



Why do we need a new Charter?

The Society's programme of reform requires a number of changes to its governing framework. As well as requesting changes to its legislation, the Council has decided to seek a new Charter. Before petitioning for a new Charter, the Council will seek the views of the profession by a range of means. Here the Society sets out the reasons for the Council's decision and outlines what the consultation will involve.

Background to reform

Many members will be familiar with the background to the Society's modernisation programme.

In the past few years, the world in which the Society operates has changed significantly and irrevocably. The public rightly expects health professionals to be competent and accountable. People are taking an increasingly consumerist approach to their health care, questioning and challenging professional opinion.

In the report of the Kennedy inquiry, a much broader, more integrated definition of professional regulation was outlined. The Government is committed to implementing a series of measures to make the regulation of health care professionals more transparent and accountable, starting with the setting out of minimum standards for health professional regulators and the establishment of an over-arching Council for health professional regulators.

As both a regulatory and professional body, the Society has to respond to these important shifts in public attitude and the Council is working to create a modern, effective regulatory and professional body for pharmacy.

The Society's governing documents

As well as being governed by legislation, the Society is incorporated and governed by Royal Charter. The Society has always been rightly proud of its chartered status. The benefits it confers are many: flexibility, autonomy and the powers to undertake a broader range of appropriate activities than set out in legislation, provided these do not conflict with the public interest. The Society is independent of the Government of the day and will remain so.

The original Charter, granted in 1843, established the Society as a Chartered corporation and set out the Society's objects, structure and some of its powers. Since then, supplemental Charters have been granted in 1901, 1948 and 1953. A supplemental Charter may be used to make a small change or may, in effect, be a "new" Charter, revoking all previous Charters except in so far as they serve to incorporate the Society.

The Society's principal pieces of governing legislation are the Pharmacy Act 1954 and the Medicines Act 1968, which have also been subject to various amendments over the years.

The Council itself is constituted jointly by Charter and legislation, and is responsible for the discharge of all the Society's functions whether provided by Charter or legislation.

Route to reform

Over the past year, there has been wide discussion about the need for the Society to make a number of changes to its existing legislation to make it fit for the future. There has been consultation with the profession — and beyond — on the Society's remit and on what the Council will look like in the future. The Council has already made a number of key decisions but there is more work to be done before the Society submits its proposals for change to the Government.

In theory, the programme of reform could be achieved solely through legislation in the form of an Order under Section 60 of the Health Act*. However, this could leave the Charter to wither on the vine, as explained below under "Potential benefits of a new Charter", serving no real purpose other than to incorporate the Society. In order to retain and improve the advantages that chartered status confers, the Council has, therefore, decided that there should also be reform of the Charter.

* An Order that authorises the creation or amendment of legislation for a health professional regulator

What is wrong with what we already have?

Although the existing 1953 Charter is certainly not all bad, it is — not surprisingly for a 50-year-old document — out of date in a number of respects, as the following examples illustrate:

- Modern requirements for good governance mean that the Charter should make explicit what is currently implicit, such as confirming that the Society's powers will be exercised for the public benefit; and describing the purposes for which the Society's assets may be used
- The need to seek Privy Council approval for all byelaw changes limits the Society's ability to regulate its internal affairs
- The focus on advancing the science of chemistry is no longer appropriate when many of today's medicines derive from the biological sciences
- The provisions relating to property are out of date

The Council has decided that just amending the current Charter would not make it fit for the future and that an entirely new Charter is needed that will serve the profession for the future.

Potential benefits of a new Charter

The option of having a new Charter alongside the Section 60 Order gives the Society the opportunity to ensure that it is properly equipped for its role as a modern regulator and professional body, with clear and appropriate powers and functions. A new Charter will support the Society's integrated functions and, in particular, safeguard and strengthen the professional role.

If the Society does not update its Charter concurrently with new legislation, it is likely that the Government will use legislation to act directly on the Charter, not necessarily with the Society's agreement. The Charter would be effectively overwritten by legislation, which could then make it more uncertain that the Society could achieve the best outcome for the profession and the public it serves. It could also reduce the Society's ability to achieve desirable change in the future, as powers under the Charter could be lost.

For example, if the Council itself were constituted solely under legislation, a statutory instrument could be required every time it wished to make or change its regulations (Byelaws). This would be a much less flexible mechanism than the Society currently enjoys.

Some members of the profession fear that a future Government might wish to take regulation of the health professions to itself. If that were to happen, bodies such as the General Medical Council, as it currently exists, would be entirely subsumed. A new Charter would reinforce the Society's professional leadership role and ensure that it could survive in such a situation as a chartered body.

What does membership of the Society mean?

Members are essential stakeholders in the Society. However, they are not the only stakeholders. The public, patients, government, the National Health Service and the other health professions also have interests in the future of the Society. The Society needs to take account of the views of the profession and those of other stakeholders to inform any decision it makes to reform.

Members do not opt to join the Society on the basis of the services it can provide for them. They join in order to gain the privileges, the rights and the responsibilities of a health professional. The Society's income, including retention fees paid by pharmacists, supports all the processes that combine to assure competence and fitness to practise and to help pharmacists deliver quality in their practice. These functions benefit pharmacists but they also provide assurance to the public and help to protect patients from harm. It is essential that the Society safeguards and maintains public confidence in pharmacists and pharmacy. The Society is accountable to stakeholders beyond the profession and its activities are determined by the needs of all those whom it exists to serve.

Every attempt has been made to communicate what membership of the Royal Pharmaceutical Society of Great Britain means and why reform of the Society is needed. Consultations have been held with stakeholder groups. Much has been written in the pharmacy press. Despite this, there are still some who are unwilling to accept the realities of the situation, for whatever reason. That is, of course, their right, but the Council nonetheless has to act in the interest of the profession and the public as a whole.

Those within the profession who believe that the Society's role should include representation of their interests without qualification are likely to oppose a new Charter, which must inevitably centre on the Society's public interest role.

For a variety of reasons, these commentators are not prepared to accept the drivers behind the reform process. Crucially, some misunderstand the nature of the Society, which they propose should not lead, develop, regulate and support the pharmacy profession, but be a body representing the interests of individual pharmacists, whether or not they are consistent with the public interest.

They take their stance from a misinterpretation of the Charter, which, indeed, could — and should — be more explicit on this point. Section 4 of the Charter states that the objects of the Society shall be, among other things, “to maintain the honour and safeguard and promote the interests of the members in their exercise of the profession of pharmacy”. This has led some to infer mistakenly that the Society is a trade union body such as the British Medical Association or the Royal College of Nursing.

The route to a new Charter

Having decided to pursue a new Charter, the Council has also considered how to proceed.

All methods of seeking a **new** Charter involve an extensive period of consultation and clearance with the Privy Council's advisers. These would be essentially the same Department of Health officials and lawyers as are involved with the formulation of the Section 60 order.

For the **current** Charter to be altered, Article 20 of the 1953 Charter requires the Council to call a special general meeting at which 75 per cent of those present would need to accept the proposed change. This is not a requirement for the purpose of seeking a **new** Charter. In its deliberations, the Council recognised the need to balance the desirability of the widest possible consultation with the profession with the need to achieve the best outcome for the profession and the public it serves.

The Society also understands that if the consultation exercise and consensus-seeking was only undertaken through a special general meeting, the Privy Council itself might not consider that consultation with the profession had been sufficiently wide ranging.

Leading the profession

The Council is aware that much of the debate on reform in the pharmacy press and elsewhere has been monopolised by a small but vocal minority whose views do not reflect the majority views captured in the consultation process over the past year. Given the tenor of the recent debate, it seems likely that this group would dominate a special general meeting called under Article 20 and reject the Council's proposals.

The Council believes that this would not reflect a sufficiently wide range of opinion in the profession and, given the key importance of the Charter in securing the role of autonomous professional body for the Society, an unintended outcome. Members must not assume the status quo would be preserved. Instead, the Government would be likely to impose more provisions through the Section 60 Order, thus rendering the 1953 Charter largely redundant, as explained on page 2 under "Potential benefits of a new Charter".

The Council believes that this would benefit neither the profession nor the public and, as a confirmation of its commitment to professional leadership and development, it will directly petition the Privy Council for the grant of a new Charter to revoke the 1953 Charter.

Having decided to seek a new Charter, the Council now intends to launch a wide-ranging programme of consultation with the membership and other stakeholders on the content of the Charter.

In summary: the Council's decisions

The Council has decided to seek a new Charter to complement the new legislation it is seeking so as to support the Society's integrated roles in a coherent way. It has done so because:

- Proceeding separately with proposals for legislation and the Charter would be unlikely to achieve the best outcome for pharmacy and the public it serves
- Small amendments to the current Charter would not be sufficient to achieve clarity and consistency
- A new Charter would demonstrate the Society's commitment to its wider professional body functions and ensure that it was fully equipped and empowered to fulfil its remit as an integrated modern regulator and professional body

What are your views?

The Council is committed to ensuring the widest possible consultation process with the membership and with key stakeholders to explain the issues that led to its decision and to seek views to inform the content of the new Charter. A communications programme is being planned to enable us to reach as many members as possible in order to stimulate debate and feedback. Over the coming months, we will be taking the opportunity to talk to pharmacists in a number of ways, including:

- At branch and regional meetings
- Via the pharmacy press
- Via the website
- At the annual general meeting
- At the branch representatives' meeting

The Council will consider all the feedback before determining the content of its petition for a new Charter.

Next week's issue of The Pharmaceutical Journal will carry the text of the current Charter, together with a suggested first draft of a new Charter, a table of comparisons and explanatory notes. It should be stressed that this first draft of a new Charter will be exactly that – a draft. It is only an indicator of how things could look, based on the legal advice that has been taken to date. Your comments are needed to help take this work forward.

To inform discussions at the AGM and BRM, the Council would welcome your initial views, based on the information in next week's Journal, by Tuesday 22 April. Please send any comments to Christine Gray, Modernisation Project Manager, at the Society's headquarters (email cgray@rpsgb.org.uk).