

JULY COUNCIL MEETING

# Report of the Council's discussion on possible organisational models for the future Council

*The following report is a summary of the Council's discussion on 2 July, when it met to consider the resolutions on the Society's structure passed at the special general meeting on 1 June, in the light of subsequent discussion at meetings around Britain*

## PURPOSE

The meeting was arranged principally to address the issues raised at the special general meeting on 1 June concerning the future structure of the Council and Society. The relevant resolution stated: "The meeting resolves that the Council of the RPSGB should abandon its current preferred proposal on reform of the Society in favour of a model that allows the RPSGB to be operated by two separate boards, one to deal with professional representation and one to deal with regulatory matters". Certain issues were not specifically addressed — such as the on-going consultation on the new Royal Charter, and the decision to defer any move towards charitable status — although they were clearly important in the context of the discussion.

Of the 24 Council members, 22 were present in the morning, and 23 in the afternoon. Senior staff were also present, and the discussion was facilitated by Marcus Longley, associate director of the Welsh Institute for Health and Social Care, University of Glamorgan, who had also facilitated previous Council discussions.

## AGENDA

The ultimate purpose was to discuss organisational models, and to appraise three specific alternatives. However, following the adage "form follows function", the discussion focused in the morning on achieving common understanding and consensus on the nature of the functions which a new Council would wish to pursue, and the interrelationships between those functions. This resulted in unanimous agreement on a set of criteria by which to assess the organisational models, and the application on those criteria in the afternoon. Three specific models were then evaluated.

## PREVIOUS AGREEMENT

At its last discussion in June, following the SGM, Council members had unanimously agreed upon three key issues. These were that the Society will be the integrated regulatory and professional body for pharmacy, that it should be equally effective in both functions, and that it could not and should not assume a trades union role. These were reaffirmed.

## Panel 1: The functions of the "modern regulator"

### PREPARING FOR PRACTICE

1. Control of entry
2. Education
3. Registration
4. Training

### MAINTAINING AND RAISING STANDARDS OF PRACTICE

5. Setting and enforcing professional and educational standards
6. Promoting good practice

7. Continuing professional development
8. Assessing professional competence
9. Revalidation

### DEALING WITH POOR PERFORMANCE

10. Providing support for improvement
11. Dealing with poor performance and misconduct
12. Removal from the register

*Source: the Kennedy report on the Bristol Royal Infirmary scandal, and the Government response*

## Panel 2: The functions of professional leadership and development

As custodians of the profession, and in the public interest, to:

1. Provide strategic leadership for the profession of pharmacy
2. Promote and represent the profession of pharmacy
3. Set and improve standards for practice
4. Support practitioners in their practice
5. Promote and provide continuing professional development
6. Advise Government, other professions and the public on health care matters

7. Promote scholarship, research and the advance of knowledge
8. Foster collaboration with other relevant bodies
9. Provide a benevolent function for members
10. Promote pharmacy as a career

In all of these to ensure that it takes no action against the public interest, and takes no part in representing parties in a disciplinary matter or in campaigning on matters of a strictly contractual nature.

## Panel 3: Criteria with which to assess organisational models

The model is likely to produce an organisation that is:

1. Expert
2. Timely
3. Efficient
4. Effective
5. Capable of acting in a coherent way

6. Credible to all sections of the profession
7. Credible to Government, the over-arching regulator, and other professions
8. Credible to the public
9. Flexible
10. Robust and sustainable
11. Accountable

## THE FUNCTIONS TO BE PERFORMED

**Regulatory** To be clear about these functions, the “regulatory” and “professional” aspects were dissected. The definition of the former was relatively unambiguous, since this is defined by the Government. The “modern regulator”, as the function has become known, incorporates the roles traditionally associated with that of regulator, with several more proactive functions designed to tackle the underlying determinants of the quality of health care, and to avoid problems rather than merely seeking to deal with them after they have appeared. The 12 functions are set out in Panel 1, with several — such as 5, 6, 7 and 10 — being quite different from the role of “policeman”. All of these would pass to the Society at the Government’s initiative, through an Order made under Section 60 of the 1999 Health Act, and the Society would be accountable to Parliament for their discharge.

**Professional** But the role of “professional representation” requires definition by the Society itself, and will form the core of the Royal Charter. The definition of the “professional” function was therefore the focus for much debate at the meeting. Two elements emerged from the discussion. The first was a series of functions that related to developing and setting standards and objectives for practice — broadly analogous to the roles of the medical royal colleges. The second was the notion of the Society being the custodian of the future of the profession — leading its development, making sure that its contribution was recognised and valued, while always bearing in mind the needs of future generations. Running through both of these elements was the absolute requirement never to act in a way that might be against the public interest, and not to represent members in individual disciplinary cases or take part in negotiations on terms and conditions of contract.

So a list of functions emerged under the “professional” heading (see Panel 2). These were not exhaustive, but illustrative of the “professional” element.

There was then discussion about the term that might best capture these functions. There was concern that the term “professional representation”, used in the SGM motion, actually undersold the royal college-type functions. Council members also felt that it did not give sufficient emphasis to the vital role of leadership for the profession — having a Royal Pharmaceutical Society that understood all parts of the profession and had a responsibility to mobilise its resources in a collective effort to enhance pharmacy’s contribution in the future. In the end, the term “professional leadership and development” was thought to be a much better description.

## INTEGRATING THE FUNCTIONS

The Council’s commitment to maintaining an integrated regulatory and professional body was clear. The implications of such “integration” were explored next. A series of

significant current and recent activities of the Society were considered, ranging from Pharmacy in a New Age and the acquisition of prescribing rights, to issues such as emergency hormonal contraception, concordance, and the response to the recent report from the Office of Fair Trading. The Council looked in some detail at how the Society had actually developed and propagated policy in these specific cases, and how it should operate in the future.

One clear conclusion emerged. All of the issues involved regulatory and professional considerations — it was difficult to conceive of any significant issue that fell into one area or the other. Each therefore required joined-up thinking between these elements, at all stages of policy development. Indeed, one key strength of the Society is its ability to integrate regulatory and professional considerations, and to produce a comprehensive approach to major issues. Any future structure, therefore, must facilitate such integrated thinking.

## CRITERIA FOR ASSESSING ORGANISATIONAL MODELS

The final stage, therefore, before assessing particular models, was to reach agreement on the relevant criteria to be applied. There was unanimous agreement of the criteria listed in Panel 3.

Two new models were considered in detail, proposed and explained by Nicholas Wood. Model A offered a Council and a Regulatory Board. Model B offered two separate boards for regulatory and professional matters.

**Description** Model A envisaged an integrated Society, with functions carried out by a Society Council, similar in composition to the current one and a separate Regulatory Board with Section 60-backed delegated authority (Figure 1). Pharmacist members would be elected or appointed by the Society’s Council, with lay appointees and a professional majority of one.

Model B also envisaged an integrated Society, but with functions carried out by a Membership or Professional Representative Board of elected pharmacists, and by a separate Regulatory Board of elected pharmacists and lay appointees. They would be brought together in a Council comprising all members of both Boards.

The two Models A and B both represented in different ways the principles agreed in the SGM motion.

Accountability would be satisfied in a variety of ways. The Section 60 Order could vary the Pharmacy Act 1954 to specify that there would be a Regulatory Board of the Society. It would then be enshrined in legislation, broadly similar to the situation of the current Statutory Committee, and therefore accountable to the courts and Parliament. The Council would be able to delegate functions and powers through byelaws which, because they are enshrined in byelaws, could only revert to the Council with the approval of the Privy Council. The Code of Ethics would have legal status under a new Order,

but with a requirement to consult and be satisfied on the basis of that consultation that the Code meets certain requirements, for example that it meets commonly accepted standards and is attainable. In both models, the Regulatory Board would not have its decisions ratified by Council. It might send reports to the Council for information, but the Regulatory Board would be autonomous by virtue of legislation.

Any potential for internal conflict that the dual structure might engender could be managed through a variety of consultation and joint working mechanisms, drawing on the distinct difference of roles of the two bodies. Funding for the work of the Regulatory Board would come from registrants’ statutory fees, and the Regulatory Board would pay an economic rent and its share of common expenses. Other income sources would be applied to the regulatory or professional functions as appropriate.

**Appraisal** There was considerable discussion of the respective merits of the two models, and Council members were very grateful to Mr Wood for his work in preparing them for discussion, and in dealing with points of clarification. It was acknowledged that the models presented were outlines and further work was required in order that mechanisms of working be fully developed. While it was noted that the models had been prepared in a short period, and with very limited resources, concerns were expressed on a variety of points, including the following:

- A robust solution would need to be found to the problem of the potential for separation of the functions to generate wasteful duplication of effort or conflict, in the light of the integrated nature of most issues (as highlighted above).
- Uncertainty over staff roles and incompatibility of the lines of accountability of staff working across both functions
- The potential that the Regulatory Board, by virtue of its power and authority, would come to dominate the work of the Society almost to the exclusion of the professional and ultimately resulting in splitting the Society, an outcome rejected by all.

Turning, then, to the criteria (Panel 3), it was generally felt that seven of the 11 criteria were not fully satisfied by either of Models A or B:

3. Efficient
4. Effective
5. Capable of acting in a coherent way
7. Credible to Government, the overarching regulator, and other professions
9. Flexible
10. Robust and sustainable
11. Accountable

Furthermore, it was believed that further consideration and development of the detail of the models would not result in the criteria being satisfied. Council members identified a number of problems that were not just issues of inadequate detail.

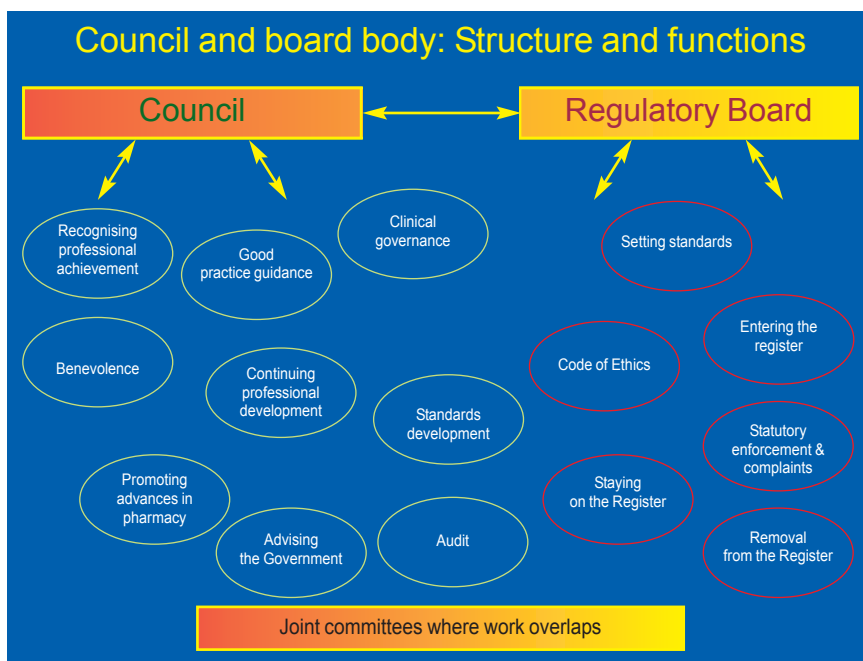


Figure 1: Structure and functions of a Council and regulatory board (Model A)

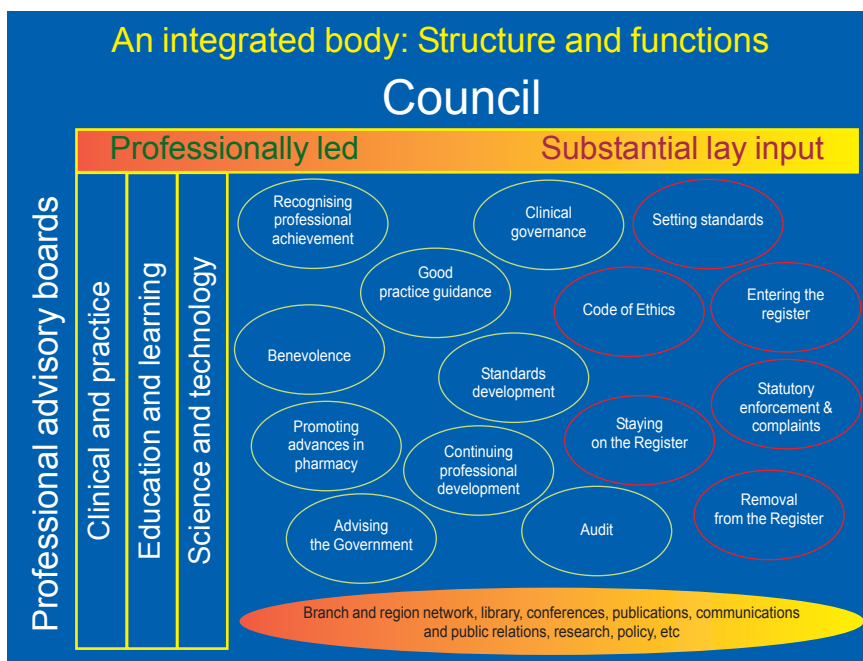


Figure 2: Structure and functions of an integrated Council (Model C)

THE WAY FORWARD

Further discussion highlighted that a great strength of Models A and B was that they gave appropriate emphasis to the discharge of the professional leadership and development function — even though the particular organisational forms might be flawed. It was acknowledged that the model previously adopted by the Council (referred to as Model C on the day) did not appear to do so, since it concentrated more on the constitutional and other aspects of change at the “top” level (the governing Council), and provided little detail on the structural elements that would actually take forward the work on professional leadership and development.

In this context, the Council went on to consider an outline of just such a structure, which had originally been presented for dis-

cussion at the 2002 British Pharmaceutical Conference (Figure 2). This took as its starting point that the functions and activities of the Society actually represent parts of a spectrum, which ranges from being almost entirely professional, to being a mixed lay and professional responsibility. There was a belief that given such a spectrum, a dual structure based on two distinct boards, is unlikely to be satisfactory. The solution in this model is to create a variety of “boards”, “committees” or “working groups” to meet particular needs or areas of work. They could be standing or ad hoc, time-limited groups; they could consist of Council members and/or experts from within the profession, selected for their particular knowledge and contribution to the task in hand. The lay/professional balance on each would be determined by the nature of the task. The Scottish Department and Welsh

Executive, the regions and the branches would all have distinct roles in this structure.

As with Models A and B, substantial questions of detail remained to be explored. These would include the number of boards, committees and/or working groups, their terms of reference, the method of selecting members, the reporting and support arrangements, the implications for existing committees and the detail of the relationship between the various British elements and Scottish and Welsh elements. Such detail would need to be provided. In principle, this model complies on the face of it with most, if not all, of the assessment criteria.

An innovative approach was then presented by Clive Jackson. This comprised a pharmaceutical senate made up of a selection of professionally-led faculties responsible for leading the professional agenda and accountable to (and sharing members with) one governing Council. Again, many details required clarification and discussion — the approach was not explored in any detail. This appeared to provide a synthesis between Model A and the Council’s previously preferred model originally described at the 2002 BPC (Model C). It was noted that Mr Jackson’s approach appeared to comply on the face of it with the assessment criteria.

CONCLUSION

It was agreed that the work to define the regulatory and professional leadership functions, and to clarify their interrelationships, was helpful in producing greater understanding of the requirements of any organisational model. The assessment criteria provided a useful tool by which to assess any proposed models.

The proposed models (A and B) predicated on institutional separation of the regulatory and professional leadership and development functions, both at the head of the organisation and throughout the levels below, did not satisfy a number of the key criteria. Equally, the existing Council-endorsed model, while satisfying most if not all criteria, did not provide sufficient information about how the professional leadership and development function would actually be discharged. Without such information, it was difficult to have full confidence in it.

In short, it was vital that any model would provide:

- fully integrated working within the Society
- appropriate mechanisms, resources and priority for professional leadership and development
- clear, unified lines of accountability to Parliament, through a single governing body

It was therefore agreed that further work would now be carried out as a high priority to describe a credible and appropriate structure associated with the single governing Council, as discussed above, which could deliver integrated regulatory and professional policy development, and satisfy the assessment criteria.