatory role for the future.

4.4 The day-to-day management of the Society would continue to be the responsibility of the Secretary and Registrar, as chief executive, and the management team. Council members would share collective responsibility for the performance of the organisation as a whole, ensuring, via the chief executive, that the Society carries out its functions and acts in accordance with the requirements of the law and good governance.

4.5 Membership of the Council would carry with it collective responsibility for the discharge of the functions of the Council. All Council members would be expected to bring an impartial judgement to bear on issues of strategy and policy in the public interest.

WHAT DO YOU THINK? Should the responsibilities of the Council be broadly as outlined above?

5. COMPOSITION OF THE COUNCIL

5.1 When the Society developed its initial proposals for reforming aspects of its regulatory procedures in 2000, it was envisaged that the Society would delegate a range of regulatory functions to new statutory committees. It was recognised that the proposals were not necessarily a long-term solution but a way of meeting immediate needs until it became clear whether more substantial change was needed. This option, had it been accepted and implemented, could have allowed the composition of the Council to remain unchanged, at least in the short term. The ongoing reform of other regulatory bodies, the proposal to establish the CRHP, and the broader interpretation of professional regulation put forward in the Kennedy report and endorsed by Government have implications for this arrangement.

5.2 The Society's committees could not work effectively as stand-alone entities without an over-arching Council to perform a strategic, standard and policy-setting role, to ensure consistency and co-ordination between the committees and to consult with external stakeholders.

5.3 A Council whose structure did not fulfil the requirements for a modern regulator could not retain its regulatory powers. Delegation of those powers to committees would effectively leave the Council without the authority to fulfil its role.

5.4 If the composition of the Council remained unchanged, the breadth of modern regulation would suggest that a wide range of functions would need to be delegated to committees, well beyond those func-

tions envisaged in 2000. These committees would themselves be likely to need some sort of "board" to co-ordinate and monitor their functions. This new board would have to meet the Government's requirements for regulatory bodies, including increased lay membership. It would be this board, not the Council, that would have the power to make rules and to set standards for the practice, education and conduct of the profession. This board would govern the majority of the Society's activities. The Council, as currently constituted, could not sit in authority over this board and its committees. In this situation, the Council would be left with a much reduced remit, little authority, little credibility and little relevance to most of the Society's functions. The Council would no longer be able to set strategy and policy across the Society's remit. Practical difficulties would also arise in overseeing those functions that provide support across the Society's remit, such as public affairs and public relations, the branch and regional network, the library and information service and the resources directorate.

5.5 It is clear from the NHS Plan and from subsequent government statements that, in order to retain its over-arching responsibility for the functions of the Society, the future composition of the Council would need to satisfy the Government's requirements for such bodies. These are that they should be small and have much greater lay membership.⁵ The Government's consultation on reforming the General Medical Council⁶ states: "The Government wants to ensure that the lay voice is heard in all aspects of the regulatory bodies' work for all the professions. The new Council for the Regulation of Healthcare Professionals . . . will underpin and drive

forward this modernisation process across all the regulatory bodies.”

- 5.6 A Council with an increased lay input could strengthen pharmacy’s voice, ensure that policy is robust and help to maintain and reinforce public confidence in pharmacy. It would increase the range of experience and expertise available within the Council. The reduced number of pharmacist members of Council would, however, potentially decrease the professional input to and engagement of the profession in some of the Society’s activities, such as those relating to competence, performance and the development of the profession’s role.

This might be overcome through other mechanisms, for example through the establishment of a larger professional forum to advise the Council. Such mechanisms would need to be considered once the responsibilities and composition of the Council had been established.

WHAT DO YOU THINK? Should the Council change its composition to fulfil the requirements for a modern regulatory body and retain its strategic, policy-making and co-ordinating roles across the Society’s professional and regulatory functions?

6. SIZE OF THE COUNCIL

- 6.1 The Council needs to be small enough to be strategic, effective, and an efficient decision-making body. Theoretically, this might point to a very small body. However, given the range of stakeholders in pharmacy and the need for a reasonable spread of experience, a membership in the range of 21 to 31 members seems likely to be the best solution. A comparison from outside health comes from the Dearing report,⁷ which recommended a ceiling of 25 members for the governing bodies of institutions.
- 6.2 The size of the governing Councils of those regulatory bodies whose modernisation proposals have already been approved by the Government give an indication of the acceptable range: Nursing and

Midwifery Council (NMC), 23 members; Health Professions Council (HPC), 25 members; General Optical Council (GOC), 28 members; General Dental Council (GDC), 29 members. The General Medical Council’s (GMC) proposal for a council of 35 members has been accepted by the Government and is now subject to public consultation.

- 6.3 The size of the Society’s Council already falls within this range. It could possibly increase in size somewhat.

WHAT DO YOU THINK? What would be the appropriate size for the Council?

7. PROPORTION OF PROFESSIONAL AND LAY COUNCIL MEMBERS

- 7.1 The increased participation of lay people is intended to improve accountability and public confidence and to bring a range of skills to the Council’s work. Again, the structures already approved provide a useful guide.
- 7.2 The new structures of the regulatory bodies for other health professions have a professional majority on their governing councils ranging from 52 per cent (NMC, HPC and GDC) to 54 per cent (GOC) and 60 per cent (GMC). Again, the GMC’s proposal has been accepted by the Government and is now the subject of public consultation.
- 1 The Nursing and Midwifery Council has 23 members — 12 registrants and 11 lay.^{8–9}
 - 1 The new General Dental Council will include professionals complementary to dentistry, such as dental nurses or dental hygienists. The GDC will comprise 29 members — 15 dentists, four professionals complementary to dentistry and 10 lay members.¹⁰
 - 1 The Health Professions Council (formerly the Council for Professions Supplementary to Medicine) has 25 members — 12 from the regulated professions, 12 lay members and a president. The president has been appointed by the Government in the first instance but will be elected by the council in future and could be either a lay or a professional member.¹¹
 - 1 The General Optical Council has 15 registrant members and 13 lay members.¹² The 15 registrants comprise nine optometrists and six dispensing opticians.
 - 1 The proposed structure for the General Medical Council is 35 members — 21 registrant and 14 lay, giving a lay membership of 40 per cent.¹³

- 7.3 For the Society, “lay” is taken to mean someone who is not and has never been on the Society’s Register of Pharmaceutical Chemists.

- 7.4 It is anticipated that the appointment of lay members by the Privy Council would be through open advertisement, following the guidelines for public appointments. The advertisements would not seek members as representatives of particular groups but would aim to attract relevant experience, knowledge and skills.

- 7.5 The Society could choose to follow the model agreed for the NMC, HPC and GDC by proposing a Council with a professional majority of one — for example, 13 professional and 12 lay members (professional majority of 52 per cent). Alternatively, the Society might favour a structure closer to that proposed by the GMC — for example, 16 professional and 11 lay members (professional majority of 59 per cent). There are, of course, other possibilities.

- 7.6 Alone among the health regulators in Great Britain, the Society’s functions as a regulator are integrated with those of a professional body. The concept of professionally-led regulation, in partnership with the public, supports the need for a professional majority on the Council. The Society’s integrated regulatory and professional roles may suggest the need for a professional majority larger than one, so as to assist the Society to engage the profession in its functions and to promote and enforce high quality standards.

WHAT DO YOU THINK? What should be the proportion of pharmacist members on the Council, and why?

8. PHARMACY TECHNICIANS

- 8.1 The composition approved for the GDC suggests that the new constitution of the Society’s Council could include pharmacy technicians among its non-pharmacist members.
- 8.2 The Council agreed in December 2001 to move towards the regulation of pharmacy support staff. This, combined with the important and increasing contribution to pharmacy services made by support workers, suggest that it might be appropriate for support staff, such as pharmacy technicians, to be included on the Council. Given that it

is not yet clear exactly how the regulation of pharmacy support staff will be taken forward, it would seem sensible to allow for this possibility rather than needing to seek further amendments to the Council’s constitution in the near future.

WHAT DO YOU THINK? Should the Council’s constitution allow for the inclusion of pharmacy technicians within its non-pharmacist membership?

9. GOVERNMENT CHIEF PHARMACISTS

9.1 The Government and the National Health Service are important stakeholders for the Society and for other professional and regulatory bodies in the health field. This could be reflected in the arrangements for the new Council, helping to ensure that the profession and government were aware of each other's concerns and views and were working together where appropriate. However, it is also vital that the Society remains independent of government and is seen to be so. This is essential to allow the Society to make independent representations to government when necessary in the public interest.

9.2 For comparison, the chief medical officers of the four UK countries have attended GMC meetings as observers. It has yet to be decided whether this will continue under the new GMC. The four chief dental officers will be additional "associate members" of the new GDC.

WHAT DO YOU THINK? Should the chief pharmacists of the Department of Health, the Government's Scottish Executive and the National Assembly for Wales be invited to attend Council meetings and, if so, in what capacity?

10. FURTHER ASPECTS OF THE COUNCIL

10.1 Decisions will also be needed on:

- 1 Whether pharmacist members of Council should be elected and/or appointed
- 1 Whether devolution and/or fields of practice should be reflected within the Council
- 1 The voting system for election of Council members
- 1 Frequency of elections
- 1 Canvassing rules
- 1 Whether changes are needed to the positions of Officers of the Council

- 1 The term of presidency
- 1 Whether a member of Council may serve more than one term as President
- 1 Whether there should be any change to the rules concerning eligibility to stand for Council
- 1 Whether there should be a limit to the terms of office that a Council member may serve
- 1 Whether there should be an age limit for Council members.

Further discussion papers will be issued seeking views on these topics.

11. HOW TO MAKE YOUR VIEWS HEARD

11.1 No decisions have yet been taken on the future constitution of the Council. The Modernisation Steering Group needs your views to help it to formulate its proposals to the Society's Council.

Please send your comments by Monday 15 July to Christine Gray, Project Manager, Modernisation Programme, Royal Pharmaceutical Society, 1 Lambeth High Street, London SE1 7JN, or e-mail to cgray@rpsgb.org.uk. If you are replying on behalf of a group or an organisation, please state whose views your comments represent.

The second discussion paper, which will examine the process for electing and appointing Council members, will also be published this month. Readers of The Pharmaceutical Journal will have the opportunity to respond to both papers by returning a questionnaire that is to be distributed with The Journal of 29 June.

Any queries relating to this consultation exercise should be addressed to Christine Gray; contact details as above, telephone 020 7572 2206, fax 020 7572 2501.

REFERENCES

1. Royal Pharmaceutical Society's Health Act Working Party. A new framework for professional regulation. Preliminary consultation paper 2. The composition of the Council and election of Council members. London: The Society 2000. Available at: URL: www.rpsgb.org.uk/lawethics/.
2. Royal Pharmaceutical Society Health Act Working Party. Reform of disciplinary machinery and the introduction of competence based practising rights. London: The Society; 2001. Available at: URL: www.rpsgb.org.uk/lawethics/.
3. Bristol Royal Infirmary Inquiry. Learning from Bristol: the report of the public inquiry into children's heart surgery at the Bristol Royal Infirmary 1984-1995. London: Department of Health; 2000. Available at: URL: www.bristol-inquiry.org.uk/final_report/.
4. Department of Health. Learning from Bristol: the Department of Health's response to the report of the public inquiry into children's heart surgery at the Bristol Royal Infirmary. London: Department of Health; 2002. Available at: URL: www.doh.gov.uk/bristolinquiryresponse/.
5. Department of Health. The NHS Plan: a plan for investment, a plan for reform. London: Department of Health; 2000.
6. Department of Health. Reform of the General Medical Council: a paper for consultation. London: Department of Health; 2002. Available at: URL: www.doh.gov.uk/gmcreform.htm.
7. National Committee of Inquiry into Higher Education. Higher Education in the Learning Society: report of the National Committee. Leeds: NCIHE; 1997. Available at: URL: <http://www.leeds.ac.uk/educol/ncihe/>.
8. United Kingdom Central Council for Nursing, Midwifery and Health Visiting. Shadow NMC announcement: a new dawn for regulation. UKCC News [online] 26 April 2001. Available at: URL: www.nmc-uk.org.
9. United Kingdom Central Council for Nursing, Midwifery and Health Visiting. NMC consultation under way. UKCC News [online] 27 April 2001. Available at: URL: www.nmc-uk.org.
10. General Dental Council. Modelling the new General Dental Council: a consultation paper with proposals for the new constitution. London: General Dental Council; 2001. Available at: URL: www.gdc-uk.org.
11. Department of Health. Update on the progress of the Order in Council for the Health Professions Council (27 April 2001). London: Department of Health; 2001.
12. Moore W. How other health professions are coping with the regulatory reforms (1). Pharm J 2002;268:460-1.
13. Hicks C. Compromise plan put forward for GMC. BMJ 2001;322:1506.