

Council meeting 1 & 2 August 2006

**PUBLIC BUSINESS**

## **From Byelaws to Regulations – Batch 2: Policy issues**

### **Purpose**

This paper seeks policy decisions to inform subsequent drafting of regulations that will partially or entirely supersede the following byelaw sections:

Section II: Members [and fees payable to the Society]

Section III: Fellows

Section IV: Honorary Members and Fellows

Section V: Students

Section VII: Council and meetings of Council

Section XVI: Branches and Branch Representatives' Meetings

Section XXVIII: Byelaws

Second Schedule: Model Rules for Branches

together with regulations for the suspension and removal of Council members

### **Strategic objective domain**

- An organisation that consistently performs as a regulator, professional representative leader and publisher

### **Action required**

Council is asked:

- (i) whether it wishes to broaden the grounds on which fellowship may be awarded in line with the suggestion at paragraph 4.4
- (ii) whether it wishes to extend an automatic right to honorary membership to retired pharmacist fellows, and retired pharmacist members who had previously been on the register for 50 years or more, who leave the register in good standing after the regulations have come into force
- (iii) whether it wishes to extend eligibility, for consideration on an individual basis, for honorary membership to retired pharmacist fellows, and retired pharmacist members who had previously been on the register for 50 years or more, who have left the register in good standing before the regulations have come into force
- (iv) whether the 50 years' on the register criterion for former members should be calculated as a total of years served or would need to be continuous.

- (v) whether it wishes the regulations to provide that all Privy Council appointees to the Society's Council shall, if not registered as a pharmacist, be honorary members while holding office.
- (vi) whether it is content to discontinue the description of the BPSA as a section of the Society
- (vii) whether the current procedure whereby the BPSA proposes its constitution and the Council approves it be formalised
- (viii) whether the requirement for the subscription of the BPSA to be decided by the Council be discontinued
- (ix) whether the provision that BPSA members should receive the Pharmaceutical Journal and the Journal of Pharmacy & Pharmacology at discount rates, to be decided by Council, be revised to state that students in pharmaceutical disciplines should receive The Pharmaceutical Journal at a discount rate, in line with current practice
- (x) whether it is happy for the bulk of the model Rules to be translated into guidance, rather than carried across into regulations, as suggested in 7.2-4
- (xi) whether the word "residing" in the definition of branch members as being "all such persons [members of the Society] residing in the Branch area" should be changed to "registered"
- (xii) whether criminal convictions resulting in a sentence of imprisonment (whether suspended or not) for three months or more without the option of a fine and which has not been quashed on appeal should be added to the list for automatic removal.
- (xiii) whether if a member of Council had supported the respondent(s) at the Panel hearing, he or she should be excluded from both the discussion and the vote on any potential sanction.
- (xiv) whether the Council be empowered to exercise discretion in the removal or suspension of a member of Council according to such procedure as shall be specified in regulations for the following reasons:
- Criminal convictions other than those specified as requiring automatic removal, and cautions
  - Adverse findings made, or warnings issued, by any UK or overseas regulatory authority or public body
  - ceasing to be normally resident in Great Britain, the Isle of Man or the Channel Islands
  - In the case of a member of Council elected in a national constituency, ceasing to be normally resident in [*or "live or work wholly or mainly in", depending on the Council's decisions this month with regard to the election regulations – see paper 06.08.C.77,*] that constituency

- unsatisfactory attendance at meetings of the Council
  - incapacity to perform duties as a member of Council by reason of adverse physical or mental health;
  - significant and material breaches of the Council's Code of Conduct
- (xv) whether the Registrar should be able to submit for the Panel's consideration any information brought to his or her attention that would seem to indicate a breach of the above provisions, whether or not a complaint has been received.
- (xvi) whether the Panel should have discretion to consider an alleged breach of the Code of Conduct under whatever provision of the Code it considers appropriate.
- (xvii) whether the regulations should include an option for an attempt at independent mediation (method and process to be defined in the regulations) before the process transfers to formal consideration by the Panel.
- (xviii) whether one member of the Panel be nominated to act as an investigator. This person would have no Panel duties other than to examine all complaints on referral to the Panel and
- determine whether or not they would be suitable for an attempt at mediation (if the complainant(s) and respondent(s) agree) before entering the more formal Panel procedures; and
  - write the charge.
- (xix) whether the provision for consideration of a complaint against a former member of Council be removed, but that should a respondent's term of office expire or a respondent resign before any complaint is resolved, the procedures be taken to determination as though the respondent were still a member of Council.
- (xx) whether if a member of Council were to be subject to RPSGB FTP investigation or proceedings then Council would need to be informed but there would be no need for an interim suspension from Council unless an interim suspension order had been applied by an FTP committee
- (xxi) whether if a member of Council were subject to investigation or proceedings by any other regulatory or public body then the relevant member of Council must inform the Council, who will decide, in line with the current procedure, whether or not that person should be suspended from the Council as an interim measure.
- (xxii) whether it is content that the provision that any member applying to the Society for a copy of any proposal to make, alter or revoke a byelaw shall be entitled to a copy free of charge be dropped
- (xxiii) whether it is content that the provision that every person upon becoming a member and every person upon becoming a student shall be entitled to receive a copy of the byelaws free of charge be dropped, in line with current practice.

## 1. Background

- 1.1 Previously, the Society's byelaws have been made under powers provided either by the Charter or by the Pharmacy Act 1954. Under the Society's new governing documents<sup>1</sup> the terminology is/will be different. Instead of byelaws, the Council makes regulations under the new Charter and will make rules under the new legislation. In due time all the existing byelaws will be superseded by regulations or rules.
- 1.2 The process of superseding current byelaws deriving from the Charter by regulations under the new Charter began in December 2004 with the making of regulations governing election or appointment to the Council. The rest of the byelaws deriving from the Charter will remain in force until such time as they are superseded by regulations.
- 1.3 Byelaws deriving from legislation will remain in force or be amended as appropriate until the Section 60 Order comes into force; after which they will be superseded by rules.

## 2. Introduction

- 2.1 The work programme for supersession of Charter byelaws with regulations has involved dealing with some sections (such as Officers of the Society, election & appointment to the Council and the establishment of national pharmacy boards) individually. The remaining Charter byelaws have been grouped into three batches for supersession.
- 2.2 The first batch covers only those byelaws where the supersession process appears fairly straightforward, in that they do not seem to require policy discussions in advance of the regulations being considered. Draft regulations for this first batch have recently been considered by the Governance Committee and submitted to Privy Council advisers for initial comment -- they will come to Council for approval later in the year.
- 2.3 This paper seeks resolution on policy issues to inform the drafting of the second batch of regulations. Once this is achieved, a draft will be prepared for comment from the Governance Committee, who will then submit recommendations to Council. Proposals for supersession of the remaining byelaws will be submitted later in the Council year.
- 2.4 In preparing the regulations, the general goal is to limit the amount of detail set out in regulations, and, so far as is appropriate, to capture the rest (for example, ways of working) in protocols or guidelines, while avoiding improper sub-delegation.

## 3. Members

- 3.1 The vast bulk of the current byelaw section II, "Members and fees payable to the Society" refers specifically to fees, not the condition of membership itself, and is therefore due to be superseded by fees rules under the section 60 Order (and is not included in appendix A to this paper). However, the first paragraph reads "No person shall be a member of the Society unless he is registered as a pharmacist." Notwithstanding the current uncertainty regarding the future of the statutory registration/membership link, the link is in the Charter and this paragraph should therefore be carried across into the regulations.

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<sup>1</sup> the 2004 Charter, which is in force, and the awaited new legislation in the form of an Order under Section 60 of the Health Act 1999, which will repeal the Pharmacy Act 1954

#### 4. Fellows

- 4.1 The current byelaw section III, "Fellows", is set out at Appendix A, p.22.
- 4.2 Para 7 of this byelaw section stipulates that members designated as fellows of the Society shall be so designated only so long as they retain members. It should be noted that they may be practising or non-practising. It has been suggested that fellows who retire from the register should be allowed to retain their fellowship, and the right to use the postnominal FRPharmS. This, however, is not permissible under the Medicines Act 1968, art 78, under which Fellow of the RPSGB is a restricted title (this also applies to postnominals; the Department of Health has indicated that it is not usual to include abbreviations in legislation on protected titles, but that someone using a relevant abbreviation would be representing themselves as being entitled to use the protected title, so someone using the postnominal FRPharmS would fall foul of article 78 if they were no longer on the register). Alternative suggestions for recognising the contribution of retiring fellows and long-serving members may be found in section 5.
- 4.3 Paras 3, 4 and 5 restrict eligibility for fellowship (by varying routes) to those members of not less than 12 years' standing who have made outstanding original contributions to the advancement of pharmaceutical knowledge, who have attained distinction in the science, practice, profession or history of pharmacy or who have made outstanding original contributions to the advancement of practice.
- 4.4 It has been suggested that the Society should broaden the grounds upon which fellowship could be awarded to include registered pharmacists of not less than 12 years' standing who have made an outstanding original contribution to the advancement of knowledge and/or practice, or who have attained distinction, in a field outside pharmacy.

#### Action required

- (i) **The Council is asked whether it wishes to broaden the grounds on which fellowship may be awarded in line with the suggestion at 4.4 above.**

#### 5. Honorary members and honorary fellows

- 5.1 The Charter (art. 3(9)) provides power for the Society "to award fellowships, honorary fellowship or membership, and other distinctions of the Society". The Charter does not restrict such designations to any particular categories of person.
- 5.2 Byelaw section IV, "Honorary fellows and members", is set out at Appendix A, p. 23, and paras (1) & (2) provide that the Council may elect:
- As honorary fellows, "such scientific workers as have distinguished themselves in any of the branches of knowledge embraced in the educational objects of the Society and persons who are eminent in national life"; and
  - As honorary members, "such persons as have rendered distinguished service to the Society or to pharmacy".

- 5.3 The byelaws do not exclude pharmacists and/or former pharmacists from designation as honorary fellows or honorary members at present. However, all pharmacists are members of the Society and there would be no logic in designating someone as an honorary member when they were already a member. Similarly, there would seem little point in recognising a pharmacist's contribution to the Society or to national life by making them an honorary fellow if they could be made a Fellow of the Society.
- 5.4 While the byelaws are silent on the subject, former pharmacists have not to date been awarded honorary membership or honorary fellowship. It is established custom and practice that someone who has undertaken a pharmacy degree but who never registered would not be considered for honorary membership. It would therefore seem appropriate that any change would require a policy decision by the Council to inform the regulations, setting out the basis upon which such designations could be made and the process to be followed.

*Rights and privileges attached to honorary memberships and fellowships*

- 5.5 It is the current practice of the Society that honorary members and fellows are entitled to such privileges and benefits of the Society as may be determined by the Council excepting always the right of voting at general meetings of the members. The list of what these benefits might be is unclear, except that it includes a free subscription to The Pharmaceutical Journal. It is similarly unclear whether permission has ever been given to honorary members and fellows to use postnominals e.g. HonMRPharmS or HonFRPharmS – although a websearch reveals that at least two or three have used them in the past, for example in bylines on Journal articles.

*Should former pharmacists be eligible to receive honorary memberships or fellowships?*

- 5.6 The Council and/or the Privy Council might feel that awarding honorary membership or fellowship to former pharmacists could make it more difficult for the public to tell who is a pharmacist and who is not – especially if the use of postnominals were to be permitted.
- 5.7 The same argument could, in fact, be applied to the designation of anyone as an honorary member or honorary fellow – there are no equivalent awards made by the other health professional regulators. The royal colleges are split on this issue – some, such as the Royal College of General Practitioners and the Royal College of Veterinary Surgeons, offer no award of any type to former members, and former members may not retain fellowships that were awarded while they were members.
- 5.8 On the other hand, the Royal College of Obstetricians and Gynaecologists makes no awards to former members but a member who has received a fellowship and who subsequently retires can keep the award (which they cannot do if they are struck off the GMC register). The Royal College of Surgeons (England) allows people to remain members or fellows even if they cease to pay their subscriptions (their honorary fellowships are to those outside surgery only). The Royal College of Physicians (England) lets its fellows keep their fellowships once they retire from the RCP membership and the GMC register, and it can award honorary memberships to (usually distinguished elderly) retired members. In the award letter the college makes it clear that honorary membership is not to be confused with MRCP and is not a measure of competence. None of these colleges has been aware of any confusion in public perception resulting from such awards.

- 5.9 Some might feel that honorary fellowship would be an appropriate way to recognise the contribution of someone who had retired (not been struck off) from the register who had been previously designated a Fellow of the Society. However, Honorary Fellowship has always been an extremely prestigious and rarely awarded title – current honorary fellows include royalty and former Secretaries of State. It might be thought unwise to broaden the criteria so dramatically.
- 5.10 The August RMC report (paper 06.08/C/98) recommends that there should not be a concessionary fee for long serving pharmacists, but that consideration be given to other, non-fee related, ways of recognising long service. The Council may therefore wish to consider expansion of the criteria for honorary membership to recognise the contribution of:
- (a) fellows who had retired from the Register; and
  - b) members who had retired from the Register and who had previously been on the Register for 50 years or more.

Any automatic right to 'honorary member' status for these categories of person would seem inadvisable, at least in cases where there was a gap between the person's retirement from the register and the award of honorary membership, in case any adverse information relating to that person had arisen during the intervening period. If the Council wanted to expand the criteria for honorary membership in this way, and would restrict the award to those leaving the register after the new regulations come into force, then an automatic right would not seem unreasonable (as qualifying candidates would be in good standing with us when they left the register voluntarily). However, any proposal that those meeting the criteria at either (a) or (b) above who left the register before the new regulations came into effect would automatically receive honorary membership would seem inadvisable, given that we would have no knowledge of them in the period since they left the register. This would not preclude the nomination of such a person on an individual basis, where it could be considered as such.

- 5.11 If such an approach were to be favoured, it would seem advisable to make clear in the regulations that recipients would not be eligible to use any form of postnominal, in order to avoid potential public confusion.
- 5.12 The Council would also have to decide whether the 50 year membership criterion should be calculated as continuous years or years in total. Further, the Register can only produce a list of people by their initial registration date, so it would not be immediately apparent whether someone had come off and returned to the Register during that period, thereby not qualifying for 50 years' service. This could be determined through an individual record search, but in any case the electronic register only goes back 10 years, after which time only paper records exist. In previous work on reduced retention fees for such a group it was therefore suggested on grounds of practicability that a declaration of number of years on the Register should be obtained from the person concerned, with a couple of records being checked for audit purposes out of each batch.
- 5.13 The resource implications of retired fellows or members with over 50 years' service receiving free subscriptions to the Journal would also need to be taken into account. Concept cannot give figures for the number of retiree fellows from the Register who

are alive at any point in time, as the families of retired members are not required to inform the Society when retirees die. However, 284 of the 1,335 members who retired since July last year registered 50 years previously or more (although we have no information as to whether they had stayed on the Register for the whole qualifying period). The average cost per year of sending them copies of the Journal would be around £25 per person, or £7,100. 68 of the 1,335 members who retired since July last year were fellows. The average cost per year of sending them copies of the Journal would be around £25 per person, or £1,700.

- 5.14 Alternatively, it has been suggested that some other category of Society distinction, such as that of “emeritus member/fellow” be created specifically to recognise the contribution of members who had retired from the Register and who had previously been on the Register for 50 years or more. However, it would seem difficult to think of a title that could stand the public protection test by not being open to misinterpretation that the person was eligible to practise as a pharmacist. “Emeritus”, for example, is a slightly arcane term that might be interpreted by many as carrying only connotations of special distinction, not retirement. Of all terms considered, honorary membership would seem to have the least potential for misperception.
- 5.15 It should be borne in mind that that any moves to privilege those with 50 years’ membership might be considered to discriminate against women (particularly if 50 years’ continuous membership was required) as women are more likely to take career breaks, or against pharmacists who had transferred to the UK from another EU state. Privy Council advisers have previously objected to proposals for reduced fees for those with 50 years’ membership or more on this basis.
- 5.16 Others might think it inappropriate for the Society to award any distinction to someone who, although eligible for membership, is unwilling to maintain their membership of the Society, even on a non-practising basis.

*Definition of practising*

- 5.17 The draft section 60 Order includes the following definition of practising: “For the purposes of this Order, a person practises as a pharmacist or a pharmacy technician if, whilst acting in the capacity of or holding himself out as a pharmacist or a pharmacy technician, he undertakes any work or gives any advice in relation to the dispensing or use of medicines, the science of medicines or the provision of health care.” The Council, after much consideration, has asked that advice on the practice of pharmacy should be mentioned explicitly in the definition.
- 5.18 The Council may wish to take this definition into account when considering how reasonable it might be to award any distinction of the Society to someone who declined to maintain their membership.

**Actions required**

**The Council is asked:**

- (ii) **Whether it wishes to extend an automatic right to honorary membership to retired pharmacist fellows, and retired pharmacist members who had previously been on the register for 50 years or more, who leave the register in good standing after the regulations have come into force**

- (iii) **Whether it wishes to extend eligibility, for consideration on an individual basis, for honorary membership to retired pharmacist fellows, and retired pharmacist members who had previously been on the register for 50 years or more, who have left the register in good standing before the regulations have come into force**
- (iv) **whether the 50 years' on the register criterion for former members should be calculated as a total of years served or would need to be continuous.**

*Privy Council nominees as honorary members*

- 5.19 S15 of the Pharmacy Act 1954 provides for the appointment of three Council members by the Privy Council, while Article 8 of the Charter provides that the Council shall include 'ten persons appointed by Our Privy Council'.
- 5.20 Legislation takes precedence over the Charter. Given that the Pharmacy Act 1954 is currently in force, this means that, of the ten current PC appointees on the Council, three are appointed under the Pharmacy Act and seven under the Charter.
- 5.21 In future, once the Pharmacy Act has been repealed and the s60 Order is in force, all ten would be appointed under article 8 of the Charter.
- 5.22 Byelaw IV(3) provides that: 'A person who is nominated by the Privy Council to be a member of Council, under the provisions of the Pharmacy Act, 1954, shall, if not registered as a pharmacist, be an honorary member while so holding office'.
- 5.23 However, only three of the current lay Council members are appointed under the Pharmacy Act and are therefore honorary members under byelaw IV(3).
- 5.24 Honorary membership would seem to confer no actual benefit, privilege or restriction on Privy Council nominees other than the implied courtesy.

**Action required**

- (v) **The Council is asked whether it wishes the regulations to provide that all Privy Council appointees to the Society's Council shall, if not registered as a pharmacist, be honorary members while holding office.**

**6. Students**

- 6.1 The Byelaw Preliminary section defines "Student" as "*a student of the Society [this is an anachronism and should simply read "a student"], who is an undergraduate student at a school of pharmacy in Great Britain reading for a degree granted in respect of pharmacy that has been approved by the Council for the purpose of registration as a pharmaceutical chemist in Great Britain, or a graduate who has been awarded such a degree, who is not registered as a pharmaceutical chemist and who is undertaking postgraduate research or studies leading to a higher degree, or who is undertaking a period of preregistration training in Great Britain.*"
- 6.2 Byelaw section V on "Students" (Appendix A, p.23) deals in the main with members of the BPSA (membership of which shall be open to all students (upon payment of a fee) but is not mandatory), although its final provision does refer to all students, whether or

- not members of the Association, being able to attend meetings of the Society's Branches and Regions, and eligible to receive assistance from the Benevolent Fund.
- 6.3 The byelaws currently stipulate that "*There shall be a section of the Society entitled the British Pharmaceutical Students' Association*", and that it shall be regarded by the Council as the representative body for students. The word "section" is not defined in the Preliminary, but it has been suggested that, in some respects, it amounts to quasi-branch status. It is understood that the BPSA is keen to maintain or enhance this status.
- 6.4 The current situation dates back to 1967, at which point the Society ceased to require student registration. The Council was concerned that contact between students and the Society would be lost and accordingly determined that the Council should recognise the BPSA as the representative body for students in pharmacy. It agreed that the BPSA should receive financial support from the Society, while remaining a largely autonomous body.
- 6.5 A degree of confusion as to the exact nature of the link between the Society and the BPSA arose almost at once (with mention of "student members of the Society"), and has persisted. It should be noted that no specific definition of the word "branch" exists. At the moment, students cannot be branch members, according to the Model Rules (only members of the Society can), but students, whether or not they are BPSA members, can attend branch and regional meetings. The BPSA can also send representatives to the BRM who can submit motions and participate in discussions. Model Rules 5&6 when taken together would seem to say that Branch committees should consist of members (i.e. not students) -- but Byelaw V para 8 allows BPSA members to serve as co-opted members of Branch and Region committees.
- 6.6 Concept allocates preregistration trainees to a branch because they are expected as part of their training to attend two branch meetings. That does not mean in itself that they are "part of", or members, of the branch. However, branches are always encouraged to invite preregistration trainees to their meetings. It could be argued that they are currently treated as Branch members except that they cannot hold office unless co-opted.
- 6.7 All the above demonstrates that the exact relationship of students with the Society is unclear in places. Pharmacy students are not currently registered with the Society, and the Society has no powers over them as individuals. There are obvious risks for the Society, particularly as a regulator, in association with a group over which it has no powers. When the regulations are drafted, the term "section" will not be able to survive without a definition. It could therefore be argued that now is the time to remove all mention of the BPSA from the regulations.
- 6.8 However, this would seem a self-defeating counsel. The Society's link with the BPSA is thriving, multifaceted and valued as a conduit to student opinion. It would seem entirely appropriate to foster links and communication with prospective members of the profession. It would also seem perverse to refuse branches permission to make use of enthusiastic students when enthusiasm might otherwise be in short supply, or to prevent students from benefiting from attending branch meetings. Furthermore, it might seem premature to try to define the position of students in relation to the Society at a time when student registration looks a possibility for the future.

*Suggested policy changes/clarifications*

- 6.9 It is therefore suggested that, for now, the regulations simply state that “There shall be a BPSA” (removing the mention of a “section”), and otherwise continue along the lines of the current byelaw section V, which clarifies the degree of Society control, setting out the BPSA’s duty to act within the policies of the Council, and stating that the BPSA shall be regarded by the Council as the representative body for students.
- 6.10 Paragraph 3 of the byelaws states that the constitution of the BPSA is decided jointly by the Association and the Society. This is in fact not what happens – the Association proposes a constitution but it is for the Council to approve it. This would seem appropriate in governance terms if the Association’s links with the Society are to be maintained and it is suggested that the regulations formalise the current procedure.
- 6.11 Paragraph 4 of the byelaws states that the BPSA subscription is decided by the Council following consultation with the Executive of the BPSA. This does not happen in practice and it is suggested that this requirement be removed.
- 6.12 Paragraph 7 states that members of the Association shall be eligible to receive The Pharmaceutical Journal and The Journal of Pharmacy and Pharmacology at special subscription rates, to be decided by the Council. At the moment it seems that no special rate is offered on JPP, but that The Pharmaceutical Journal is given at a discount rate of £55p/a (full price £255) to students in pharmaceutical disciplines -- not just BPSA members. In practice the rate has been set by the PJ Editor, not the Council. It is therefore suggested that the byelaw wording should be revised to reflect the current state of affairs.
- 6.13 The BPSA Executive has submitted a paper to Council suggesting revisions to the BPSA Constitution (paper 06.08/C/85). The suggested revisions would have no impact on policy issues for regulations. In the event that the Council, on consideration of the BPSA constitution, wishes to make changes that would impact on regulations then this can be incorporated for Council’s future approval at the drafting stage.

**Action required****The Council is asked:**

- (vi) **whether it is content to discontinue the description of the BPSA as a section of the Society**
- (vii) **whether the current procedure whereby the BPSA proposes its constitution and the Council approves it be formalised**
- (viii) **whether the requirement for the subscription of the BPSA to be decided by the Council be discontinued**
- (ix) **whether the provision that BPSA members should receive the Pharmaceutical Journal and the Journal of Pharmacy & Pharmacology at discount rates, to be decided by Council, be revised to state that students in pharmaceutical disciplines should receive The Pharmaceutical Journal at a discount rate, in line with current practice**

## **7. Council and meetings of Council**

- 7.1 Section VII of the byelaws (see Appendix A, p.24) relates to Council and meetings of Council. In the main it requires updating to take account of the new composition of Council as agreed in the 2004 Charter, and resulting quorum etc. It should also provide for Council to specify the place of meeting (e.g. to allow for meetings in Cardiff and Edinburgh), as well as the day and time.
- 7.2 Paras 3 and 4 of section VII relate to attendance & locum fees and expenses for members of Council. While various questions, particularly about the eligibility of employee members of Council to claim locum fees, have been raised in this area, the Director of Finance advises that it would not be appropriate to consider changes to these provisions ahead of the forthcoming Cumberledge Report.
- 7.3 The Council agreed in June 2005 that the Chief Pharmacists of England, Scotland and Wales should be invited to attend the public part of Council meetings, with contributing but not voting rights. CPhOs have indicated that they would wish their status with regard to attendance at Council meetings to be made clear. One way of achieving this could be to include a more formal provision for attendance in regulations. However, it is suggested that this is unnecessary, and that inclusion in the Council Governance Handbook should be sufficient.

## **8. Branches and BRMs**

- 8.1 Currently, section XVI of the byelaws – “Branches and branch representatives’ meetings” (see Appendix A, p.25) does little more than:
- (a) require the Society to establish and maintain a local branch network, with functions and governance based on the Model Rules as set out in the second schedule to the byelaws (Appendix A, p.26); and
  - (b) require that branch representatives’ meetings shall be held from time to time, to inform the Council of the views of the branches on matters of concern to the Society, to inform the representatives of the Council’s activities and the reasons for them, and to ascertain the branches’ views on these.
- 8.2 No policy changes are proposed here other than to suggest that the Model Rules, which many branches have found to be unhelpfully restrictive, should not be carried across wholesale into Regulations (which, of course, require Privy Council approval as well as Council’s). Instead, it is proposed that they be incorporated into guidance, to be approved by Council.
- 8.3 If this approach is favoured, it is nonetheless suggested that the limitation of branch membership to members of the Society, and the power of the Council to define the branch area after consultation with the branches concerned, should be retained in regulations, as should the requirement for the branch to furnish the Council on request with such information about the activities and finances of the branch as the Council may require.
- 8.4 It is further suggested that the word “residing” in the definition of branch members as being “all such persons [members of the Society] residing in the Branch area” should be changed to “registered”, and that this definition also be included in the Regulations.

- 8.5 It has been suggested in the past that the BRM as currently organised might not be the best way of making Council members aware of the branches' views and concerns, and various other questions have been posed on the subject of BRM procedure. This is a subject for another day; it is envisaged that the regulations as a whole should continue to say little about the format and procedure for the BRM, so that the Council may at its convenience consider and approve improvements to the procedure.

### Action required

#### The Council is asked:

- (x) **whether it is happy for the bulk of the model Rules to be translated into guidance, rather than carried across into regulations, as suggested in 7.2-4**
- (xi) **whether the word “residing” in the definition of branch members as being “all such persons [members of the Society] residing in the Branch area” should be changed to “registered”**

### 9. Suspension and removal of Council members

#### *Current position*

- 9.1 The draft section 60 Order requires the Society to make regulations under article 8 of the Charter in respect of the suspension and removal from office of its members. The Order specifies automatic removal for pharmacist and pharmacy technician members of Council (CMs) if they cease to be on the practising register.
- 9.2 The Council made a number of decisions on suspension and removal of Council members in April 2003, and these can be found at Appendix B, p.27.
- 9.3 Section VII, para 9 of the Society's byelaws currently states that “All Council members shall comply with the Code of Conduct for such members, as adopted from time to time by the Council, and with the procedures for its enforcement in the Council Governance Handbook. Such procedures shall include provision for the sanctions available in respect of breach of the Code including suspension or removal from office as a Council member.” Section 9 of the Council Governance Handbook, which contains the Code itself and details the composition of the Code of Conduct Panel and the procedures to be followed in the event of an alleged breach, can be found at Appendix C, p.29.

#### *Proposed structure of regulations section*

- 9.4 It is envisaged that the regulations section on suspension and removal of Council members would detail the various reasons for removal or suspension from office. The Code itself, and the procedure for dealing with alleged breaches, would be included in a Schedule to the regulations, and accordingly removed from the Handbook.

#### *Reasons for automatic removal*

- 9.5 Council decided in April 2003 that the criteria for automatic removal of members of the reformed Council should be:
- i) removal from the Register (for a pharmacist or registered technician member of Council)
  - ii) ineligibility to serve as a charity trustee.

9.6 It is proposed that criminal convictions resulting in a sentence of imprisonment (whether suspended or not) for three months or more without the option of a fine and which has not been quashed on appeal should be added to the list for automatic removal.

*Reasons for discretionary removal/suspension*

9.7 The Council further decided in April 2003 that it should be empowered to exercise discretion in the removal or suspension of a member of Council for such reasons and according to such procedure as shall be specified in regulations. In such cases, the Code of Conduct Panel would recommend a course of action but only the Council would have the power to impose a sanction, by at least a two-thirds majority of those members of Council present and voting; this two-thirds constituting an absolute majority of all members of Council. Council has already agreed that both the discussion and vote relating to any sanction should exclude the respondent(s) and the complainant(s), if the complaint was made by a Council member. It is further suggested that, if a member of Council had supported the respondent(s) at the Panel hearing, he or she should similarly be excluded from both the discussion and the vote.

9.8 It is proposed that the regulations should include the following reasons where discretion, rather than automatic removal, would be appropriate:

- Criminal convictions other than those specified as requiring automatic removal, and cautions
- Adverse findings made, or warnings issued, by any UK or overseas regulatory authority or public body
- ceasing to be normally resident in Great Britain, the Isle of Man or the Channel Islands
- In the case of a member of Council elected in a national constituency, ceasing to be normally resident in *[or "live or work wholly or mainly in", depending on the Council's decisions this month with regard to the election regulations – see paper 06.08.C.XX,J that constituency*
- unsatisfactory attendance at meetings of the Council
- incapacity to perform duties as a member of Council by reason of adverse physical or mental health;
- significant and material breaches of the Council's Code of Conduct

9.9 It is proposed that the Registrar should be able to submit for the Panel's consideration any information brought to his or her attention that would seem to indicate a breach of the above provisions, whether or not a complaint has been received.

*Proposed changes to current policy as set out in the Handbook*

9.10 Resolution of the following policy questions is sought to inform translation of the Council's agreed policy on the Code and procedures as set out in section 9 of the Handbook into regulations:

*Identification of a specific provision of the Code*

- 9.11 Currently, the procedures as agreed by the Council require that any complainant that alleges a breach of the Code of Conduct should identify the provision(s) of the Code alleged to have been breached. This means that the Panel is then unable to consider the allegation under any other provision of the Code. The Clerk to the Panel has advised that this is unnecessarily restrictive, and that the Panel should have discretion to consider such an alleged breach under whatever provision of the Code it considers appropriate.

*Mediation*

- 9.12 It has been suggested that vexatious or ill-founded complaints may be made to the Panel.
- 9.13 It is therefore proposed that the regulations should include an option for an attempt at independent mediation before the process transfers to formal consideration by the Panel. It is further suggested that one legally qualified member of the Panel be nominated to act as an investigator. This person would examine all complaints on referral to the Panel and
- determine whether or not they would be suitable for an attempt at mediation (if the complainant(s) and respondent(s) agree) before entering the more formal Panel procedures; and
  - write the charge.
- 9.14 This Panel member would have access to legal advice where appropriate. He or she would have no other Panel duties, to avoid the risk of prejudicing the outcome that would arise if he or she were to take part in formal Panel consideration of a complaint that he or she had previously judged suitable for mediation (i.e. where the mediation attempt had failed and the complaint had accordingly proceeded to formal consideration by the Panel).
- 9.15 Regulations would outline the method of independent mediation to be used, and the procedure to be followed. After every mediation attempt the Council would receive an agreed statement listing the specific complaint, the names of the complainant(s) and respondent(s) and the outcome of the mediation attempt. All other detail would remain confidential to the mediators and parties involved.

*Complaints against former members of Council relating to their conduct while on Council*

- 9.16 9.3.2.(b) of the Council Governance Handbook provides that a complaint may be made against a former member of Council where the complaint relates to his/her conduct while a member of Council. It has been suggested that this is a relatively ineffective provision, as there is no sanction that could be imposed on a former member of Council, other than a vote of censure. It is therefore proposed that this provision be removed.
- 9.17 However, it may be thought inappropriate for a complaint about a serving Council member to fail simply because the Council member concerned either resigned or completed his/her term of office before the investigation or proceedings were completed. This would permit the respondent to stand again at a later date without the

handicap of a conduct sanction, and the electorate would in such an instance have a right to know the outcome of the complaint. It is therefore proposed that the regulations should provide that, should a respondent's term of office expire or a respondent resign before any complaint is resolved, the procedures should be taken to determination as though the respondent were still a member of Council.

*Interim suspension*

- 9.18 The current procedures for interim suspension where a member of Council is the subject of investigations or proceedings by a regulatory or public body, or has been charged with a criminal offence, are set out in Appendix B (last para of p.27 ff). They provide that any member thus charged must inform the President, but that the President, acting in accordance with guidance prepared by the Council, may decide not to inform the Council on the grounds that interim suspension would not be appropriate. This provision was designed to ensure that pharmacy superintendent members of Council, who may be personally cited when a pharmacist or pharmacy technician employee of their company enters the fitness to practise (FTP) process, would not be unnecessarily subjected to potential suspension from Council.
- 9.19 It is suggested that this objective could be more simply achieved if regulations were to state simply that if a member of Council were to be subject to RPSGB FTP investigation or proceedings then Council would need to be informed but there would be no need for an interim suspension from Council unless an interim suspension order had been applied by an FTP Committee. If a member of Council were subject to investigation or proceedings by any other regulatory or public body then the relevant member of Council must inform the Council, who will decide, in line with the current procedure, whether or not that person should be suspended from the Council as an interim measure.

**Actions required**

**The Council is asked**

- (xii) **whether criminal convictions resulting in a sentence of imprisonment (whether suspended or not) for three months or more without the option of a fine and which has not been quashed on appeal should be added to the list for automatic removal.**
- (xiii) **whether if a member of Council had supported the respondent(s) at the Panel hearing, he or she should be excluded from both the discussion and the vote on any potential sanction.**
- (xiv) **whether the Council be empowered to exercise discretion in the removal or suspension of a member of Council according to such procedure as shall be specified in regulations for the following reasons:**
- **Criminal convictions other than those specified as requiring automatic removal, and cautions**
  - **Adverse findings made, or warnings issued, by any UK or overseas regulatory authority or public body**

- **ceasing to be normally resident in Great Britain, the Isle of Man or the Channel Islands**
  - **In the case of a member of Council elected in a national constituency, ceasing to be normally resident in [or “live or work wholly or mainly in”, depending on the Council’s decisions this month with regard to the election regulations – see paper 06.08.C.76] that constituency**
  - **unsatisfactory attendance at meetings of the Council**
  - **incapacity to perform duties as a member of Council by reason of adverse physical or mental health;**
  - **significant and material breaches of the Council’s Code of Conduct**
- (xv) **whether the Registrar should be able to submit for the Panel’s consideration any information brought to his or her attention that would seem to indicate a breach of the above provisions, whether or not a complaint has been received.**
- (xvi) **whether the Panel should have discretion to consider an alleged breach of the Code of Conduct under whatever provision of the Code it considers appropriate.**
- (xvii) **whether the regulations should include an option for an attempt at independent mediation (method and process to be defined in the regulations) before the process transfers to formal consideration by the Panel.**
- (xviii) **whether one member of the Panel be nominated to act as an investigator. This person would have no Panel duties other than to examine all complaints on referral to the Panel and**
- **determine whether or not they would be suitable for an attempt at mediation (if the complainant(s) and respondent(s) agree) before entering the more formal Panel procedures; and**
  - **write the charge.**
- (xix) **whether the provision for consideration of a complaint against a former member of Council be removed, but that should a respondent’s term of office expire or a respondent resign before any complaint is resolved, the procedures be taken to determination as though the respondent were still a member of Council.**
- (xx) **whether if a member of Council were to be subject to RPSGB FTP investigation or proceedings then Council would need to be informed but there would be no need for an interim suspension from Council unless an interim suspension order had been applied by an FTP committee**
- (xxi) **whether if a member of Council were subject to investigation or proceedings by any other regulatory or public body then the relevant member of Council must inform the Council, who will decide, in line with the current procedure, whether or not that person should be suspended from the Council as an interim measure.**

## 10. Byelaws

- 10.1 Section XXVIII of the byelaws (Appendix A, p.25), sets out the procedure for making, altering or revoking a byelaw, and it is envisaged that a similar regulation section be drafted that sets out the procedure as currently followed for making, altering and revoking regulations.
- 10.2 This section also states at para 2 that any member applying to the Society for a copy of any proposal to make, alter or revoke a byelaw shall be entitled to a copy free of charge. It would seem unnecessary to translate this provision into regulations; proposals to change byelaws are published in the PJ, and copies of the relevant Council papers and minutes are freely available on the Society's website.
- 10.3 Para 6 states that every person upon becoming a member and every person upon becoming a student shall be entitled to receive a copy of the byelaws free of charge. This does not happen, and both byelaws and regulations are available on the Society's website. It is therefore proposed that this requirement should not be translated into regulations.

### Action required

#### The Council is asked:

- (xxii) **whether it is content that the provision that any member applying to the Society for a copy of any proposal to make, alter or revoke a byelaw shall be entitled to a copy free of charge be dropped**
- (xxiii) **whether it is content that the provision that every person upon becoming a member and every person upon becoming a student shall be entitled to receive a copy of the byelaws free of charge be dropped, in line with current practice.**

## 11. Risk implications

- 11.1 Many of the provisions in the byelaws were conflicted or rendered out of date by the provisions of the Society's new Charter, which has been in force since December 2004. This could lead to confusion and possible legal challenge and it is advisable to resolve these inconsistencies by superseding all byelaws with regulations as soon as possible, in line with the programme agreed by Officers in April 2006.

## 12 Resource implications

- 12.1 All work involved can be contained within existing budgets, with one exception. This would occur if Council decided to expand the criteria for honorary fellowship to retired fellows or retired members with over 50 years' service, with the concomitant free PJ subscription, and the resource implications for this are set out in para 5.13.

**Action required**

Council is asked:

- (i) whether it wishes to broaden the grounds on which fellowship may be awarded in line with the suggestion at 4.4 above.
- (ii) whether it wishes to extend an automatic right to honorary membership to retired pharmacist fellows, and retired pharmacist members who had previously been on the register for 50 years or more, who leave the register in good standing after the regulations have come into force
- (iii) whether it wishes to extend eligibility, for consideration on an individual basis, for honorary membership to retired pharmacist fellows, and retired pharmacist members who had previously been on the register for 50 years or more, who have left the register in good standing before the regulations have come into force
- (iv) whether the 50 years' on the register criterion for former members should be calculated as a total of years served or would need to be continuous.
- (v) whether it wishes the regulations to provide that all Privy Council appointees to the Society's Council shall, if not registered as a pharmacist, be honorary members while holding office.
- (vi) whether it is content to discontinue the description of the BPSA as a section of the Society
- (vii) whether the current procedure whereby the BPSA proposes its constitution and the Council approves it be formalised
- (viii) whether the requirement for the subscription of the BPSA to be decided by the Council be discontinued
- (ix) whether the provision that BPSA members should receive the Pharmaceutical Journal and the Journal of Pharmacy & Pharmacology at discount rates, to be decided by Council, be revised to state that students in pharmaceutical disciplines should receive The Pharmaceutical Journal at a discount rate, in line with current practice
- (x) whether it is happy for the bulk of the model Rules to be translated into guidance, rather than carried across into regulations, as suggested in 7.2-4
- (xi) whether the word "residing" in the definition of branch members as being "all such persons [members of the Society] residing in the Branch area" should be changed to "registered"
- (xii) whether criminal convictions resulting in a sentence of imprisonment (whether suspended or not) for three months or more without the option of a fine and which has not been quashed on appeal should be added to the list for automatic removal.

- (xiii) whether if a member of Council had supported the respondent(s) at the Panel hearing, he or she should be excluded from both the discussion and the vote on any potential sanction.
- (xiv) whether the Council be empowered to exercise discretion in the removal or suspension of a member of Council according to such procedure as shall be specified in regulations for the following reasons:
- Criminal convictions other than those specified as requiring automatic removal, and cautions
  - Adverse findings made, or warnings issued, by any UK or overseas regulatory authority or public body
  - ceasing to be normally resident in Great Britain, the Isle of Man or the Channel Islands
  - In the case of a member of Council elected in a national constituency, ceasing to be normally resident in *[or "live or work wholly or mainly in", depending on the Council's decisions this month with regard to the election regulations – see paper 06.08.C.76]* that constituency
  - unsatisfactory attendance at meetings of the Council
  - incapacity to perform duties as a member of Council by reason of adverse physical or mental health;
  - significant and material breaches of the Council's Code of Conduct
- (xv) whether the Registrar should be able to submit for the Panel's consideration any information brought to his or her attention that would seem to indicate a breach of the above provisions, whether or not a complaint has been received.
- (xvi) whether the Panel should have discretion to consider an alleged breach of the Code of Conduct under whatever provision of the Code it considers appropriate.
- (xvii) whether the regulations should include an option for an attempt at independent mediation (method and process to be defined in the regulations) before the process transfers to formal consideration by the Panel.
- (xviii) whether one member of the Panel be nominated to act as an investigator. This person would have no Panel duties other than to examine all complaints on referral to the Panel and
- determine whether or not they would be suitable for an attempt at mediation (if the complainant(s) and respondent(s) agree) before entering the more formal Panel procedures; and
  - write the charge.

- (xix) whether the provision for consideration of a complaint against a former member of Council be removed, but that should a respondent's term of office expire or a respondent resign before any complaint is resolved, the procedures be taken to determination as though the respondent were still a member of Council.
- (xx) whether if a member of Council were to be subject to RPSGB FTP investigation or proceedings then Council would need to be informed but there would be no need for an interim suspension from Council unless an interim suspension order had been applied by an FTP committee
- (xxi) whether if a member of Council were subject to investigation or proceedings by any other regulatory or public body then the relevant member of Council must inform the Council, who will decide, in line with the current procedure, whether or not that person should be suspended from the Council as an interim measure.
- (xxii) whether it is content that the provision that any member applying to the Society for a copy of any proposal to make, alter or revoke a byelaw shall be entitled to a copy free of charge be dropped
- (xxiii) whether it is content that the provision that every person upon becoming a member and every person upon becoming a student shall be entitled to receive a copy of the byelaws free of charge be dropped, in line with current practice.

*Christine Gray, Head of Corporate Governance*  
*Elaine Mulingani, Internal Governance Co-ordinator*

**Appendix A****THE SOCIETY'S CURRENT BYELAWS:****Sections****SECTION III: FELLOWS**

1. All members registered as pharmaceutical chemists on or before the first day of February, 1951, shall be designated fellows of the Society.
2. The Council may designate as a fellow of the Society any member who before 1st February, 1955, either (a) was registered as a pharmaceutical chemist with the provisions of the Pharmacy Act, 1852, or (b) is registered as a pharmaceutical chemist in accordance with the provisions of the Pharmacy Act, 1954, and who but for the passing of that Act would have been registered as a pharmaceutical chemist in accordance with the provisions of the Pharmacy Act, 1852, provided, in either case, that he was eligible for registration as an apprentice or student before 1st June, 1948, and that he commenced in or before the session 1951-52 a recognised course of study of at least two years for a final examination in pharmacy or being registered as a chemist and druggist commenced in or before that session the last year of such a course.
3. The Council may appoint a panel of fellows not being members of Council who shall have power to designate as a fellow a member of not less than 12 years' standing who in their opinion has made outstanding original contributions to the advancement of pharmaceutical knowledge or attained distinction in the science, practice, profession or history of pharmacy.
4. The Council may designate as fellows of the Society such members of the Society of not less than twelve years' standing as in the opinion of the Council have made outstanding original contributions to the advancement of pharmaceutical knowledge.  
A member desiring to be designated a fellow under this byelaw shall apply in writing, enclosing the evidence on which he bases his application. The application shall be considered by assessors appointed for the purpose by the Panel of Fellows. The assessors may at their discretion call the applicant for interview and examine him upon his work either orally or in writing. The assessors shall report to the Panel of Fellows who shall submit the recommendation to the Council. The Council may charge a fee of up to £500, which needs to be submitted with the self nomination application in order to cover the cost of any independent assessment that might be required.
5. The Council may designate as Fellows of the Society such members of the Society of not less than twelve years' standing as in the opinion of the Council have made outstanding original contributions to the advancement of practice.  
A member desiring to be designated a Fellow under this byelaw shall apply in writing, enclosing the evidence on which he bases his application. The application shall be considered by assessors appointed for the purpose by the Panel of Fellows. The assessors may at their discretion call the applicant for interview and examine him upon his work either orally or in writing. The assessors shall report to the Panel of Fellows who shall submit the recommendation to the Council. The Council may charge a fee of up to £500, which needs to be submitted with the self nomination application in order to cover the cost of any independent assessment that might be required.
6. Designation under the three preceding byelaws shall take place only at the June or December meeting of Council in any year.
7. Members designated as fellows of the Society shall be so designated only so long as they remain members.

**SECTION IV: HONORARY FELLOWS AND HONORARY MEMBERS**

1. The Council may at their discretion elect as honorary fellows such scientific workers as have distinguished themselves in any of the branches of knowledge embraced in the educational objects of the Society and persons who are eminent in the national life.
2. The Council may at their discretion elect as honorary members such persons as have rendered distinguished service to the Society or to pharmacy.
3. A person who is nominated by the Privy Council to be a member of Council, under the provisions of the Pharmacy Act, 1954, shall, if not registered as a pharmacist, be an honorary member while so holding office.
4. The Council may from time to time determine the number of persons to be honorary fellows and honorary members, other than members of Council nominated by the Privy Council. A member of the Society may suggest the names of persons for election as honorary fellows or honorary members by writing to the Secretary, providing biographical information on the person nominated. At the meeting of the Council held in April of each year, the Secretary shall report in confidence the names of those so nominated and provide to the Council biographical details of the persons concerned. The Council, at its meeting in June of each year, shall consider the names proposed and may select persons to be elected honorary fellows and honorary members respectively.

**SECTION V: STUDENTS**

1. There shall be a section of the Society entitled 'The British Pharmaceutical Students' Association', membership of which shall be open to all students. Additionally, the Executive of the Association may include members of the Society who have been registered initially for not more than twelve months.
2. The Association shall be regarded by the Council as the representative body for students. It shall act within the policies of the Council, but may make recommendations to the Council.
3. The Association shall be administered by an elected Executive and in accordance with a constitution to be decided jointly by the Association and the Society.
4. The Association shall be jointly financed by the Society and the membership of the Association. The subscription to be paid by the membership shall be decided by the Council, following consultation with the Executive of the Association.
5. There shall be an annual meeting between representatives of the Council and the Executive, and regular discussions between the Executive and officials of the Society.
6. The Association shall be able to participate in the Branch Representatives' Meeting and shall be permitted to send up to two representatives, to submit up to three motions directly related to students, and, at the President's discretion, to participate in the discussion of other motions directly related to students.
7. Members of the Association shall be eligible to receive The Pharmaceutical Journal and The Journal of Pharmacy and Pharmacology at special subscription rates, to be decided by the Council.
8. Members of the Association shall be permitted to serve as co-opted members on the committees of the Society's Branches and Regions.
9. All students, whether or not members of the Association, shall:
  - (a) be able to attend meetings of the Society's Branches and Regions.
  - (b) be eligible to receive assistance from the Benevolent Fund.

**SECTION VII: COUNCIL AND MEETINGS OF COUNCIL**

1. The Council shall consist of the persons nominated by the Privy Council in accordance with the provisions of Section 15 of the Pharmacy Act, 1954, and for the time being holding office as members of the Council, and 21 members of the Society elected by the members of the Society in accordance with the provisions of these byelaws.
2. The Council shall meet not less than four times in each calendar year, at such day and hour as may from time to time be decided by the Council. Such further meetings of the Council shall be held as are notified by the Secretary upon direction of the President or any eight members of Council in writing under his or their hands.
3. Members of Council shall be entitled to receive a reasonable fee which shall be determined by the Council from time to time by resolution for each day or part of a day for attending any meeting of the Council or any meeting of a committee of the Council or subcommittee of such a committee or on such other occasions as the Council may from time to time by resolution determine. Where expenditure is incurred in employment of a pharmacist to take personal control of registered retail pharmacy premises in order to comply with the requirements of the Medicines Act 1968 while a member of Council normally present on those premises as sole pharmacist and registered proprietor of those premises is engaged on Council business, entitlement to reimbursement of that expenditure shall arise for a sum not exceeding £200 where that sum is incurred either by a private limited liability company of which the member of Council is a director or by the member of Council personally.
4. Members of the Council shall be entitled to be reimbursed for expenditure on travel incurred on business of the Society and for costs for accommodation and subsistence and any other expense outlined in Section VII, paragraph 3 up to limits to be determined by resolution of the Council and reported to the Annual General Meeting each year.
5. Eight members shall constitute a quorum, and without that number being present no business shall be transacted. Before other business is entered on, the minutes of the preceding monthly and of any subsequent meeting shall be confirmed.
6. All meetings of the Council shall be summoned by the Secretary by notice left at the place of business or residence of, or sent by prepaid post addressed to the place of business or residence of, the person summoned not less than four clear days before the day thereby appointed for the meeting. Any such notice shall specify the general nature of the business to be transacted at the meeting.
7. The President shall preside at all meetings of the Council, or in his absence the Vice-President. If the President and Vice-President are both absent, a chairman shall be chosen by the members present. In any case of an equality of votes, the chairman of the meeting shall have a second or casting vote.
8. The Council may, from time to time, frame and adopt standing orders for the regulation of their procedure, but the chairman may, notwithstanding the standing orders, require any ordinary motion or proposition to be in writing and signed by the proposer and seconder. Any member of the Council desirous of bringing any special motion or proposition before the Council shall give written notice to the Secretary of the terms of the motion at least fourteen clear days before the ordinary meeting of the Council, and in default of such notice the motion may be postponed or adjourned by the chairman until the next ordinary meeting. A ballot may be demanded by any member of the Council on any motion put from the chair.
9. All Council members shall comply with the Code of Conduct for such members, as adopted from time to time by the Council, and with the procedures for its enforcement in the Council Governance Handbook. Such procedures shall include provision for the sanctions available in respect of breach of the Code including suspension or removal from office as a Council member.
10. Subject to the provisions of these byelaws, all resolutions carried at the meetings of the Council shall be acted upon without confirmation.

11. The Council may, from time to time, in their discretion appoint from amongst their members or otherwise such committees as shall appear expedient, and may from time to time modify or dissolve any committee.

12. Nothing in this section shall apply to the Statutory Committee appointed in accordance with Section 7 of the Pharmacy Act, 1954.

#### **SECTION XVI: BRANCHES AND BRANCH REPRESENTATIVES' MEETINGS**

1. The Council shall establish and maintain a system of local Branches of the Society.

2. Each local Branch shall be constituted and governed in such manner and have such functions as may be determined by the rules for the time being in force in respect of that Branch. The rules of each Branch shall be based upon the model rules set out in the second schedule to these byelaws with such modifications in respect of any Branch as the Council may from time to time approve.

3. The Council shall arrange the holding from time to time and from place to place of meetings of members representative of the local Branches. The number of Representatives of each local Branch, the mode of their appointment, and the procedure to be adopted at the meetings of Representatives, shall be determined by the Council.

4. The functions of the meetings of Representatives shall be to inform the Council of the views of the Branches on matters of concern to the Society, to inform the Representatives of the Council's activities or proposed activities and the reasons therefore, and to ascertain the views of the Branches upon the said activities or proposed activities.

#### **SECTION XXVIII: BYELAWS**

1. Any proposal to make, alter or revoke a byelaw shall be in writing and, being delivered at a Council meeting by a member of Council to the Chairman, or brought up on the report of a committee, shall thereupon be read, and, if seconded and approved, notice of the approval by the Council of the said proposal and of the intention of the Council to make, alter or revoke the said byelaw, as the case may be, at the expiry of not less than 60 days from the date of the said notice, shall be given to the members in The Pharmaceutical Journal.

2. Any member applying to the Secretary for a copy of any proposal to make, alter or revoke a byelaw shall be entitled to receive a copy free of charge.

3. At the meeting of the Council held next after the expiry of 60 days from the date of The Pharmaceutical Journal in which notice of a proposal to make, alter or revoke a byelaw was given, the Secretary shall report any observations received by him upon the said proposal. If the Council shall thereupon confirm the said proposal and make, alter or revoke the said byelaw, as the case may be, but not otherwise, the Secretary shall forthwith submit the byelaw so made, altered or revoked, as the case may be, to the Privy Council for confirmation and approval.

4. If no observations are received by the Secretary upon the said proposal he shall notify the Council in writing, and shall forthwith submit the byelaw as prepared to the Privy Council for confirmation and approval and report this at the next meeting of the Council.

5. Notice of the confirmation and approval by the Privy Council of the making, alteration or revocation of any byelaw shall be given in The Pharmaceutical Journal.

6. Every person upon becoming a member and every person upon becoming a student shall be entitled to receive a copy of the byelaws free of charge.

**SECOND SCHEDULE: MODEL RULES FOR BRANCHES**

1. The name of the Branch shall be\*.....Branch of the Royal Pharmaceutical Society of Great Britain.

2. The objects of the Branch shall be to further the interests of the Society and its members more particularly by:

- (1) serving as a medium of contact between the Council of the Society and members in the Branch area;
- (2) co-operating with the Council generally in the work of the Society;
- (3) promoting a corporate spirit amongst members and securing the observance of such standards of professional conduct as will uphold the dignity of the Society;
- (4) providing opportunity for members to raise and discuss matters of common interest and to express their collective opinion thereon;
- (5) arranging lectures and courses of instruction for members and students upon scientific and other subjects appertaining to pharmacy;
- (6) organising social functions and encouraging social intercourse between members;
- (7) promoting friendly relations and co-operation between members of the Society and members of the medical and allied professions;
- (8) urging upon members the claims of the Benevolent Fund to their support.

3. Membership of the Branch shall be limited to members of the Society and, except as hereinafter provided, all such persons residing in the Branch area shall be members of the Branch. A member of the Branch may, subject to the approval of the Council of the Society, transfer his membership to another Branch and a member of another Branch may, subject to the approval of the Council of the Society, transfer his membership to the Branch.

4. The Branch area shall be such as the Council of the Society may from time to time decide after consultation with the Branches concerned.

5. The Officers of the Branch shall be: a Chairman, a Vice-Chairman, a Secretary, a Treasurer and such others as may be decided in general meeting.

6. The affairs of the Branch shall be under the control and management of a Committee consisting of the Chairman, the Vice-Chairman, the Secretary, the Treasurer, and any other officers and not more than†.....other members. The Committee may appoint from their number subcommittees for educational, Benevolent Fund, social and other purposes, and delegate to them the powers of the committee in such respects.

7. General meetings of the Branch shall be held annually in‡..... at such other times as the committee may think fit, and at any time on the written requisition to the Secretary of not fewer than‡.....members.

8. The business of the annual general meeting shall include the presentation by the committee of a report of the work of the Branch, and an audited statement of accounts for the past year, and the election of committee and‡.....auditors. The committee shall forward to the Secretary of the Society a copy of the audited statement of accounts as soon as possible after the meeting.

9. The officers of the Branch shall be elected§..... The representatives of the Branch to attend the British Pharmaceutical Conference or any Branch Representatives' Meeting shall be elected at a general meeting of the Branch.

10. The officers and committee shall retire at the annual general meeting, but shall be eligible for re-election. Any vacancy occurring during the year may be filled by the committee.

11. The committee shall, on request, furnish the Council of the Society with such information about the activities and finances of the Branch as the Council may require.

*\* Insert name of the branch*

*† Insert the desired number*

*‡ Insert the name of a month not later in the year than May*

*§ Insert either ". . . by the annual general meeting" or "by the Committee at a meeting to be held as soon as convenient after the annual general meeting"*

**Appendix B****Suspension and removal of Council members –  
Excerpts from Charter, legislation and Council decisions****Charter**

(8)...The Council shall have power in accordance with regulations to ... suspend or remove any member of the Council

**S60 Order**

5(4) The Council shall make regulations under the Charter<sup>(2)</sup> in respect of the suspension or removal from office of its members, and those regulations shall in particular provide for—  
a member of the Council who is a registered pharmacist to be removed from office forthwith if he ceases to be registered in Part 1 of the Register of Pharmacists; and  
a member of the Council who is a registered pharmacy technician to be removed from office forthwith if he ceases to be registered in Part 1 of the Register of Pharmacy Technicians.

**Council decisions April 2003**

Criteria for automatic removal of members of the reformed Council should be specified as follows:

- i) removal from the Register (for pharmacist or registered technician member of Council)
- ii) ineligibility to serve as a charity trustee.

*The reformed Council should be empowered to exercise discretion in the removal or suspension of a member of council for such reasons and according to such procedure as shall be specified in regulations.*

Procedures for removal

*The structure and procedure for the Conduct Panel (to consider complaints that a Council member has breached the Council's Code of Conduct) should be formalised. The Panel may recommend a course of action but only the Council should have power to impose a sanction.*

*The procedure should not include an appeals mechanism, on the basis that, in reaching a decision, the Council exhausts its authority and it is up to the member to seek a judicial review if they so wish.*

A majority vote of at least two thirds of those members of Council present and voting (this two-thirds majority constituting an absolute majority of all members of Council), should be required to impose a sanction under this procedure.

The Council also asked that a revised paper setting out options for a model that outlines procedures should a member of Council be the subject of investigation or proceedings by a regulatory body regarding their professional conduct or performance, or charged with a criminal offence, be brought to Council for consideration.

Interim suspension (decisions taken at 30 April 2003 reserve day)

*If any member of Council is the subject of any investigations or proceedings against him or her by any UK or overseas regulatory authority or public body, or is charged with a criminal offence, s/he must inform the President promptly and in writing. The President, acting in accordance with guidance agreed by the Council, may decide not to inform the Council on the grounds that interim suspension would not be appropriate. In all other cases, where the Council member has not decided voluntarily to take no part in Council business while the investigation or proceedings are under way, the President must inform the Council. The Council will then decide whether the member of Council should be suspended*

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<sup>(2)</sup> See paragraph 8 of the Charter.

*from any Council office, including Council membership. The Council may suspend a member of Council from any Council office, including Council membership, as a neutral interim action while the investigation or proceedings are under way.*

The term of an interim suspension should be for the duration of the relevant investigation, allegation or proceedings.

Interim suspension of a Council member under these circumstances should require a two-thirds majority of Council members present and voting, this two-thirds being an absolute majority of all members of Council.

Should the President be the subject of any investigations or proceedings against him or her by any UK or overseas regulatory authority or public body, or be charged with a criminal offence, the role of the President in this procedure should be undertaken by the most recent past President currently on the Council.

## Appendix C

### Code of Conduct and procedures

*(Excerpt from Council Governance Handbook as agreed June 2006)*

#### 9. Conduct of members of Council

For the Society to command the confidence of the profession and the public, it is necessary that the Council, as its governing body, should adopt and comply with appropriate standards of conduct. The Byelaws provide that all Council members shall comply with the Code of Conduct adopted by the Council, and with the procedures for its enforcement. The Code and procedures are set out below.

##### 9.1 Preface

The powers of the Council are set out in the Charter and legislation governing the Society. In particular, Article 9 of the Charter provides that:

“the Council shall exercise all the powers and functions of the Society except where, by virtue of this Our Supplemental Charter, such exercise requires approval by Special Resolution”

In the exercise of these powers, in discussions at meetings of the Council and its committees, in decision-making and in communications, Council members are expected to observe the highest standards of impartiality, integrity and objectivity. Council members should faithfully report Council policy.

As described in Section 1, the Council operates within the context of the seven Nolan principles of public life. Each Council member is required to subscribe to these. The Code of Conduct sets out in general terms the duties of each member of the Council, but the Council expects its members to adopt high standards of conduct in all aspects of their activities as members of the Council. So long as they continue to serve on the Council, members of Council cannot, by their actions or behaviour, divest themselves of their role in such capacity in matters concerning the profession. If a Council member becomes aware of matters regarding another Council member that might be of concern or might affect their ability to perform their duties as a Council member they should seek the advice of the Secretary & Registrar.

Council members take office from 00.01 on the day after the annual general meeting. Outgoing Council members' term of office ends at midnight on the day of the AGM.

Every member of the Council is bound by the Code of Conduct from the date they are elected under Section VII of the Byelaws. Council members will be asked each year to sign a statement that they have received and read the Code of Conduct.

##### 9.2 The Code

1. Members of Council must at all times while acting in that capacity ensure that their activities are directed toward the fulfilment of the Society's Objects specified in the Charter, the Society's responsibilities specified in legislation, and the interests of the public.
2. Members of Council must ensure that the funds of the Society are properly applied to the furtherance of the Objects of the Society.
3. Any member of Council who wishes to engage in litigation against the Society, the Council or any member thereof, or any officer or employee of the Society in their capacity as such, must resign from the Council before taking such action.
4. Members of Council must not make use of information acquired solely by virtue of their position as such for personal gain, whether financial or non-financial.
5. Members of Council must not use their position as such to promote their personal, professional or business interests.
6. Members of Council must respect the confidentiality of information identified as confidential, acquired by them solely by virtue of their position as such.

7. Members of Council must not use their position as such to seek to influence the conduct of any aspect of the Council's business for the benefit of any individual, body corporate or other association rather than for the benefit of the profession as a whole.
8. Members of Council must ensure, when speaking in their capacity as such at any meetings of the Council, its committees or outside, that they declare any personal or business interests relevant to the matter in hand.
9. Members of Council must avoid any conduct that impairs the ability of the Council to perform its functions or to enjoy the confidence of the public, the profession or government.
10. Members of Council must ensure that prompt and effective action is taken through appropriate channels to investigate any allegation of maladministration within the Society reported to them.
11. Members of Council should support in public the policies of Council. Where a member of Council feels compelled publicly to oppose a Council policy, the Council should be informed in advance. The member of Council may then express his or her personal views on the matter but, in so doing, must first explain the Council policy and the reasons for the Council's decision. Members must in any case avoid any action that would undermine confidence in the competence of the Council and its members or in the Council's decision-making process.\*
12. Members of Council must ensure that entries relating to them in the Registers of Interests and of Gifts and Hospitality are accurate, complete and up-to-date.
13. Members of Council must comply with the Society's Equal Opportunities Policy and Statement on Harassment and Bullying. [

\* Any Council Member wishing publicly to oppose a Council policy should state their dissent and their intention to oppose the particular policy immediately the Council decision is made. However, if on reflection during the course of the same Council meeting, a Council member decides that s/he wishes to record her/his dissent, it should be put to the Council and the Council should decide if it is prepared to waive the general rule stated above and allow the dissent to be registered. The statement of dissent shall be minuted.

In the event that a Council member is not present at a Council meeting when a policy issue is being debated and s/he wishes to register their dissent to the decision of the Council, s/he should write to the President as soon as possible following the meeting to register their dissent. This will then be notified to all Council members and formally recorded in the minutes of the next meeting of the Council. The capacity of a Council member to speak against a Council decision under Article 11 of the Code of Conduct shall not apply until notification of the dissent being registered with the President has been sent to all Council members.

### **9.3 Conduct procedure and Conduct Panel**

If a complaint is made that a member of Council has breached the Code of Conduct, the matter shall be referred to the Conduct Panel in accordance with the procedure below.

#### **9.3.1 Composition and quorum**

The panel shall consist of at least 5 and not exceeding 12 persons appointed by the Council from amongst lay members of bodies regulating other health professions and/or lay members of other bodies determined by the Council. The Council shall ensure that at least two members of the panel have appropriate legal experience or experience of acting in a judicial capacity.

The panel shall appoint a chairman and deputy chairman from amongst its own number. A meeting of the panel to consider a complaint shall be attended by at least three panel members including the Chairman. The Chairman shall determine the panel members to consider a complaint.

In a case where an oral hearing is requested by the respondent, a different panel with a different Chairman shall be appointed for the hearing.

#### **9.3.2 Complaints**

- a) A complaint must be made in writing, and signed. The complaint must specify the conduct complained of in sufficient detail to enable it to be understood and answered. It

should identify the provision(s) of the Code alleged to have been breached and include, where relevant, any supporting evidence.

- b) A complaint may be made against a former member of Council where the complaint relates to his/her conduct whilst a member of Council, and references in this section to a member of Council include a former member.
- c) The complaint should be addressed to the Chairman of the Conduct Panel, c/o the Secretary & Registrar's office, RPSGB in an envelope marked Private and Confidential.
- d) Complaints should be considered within three months of receipt by the Chairman of the Panel but the Chairman may extend this period in exceptional circumstances.

### 9.3.3 Procedure

- a) The Chairman sends copies of the complaint to the designated panel members and to the member(s) of Council to whom the complaint relates (respondent(s)). The chairman requests a written response, and supporting evidence, if any, from each respondent, within a reasonable time determined by the Panel.
- b) The Panel considers any response, and initiates any further enquiries of both the complainant and the respondent(s) needed to enable it to consider the complaint.
- c) The panel may hear oral evidence, and a respondent shall have a right to an oral hearing within a reasonable time determined by the Panel. Where an oral hearing is held a separate panel with a different Chairman and members from the investigating panel will be convened specifically for the hearing. A complainant and a respondent may have a supporter or a legal representative present. Whilst legal representatives may address the panel, supporters may not, save at the discretion of the panel provided that the supporter is not to be called as a witness.
- d) Where a hearing is held it shall be conducted according to the Order of Procedure established by the Panel.
- e) If a respondent does not request an oral hearing the matter may be considered on the papers alone.
- f) If no hearing is requested, on conclusion of its enquiries, the Panel determines whether the complaint is upheld and if so, what action or sanction is recommended.
- g) If a hearing is requested, on conclusion of the hearing, the panel determines whether the complaint is upheld and if so, what action or sanction is recommended.
- h) The Chairman prepares for the Council a report of the complaint, the Panel's findings and its recommendation(s). If the complaint has resulted in an oral hearing, the Chairman of the hearing panel shall prepare the written report.
- i) If the Panel determines that the complaint is unfounded or is not supported by sufficient evidence, it must dismiss the complaint.
- j) The Society will not be liable for the costs of either the complainant or the respondent(s).

### 9.3.4 Administrative provisions

- a) All decisions of the Panel will be by a simple majority of votes. In any case of equality of votes, the Chairman will have an additional, casting vote.
- b) The Deputy Chairman may perform any of the functions of the Chairman in the Chairman's absence.
- c) Meetings of the Panel shall be held in private, unless otherwise determined by the Chairman.
- d) The Panel may seek such advice, including legal advice, or secretariat support as it sees fit, in accordance with guidance provided to the Panel. The Panel shall not be advised by lawyers instructed by the Society or the Council, neither shall legal advice or

secretariat support be provided to the Panel by the Society's employees.

### 9.3.5 Sanctions

If the Panel concludes that there has been a breach of the Code, it may recommend to the Council one or more of the following:

- a) that the respondent(s) be censured by the Council, such censure to be recorded in the relevant minutes
- b) that the respondent(s) be suspended from membership of the Council for a specified period not exceeding six months in total
- c) that the respondent(s) be removed from the Council and/or from any office held as a Council member (including chairmanship or membership of one or more committees)
- d) that a complaint be made against the respondent(s) to the Statutory Committee (or equivalent)
- e) that a report be made to the police or other authority.

### 9.3.6 Council Procedure

- a) The Chairman of the Panel will submit a written report on the complaint and will make recommendations. In cases where a hearing is held, it shall be the Chairman of the hearing panel who submits the report and recommendations. The report of the Panel will be taken and the Panel's recommendation(s) considered, in public business at the next meeting of the Council, except where the Panel has dismissed the complaint, in which case the report will be taken in Confidential business, and excluding any case in which the Panel has recommended that the police be informed of the matter; in which case no report shall be made public until the conclusion of any action by the police or prosecuting authorities.
- b) The Council may
  - resolve to impose the recommended sanction(s) by a two-thirds majority vote of those present and voting (excluding the respondent(s)) provided that those voting in favour of the resolution constitute an absolute majority of members of Council excluding the respondent(s); or
  - by similar resolution impose one or more of the other available sanctions.Both the discussion and vote should exclude the respondent(s) and the complainant(s), if the complaint was made by a Council member.
- c) The Council should not purport to re-hear a complaint or substitute its own judgement for that of the Panel on whether a complaint should be upheld. Only in very exceptional circumstances may it remit a case for further consideration by the Panel, for example where a respondent claims that crucial new evidence is available which could not reasonably have been produced before the Panel.

#### Notes:

Currently, in the event of an established breach of the Code, the Council could impose any of the sanctions listed in 9.2.5 except removal or suspension from membership of the Council, for which powers have not yet been taken. However, the Council has decided that, in future, the Council should be able to remove or suspend a member of Council for such reasons and according to such procedure as shall be specified in regulations.