

What will the Council look like in the future?

(3) Elections and Council membership

The modernisation steering group has already issued two discussion papers on the constitution of the Society's Council: "Responsibilities and composition", including the proportions of professional and lay members; and "Getting the balance right", on whether devolution and/or fields of pharmacy practice should be reflected in the Council's composition; whether

pharmacist members of Council should be elected and/or appointed, and the voting system. This third paper looks at a range of issues concerning elections to the Council and Council membership. It is intended to promote discussion and to prompt comment from pharmacists and all those with an interest in the governance of the Royal Pharmaceutical Society.

HOW YOU CAN CONTRIBUTE TO THE DEBATE

Written comments should be submitted by 13 September to the project manager for the Society's modernisation programme (see Section 9 below).

Readers of *The Pharmaceutical Journal* may also respond to the paper by completing a questionnaire to be distributed with the 24 August issue.

1. BACKGROUND

1.1 In May 2002, the Council decided that the Society should retain its integrated regulatory and professional roles within a reformed organisation. Within this framework, the Society's principal duties would remain those of developing, leading and regulating the profession of pharmacy in the public interest.

1.2 We are working to a tight timetable. The over-arching Council for the Regulation of Health Care Professionals should be operational in early 2003 and will oversee the bodies regulating health professionals and will look for consistency between them. Our key proposals for change should be ready around this time, to form the basis of new legislation.

1.3 The process by which lay members of Council would be appointed in future would be expected to follow Nolan principles and take account of the guidance issued by the Commissioner for Public Appointments, with open advertisement of positions. The advertisements would not seek members as representatives of particular groups but would aim to attract relevant experience, knowledge and skills. Such a process should be fair and transparent and should ensure that appointments are made on merit.

1.4 This paper includes information on the electoral schemes of bodies regulating other health professions: the General Chiropractic Council (GCC), General Dental Council (GDC), General Medical Council (GMC), General Optical Council (GOC), General Osteopathic Council (GOsC), Health Professions Council (HPC) and Nursing and Midwifery Council (NMC). The Society is not directly equivalent to these bodies and solu-

tions to the issues raised could be drawn from elsewhere. However, these bodies are quoted as comparators because they are expanding their activities in response to the much broader concept of modern regulation, encompassing functions previously considered as "professional", including strategy development, communications and some income generation activities. They also represent the views of the professions in the public interest. Hence, the gap between the Society's remit and those of the other health regulatory bodies is diminishing. The Council's decision to retain the Society's integrated regulatory and professional roles should nevertheless allow the Society to continue to cover a broader range of activities, provided that those activities do not conflict with the public interest.

1.5 In April 2000, the Society's Health Act Working Party conducted a preliminary consultation covering some of the topics contained in this paper.¹ The feedback received then is summarised below (no options were specified in this preliminary consultation, so the percentages shown are of those selecting the most popular responses in each case):

Should the three-year term of office for Council members be changed? 53 per cent of respondents favoured a longer term of office, 40 per cent preferred the status quo and 7 per cent wanted a shorter term.

Should there be a limit to the number of terms an elected Council member may serve? 78 per cent favoured a limit on the number of terms served; 22 per cent preferred the status quo. A number suggested an upper age limit for Council members, generally 65 or 70 years.

2. CURRENT SITUATION

2.1 The Council governs the Society. It comprises 21 elected pharmacists and three lay members, appointed by the Privy Council.

2.2 One-third of the elected members of Council leave office each year. They are eligible for re-election if nominated. A pharmacist is eligible for election to Council if he is normally resident in Great Britain, the Isle of Man or the Channel Islands and is nominated by 10 pharma-

cists, five of whom are from his branch. There are no other restrictions on eligibility.

2.3 Candidates in Council elections are asked to abide by certain restrictions on canvassing. There is no limit to the number of consecutive terms of office that a Council member may serve and no age limit for Council members.

3. ELIGIBILITY TO STAND FOR COUNCIL

RESIDENCY

3.1 Candidates for election to Council must be members of the Society who are normally resident in Great Britain, the Isle of Man or the Channel Islands. Decisions in the courts suggest that someone is “normally resident” when they maintain a residence in this country, irrespective of any temporary or occasional absences. A simpler criterion might be to restrict eligibility to members whose registered address is in Great Britain, the Isle of Man or the Channel Islands.

3.2 The HPC and NMC require candidates to live or work mainly in the UK. Candidates in GMC, GDC or GCC elections must have their registered address in the UK.

CONFLICT OF INTEREST

3.3 Potential conflicts of interest may arise from financial interests or more broadly, from decisions regarding individuals or bodies who share a member’s interests. There are no criteria concerning conflicts of interest that restrict eligibility to stand for election to Council (beyond the need to declare and register relevant interests). Council members who are, or who wish to be, board members on other pharmacy bodies might sometimes experience a conflict of interest. The question arises as to whether any restrictions should apply to such members.

3.4 Looking at other bodies, the general approach seems to be that there are no restrictions that would prevent a council member serving on the board of another body within the same professional field. However, conflicts of interest might prevent a council member from undertaking specific roles. For example: being on the board of a trade union or defence organisation might conflict with involvement in disciplinary processes; a member who was the principal of a private college might not be able to serve on an Education Committee.

FITNESS TO PRACTISE DECISIONS

3.5 The GMC has proposed that candidates in council elections should be required to declare any adverse decisions by the GMC (other than warnings) on their fitness to practise and any serious criminal convictions.² The GDC’s ballot papers will also record any action previously taken against a candidate under fitness to practise rules. In the NMC³ and the HPC, candidates must not be the subject of allegations, investigations or proceedings regarding fitness to practise.

3.6 At present, candidates in Society elections are not required to declare whether they have been the subject of a previous adverse fitness-to-practise decision or whether they are the subject of a current investigation. A “requirement to declare” would not necessarily debar a pharmacist from standing for election solely because of a previous fitness-to-practise decision against them. We need to consider whether this information should be available to the electorate. It might be damaging to the reputation of the Society and the profession if such information only became known after someone had taken up a seat on the Council.

CURRENT PRACTICE

3.7 For both the HPC and NMC, candidates for election as professional members of council must “continue to practise, teach, manage or research within their profession”.² A requirement along these lines would mean that all pharmacist members of Council would be

actively engaged in pharmacy, helping to ensure that policy decisions were informed by current practice and that the Council did not become out of touch. It would be necessary to define the scope of, for example, “practising” or “managing” within the profession. On the other hand, such a criterion could exclude some experienced pharmacists from standing for Council. Being a Council member is demanding of members’ energy and time; being an Officer is yet more so. A requirement to remain actively working within the profession might reduce the number of pharmacists willing to serve on the Council. Knowledge of current practice could potentially be brought in to the Council by other means.

NOMINATORS

3.8 Currently, a candidate for election to the Society’s Council must be nominated by 10 pharmacists, five of whom are from his branch. This could be argued to demonstrate that the candidate has some local standing. On the other hand, pharmacists from specialist areas of practice, those who have national rather than local reputations, and those whose work makes it difficult for them to participate in branch activities might be disadvantaged by this requirement.

3.9 The GMC has proposed that each candidate in council elections must be nominated by 10 doctors, who need not be in the same geographical area as the candidate. GCC candidates require five nominators within their home country. HPC candidates will simply need six nominators from within their profession.

TRUSTEESHIP

3.10 Members of the Society’s Council are trustees of funds held by the Society on trusts, including the Benevolent Fund. The Charities Act 1993 disqualifies the following from acting as trustees: anyone who has been convicted of an offence involving deception or dishonesty, unless the conviction is spent; undischarged bankrupts; anyone previously removed from trusteeship of a charity by the Charity Commissioners or the courts; and anyone subject to a disqualification order under the Company Directors Disqualification Act 1986.

3.11 It is a criminal offence to serve as a charity trustee when disqualified from doing so. It may therefore be sensible to introduce a requirement for candidates in Council elections to declare that they are eligible to serve as a charity trustee.

What do you think? Should the eligibility criteria for candidates for election to Council be changed? If so, what changes are needed?

- Should the criterion on residency be changed?
- Should pharmacists who are board members of other pharmacy bodies have any restrictions on their eligibility to serve on the Council?
- Should candidates be required to declare any adverse fitness to practise decisions?
- Should there be any requirement for candidates to be actively working within the profession?
- Should the requirement for five nominators to be from a candidate’s branch be changed?
- Should candidates be required to declare that they are eligible to serve as a charity trustee?

4. POLICY ON CANVASSING

4.1 The Society’s policy on canvassing in Council elections is intended, as far as possible, to give candidates an equal opportunity of presenting their views and to prevent any candidate having an advantage because of financial resources or other special influence. Candidates are expected to refrain from personal canvassing and from allowing canvassing to be undertaken on their behalf.

4.2 Biographical details of candidates are sent to all pharmacists, with policy statements and information on financial interests. The policy statements give the candidates’ unedited views, subject to a limit on length.

4.3 Candidates are asked not to send letters to the pharmacy press for publication between the date when nominations are published and the election. Editors of publications may pose three questions to each candidate, with replies published in the respective journals. Candidates may make a factual announcement of their candidature in the official magazine of any organisation of which they are a member or employee. Branch or regional newsletters may also publish candidates’ views on topics provided that all candidates are treated equally. Regions, branches or external organisations may hold “hustings” events provided that all candidates are given an equal opportunity to present their views.

- 4.4** Candidates are asked to sign a declaration that they will abide by the policy on canvassing. Anyone appearing to breach the declaration is asked to provide an explanation to the President and Council.
- 4.5** The restrictions on canvassing are seen by some as giving an unfair advantage to current members of Council and others who are well known as a result of their employment or positions held in other bodies. It is suggested that the system does little to encourage new candidates to stand, to allow pharmacists to assess the candidates or to motivate pharmacists to vote.
- 4.6** Restrictions on canvassing are not commonly applied in elections to similar bodies, beyond general restrictions such as a requirement that publicity be legal, decent, honest and truthful and have regard for professional propriety. Removal of restrictions would raise demands on candidates' time, which have already increased with the growth of internet use. The internet could be thought to have created a more level playing field. The restrictions on canvassing represent a voluntary agreement: little can be done to enforce them, particularly if canvassing takes place via the internet. Administrators of unmoderated internet discussion groups could not enforce such restrictions. It might be thought that the restrictions are becoming unenforceable.
- 4.7** This question has been a subject of debate over the years. Branch representatives requested in 2000 and 2002 that the Council reconsider the restrictions on canvassing. They did not ask that all restrictions be removed. However, it is difficult to see how the restrictions could be relaxed significantly without removing them.
- 4.8** It would not seem realistic or appropriate, particularly with the growth of internet use, to limit canvassing by setting and monitoring a budget for all candidates but a lack of budgetary limits could leave individuals at a disadvantage compared with those backed by organisations. Guidance on the use of sponsorship by candidates would be needed. The removal of restrictions would also allow "negative campaigning" against individual candidates, which might be seen as particularly inappropriate for elections to the governing body of a profession (although such campaigning might prove counter-productive).
- 4.9** If the restrictions were removed, further work would be needed to define the information or assistance that the Society could supply to candidates and the role of *The Pharmaceutical Journal*, so that the Society as an organisation did not influence the election of Council members.
- 4.10** If restrictions on canvassing were retained, some limited changes might be made to increase the information available to the electorate. For example, the names of nominators might be published. Candidates might be asked to name their main nominator, who would publish a statement about the candidate in addition to the candidate's own policy statement. Another possibility would be to include candidates' statements on how they could contribute to fulfilling each of the Society's main functions, in addition to a general policy statement.

What do you think? Should there be restrictions on canvassing for candidates in Council elections? If so, should the restrictions be retained as now or changed?

5. TERM OF OFFICE AND FREQUENCY OF ELECTIONS

- 5.1** Council members currently serve a three-year term. This might be considered too short in view of the need to gain experience before a member can exert influence. This needs to be balanced against the wish not to dissuade those still pursuing their career from standing for election.
- 5.2** The term of office is linked to the frequency of elections. Currently, Council elections are held annually, with one-third of members retiring each year.
- 5.3** Annual elections provide pharmacists with frequent opportunities to stand for Council and to express their views on the Council's performance through the ballot box. The current arrangements provide continuity as only one-third of Council members may change following an election. This also limits the impact of an election. Elections on a rolling basis avoid the potentially disruptive effect that a single topical issue might have on the Council's composition if all members stood down at one time.
- 5.4** On the other hand, annual elections may make it difficult for the Council to take a strategic, long term view in its decision making. They may weaken the Society's ability to plan its work programmes and budgets in order to achieve strategic aims. The Council might be more effective if the frequency of elections was reduced, while still allowing elections to take place on a rolling basis.
- 5.5** Another option would be for all Council members to retire at the same time. This system might be thought to create instability but has been operated by some other bodies. However, if the lay members of Council were appointed on rolling basis and the pharmacist members all retired at once, this could disadvantage pharmacist members as the lay members would have more continuity. Hence, whatever period is chosen, the election timetable for professional members should match the appointment timetable for lay members.
- 5.6** What happens in other bodies? GMC: four-year term with elections every four years and all members retiring at the same time. GDC: five-year term with elections every five years. GOC: five-year term with elections currently every five years and all members retiring at the same time, but the GOC is considering changing this to enable phased retirement of council members. NMC: will have four-year term. HPC: will have four-year term, with one quarter of members retiring each year. GOsC and GCC: five-year term.
- 5.7** Another view comes from the Committee on Standards in Public Life⁶ which identified some common themes for public spending bodies, including a recommended limit of four years on terms of office.

What do you think? What should be the term of office and frequency of elections for Council members in the future?

6. LIMIT TO CONSECUTIVE TERMS OF OFFICE

- 6.1** It has been suggested that there should be a limit to the number of consecutive terms of office that a Council member may serve. This would ensure new blood on the Council and counteract perceptions that the Council may become fossilised. Imposing a limit could result in valuable Council members being forced to retire. However, all members could be eligible for re-election or reappointment once they had been out of office for one term.
- 6.2** The Committee on Standards in Public Life recommended a limit of four years as a term of office, with reappointment after a second term being the exception rather than the rule.⁶
- 6.3** What happens in other bodies? GMC: service will be limited to eight years (two consecutive terms), with members eligible for re-election or reappointment after a period of four years out of office; periods of council membership before the new GMC takes over will be disregarded. HPC and NMC: service limited to 12 years (three consecutive terms). GOC, GDC, GCC and GOsC: no limit on length of service.

What do you think? Should there be a limit to consecutive terms of office as a Council member? If so, what should the limit be?

7. AGE LIMIT

- 7.1** Another question that has been raised is whether there should be a maximum age limit for Council members. What age limits have been set by other bodies? GMC: will have an age limit of 70 years for candidates at election. GDC: no limit. HPC and NMC: no limit expected. GOC: age limit for candidates is 60, with council members retiring at 65. GOSc and GCC: council members retire at 70.
- 7.2** Setting an age limit might be considered to help ensure that the Coun-

cil remained in touch with current thinking but this does not depend upon age. It could promote "turnover" of Council members. However, if a limit to consecutive terms of office were introduced, setting an age limit might not bring additional benefit.

What do you think? Should there be an age limit for Council members? If so, what should the limit be?

8. REMOVAL OF MEMBERS FROM COUNCIL

- 8.1** The Council has statutory and professional responsibilities and should have a mechanism to remove one of its number if a member were hindering the Council in carrying out its responsibilities. The Council intends that its code of conduct, which has been introduced on a voluntary basis, should be enshrined in the Byelaws in future and become mandatory. This would provide a mechanism for the removal from office or suspension of a Council member if considered necessary. Other bodies regulating health professionals have similar codes of conduct but a number also have provisions in legislation for the removal of Council members in exceptional circumstances.
- 8.2** The proposals for reform of the GMC⁷ would allow its council to make rules governing such a situation. Council membership would also end automatically with the loss or suspension of a member's licence to practise.
- 8.3** In the NMC, a council member would be removed from office if a fitness to practise order were made against him. No professional member of the HPC (or of its committees or subcommittees) may take part in any proceedings while they are the subject of any investigations regarding their fitness to practise.

- 8.4** The NMC's legislation allows for a council member to be removed by a two-thirds majority of the other council members because of a serious and persistent deficiency in attendance or in conduct or performance at meetings. The council may also provide for the removal of members in other circumstances by standing orders.

- 8.5** GOSc and GCC legislation also allows the council to make rules setting out the grounds on which a council member may be removed from office, such as repeated absence from meetings, unacceptable professional conduct or bringing the council into disrepute. The GCC's rules provide for a council member to be removed from office by a majority decision at a council meeting.

- 8.6** It might seem advisable to provide for the removal or suspension of a Council member if necessary because of mental illness, as in GCC legislation.⁸

What do you think? Should the ways in which Council members may be removed from office be changed? If so, what changes are needed?

9. WHAT ARE YOUR VIEWS?

- 9.1** The Modernisation Steering Group needs your views to help it to formulate its proposals to the Society's Council.

Please send your comments by Friday 13 September 2002 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. Readers of The Pharmaceutical Journal will also have the opportunity to respond to the paper by returning a questionnaire that is to be distributed with The Journal of 24 August.

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

REFERENCES

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