

Council meeting 5 & 6 December 2006

**PUBLIC BUSINESS**

## **The future organisation of the Society: conducting an independent review**

### **Purpose**

As requested at the review day on November 2, to present the Council with a proposal for how an independent review of the Society's structure, organisation and functions might be conducted in order to make recommendations for a satisfactory solution to the challenge within the Foster review that the separation between the Society's professional and regulatory functions should be "clarified".

### **Strategic objective domain**

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

### **Recommendation**

The Council is asked whether it wishes to instigate an independent review, by a person with suitable skills, experience and stature, of the Society's future structure, organisation and functions, to report initially in the summer of 2007.

### **1. Background**

Chapter 7 of the Foster report identifies that four regulators (including the Society and the Pharmaceutical Society of Northern Ireland) have a role outside the scope of regulation and are charged in law or in a Charter with promoting their profession "in subtly different ways." The Foster report goes on to say that "these words have caused uncertainty and dispute at times," and, while recognising that the roles of professional leadership and promoting the profession, which have been exercised for the public benefit, do benefit the public, states "there is a tension between their focus inwards on the professions' interests and the need for the regulator to be seen to be free from such influences". The Report concludes with a specific challenge that the Society should "clarify the separation" of its regulatory and professional functions, but it does not specify exactly what is meant by this - in particular it does not say whether the Westminster government envisages a separation of functions within the existing organisation or completely separate stand-alone organisations to carry out pharmacy regulation and professional leadership.

The contents of the Foster report have since been supplemented by statements by the Chief Pharmaceutical Officers for the three governments in Great Britain, initially at the British Pharmaceutical Conference in Manchester, and subsequently in an informal session with the Council before the October 2006 meeting. The Chief Pharmacists issued a direct challenge to us to define "leadership". The Council spent a day in November examining what the professional leadership functions of the Society might need to look like to meet the needs of the profession going forward and to enable individual practitioners to respond effectively to opportunities such as independent prescribing, pharmacists with a special interest (PhwSI), consultant pharmacist roles, the new contracts in England and Wales, and now in Scotland. This work proved useful in beginning to flesh out some very different activities that a leadership body, operating in a post-Foster/Donaldson world and free from the recent focus

on regulation that has, of necessity, been paramount in the run-up to the replacement of the 50-year old legislation that obligates the Society and provides the powers to undertake its statutory functions.

The Council may wish to return to this kind of thinking further, because clearly more needs to be done, and we have to recognise that thinking about organisational models that do not yet exist is much more difficult than rearranging the structure of one that does. As just one example, the Royal College of Physicians' in London (RCP) latest prospectus for its education department suggests options for the future very different from the discussion the Society has had so far about the future of its education functions, which has been largely set in the regulatory context. The Royal College sets out its stall as "promoting and maintaining the highest standards of medical practice...by working in partnership with healthcare organisations to ensure that the educational needs of physicians are attuned with the current demands of medical practice" – an objective we recognise as one we might subscribe to for pharmacy.

It intends to achieve this by offering in-house education, accrediting physicians as educators, designing, in collaboration with HEIs, postgraduate courses at certificate, diploma and masters levels, providing specific development programmes for new consultants and for trainees, running conferences and teach-ins, and providing a considerable suite of on-line educational resources. The Scoping the Profession project identified that the most common function provided by a group is professional support, reflecting the demand for such services within the profession.

A review therefore also represents an opportunity for an independent examination of the aspirations for the Society of Members of the Council and members of the profession.

The Council will also recognise that the structure and functions of the Society have been under discussion for some time, and views are many and various. The last time the profession as a whole was asked – in 2002 - the response fell much in favour of the "integrated" model that we have since been further internally reorganised to deliver. Around 70% of individual pharmacist respondents favoured this option, the Society's committees and groups were unanimously in favour, as were a majority of other pharmacy bodies. The Council recognised in November 2006 that the views of the members as to what should happen to the Society will be important.

The views of other stakeholders will also be important. For instance, the Society argued during the Foster Review that its integrated role delivered benefits for the quality and safety of pharmacy practice which could not equally well be delivered by two separate organisations. Patients and the public should therefore, by implication, have a voice in the debate on whether the integrated role should be abolished.

There was also a discussion within the context of the review meeting about whether the discussion had gone on long enough, and that the decision should be made as to whether the Society, in the face of the Foster request for "clarification" should accept as "inevitable" that this means two organisations, and take to the members the decision to split the organisation. On the day this view was shared by a small minority, and most Council members were persuaded that other options should be explored, and the Council agreed that what was required was a quick, clean and detailed consideration of all of the options, and the

consequences of the different models, completed within a reasonable timescale, and that a paper should be brought to the December Council meeting identifying how a review might be done and by when. This paper fulfils that remit.

## **2. Conducting a review**

In thinking about how a review might be conducted, the requirement for a quick, clean and detailed review of a complex organisation like the Society leads to the conclusion that, with the best will in the world, and if the people were available, an internal group would fail to do justice to the task. There are two aspects to this: one is about independence (discussed below); the other is about expertise. No commercial organisation would contemplate a significant reorganisation, or a de-merger, without first conducting a detailed investigation into the reasons put forward for the various options, the costs, benefits, risks, etc. That investigation would be conducted by people with the appropriate strategic, financial, legal and other relevant expertise.

The Council will be aware from the papers presented to previous Council meetings and review days that other bodies, when faced with a significant external challenge – sometimes from Government but on occasion stemming from changes in the profession or the external environment – have chosen to commission an external review from an independent person to take evidence and make recommendations for restructuring. None of these bodies has embarked on a major restructuring without such a review. The Law Society used Sir David Clementi, the Royal Institution of Chartered Surveyors used Sir Bryan Carsberg, and the Institute of Actuaries used Sir Derek Morris. These bodies were chosen as illustrative for earlier papers since the driver for change – to address a perception that a regulatory process was not operating in the public interest – was similar to that facing the Society today.

The advantages of an independent review, as evidenced from discussions with these bodies are:

- Independence: independent of particular interests, notably those of the governing body and the staff, it can command the respect of the profession as a whole
- Authority: the level of objectivity is viewed favourably by Government (even more so if the individual secures the confidence of Government to develop workable solution(s), and also has the courage to challenge Government(s) where necessary)
- Speed: a dedicated independent review, particularly if conducted by one person, can work quickly, while enabling a depth of engagement with stakeholders across and outside the profession, including with the membership and with Council members
- An independent review is more likely to think the unthinkable in devising options – the reviewer comes without “baggage” and preconceptions, and does not shy away from “no go” areas
- Decisiveness: The appointment of an independent review will demonstrate leadership by the Council, who will be seen as taking decisive action to determine the future for the Society at this difficult time. This would be viewed positively by all stakeholders.

As Council members emphasised in their initial consideration of this step on November 2, it will not only be vital to take the profession along with any decision, the members will need to endorse the solution, which suggests any review will, of necessity, need to be

accompanied by a full communications plan – to explain why the review has been set up, to keep members in touch with progress, to provide opportunities to feed in and, once the Council has made the concluding decisions, to ensure the members endorse the final outcome. The RICS have demonstrated that if the review is accompanied by a considered and extensive communications programme, its output – even when complex and challenging – can gain the overwhelming support of a profession (the RICS obtained a 98.6% vote in favour of its arms length regulatory board model) – a vote no government could ignore.

### **3. Timescale**

Following discussions with other bodies which have carried out such reviews, a timescale of between 6 and 8 months, to include a consultation period on a discussion document with the profession, would seem likely for proposals to be developed, on which the Council would take the key decisions. This would then be followed by an extensive phase of developing an implementation plan, with further consultation and discussion by the Council before the final decisions were taken, and the agreement of the profession gained, probably late in 2008.

While this may sound like an inordinately long time for the whole process, the experience of other regulatory bodies which have recently completed a review of this scale and importance shows that the time and effort required is substantial (the RICS's review took over two years) and cannot be drastically shortened without seriously compromising the quality of the work (and thereby the validity of the final recommendations) or risking the complete failure of the whole process. For instance, the RICS have emphasised the importance of engagement with stakeholder organisations: without their support, the membership would not have voted overwhelmingly for the final proposals.

More importantly at this stage, given the imperative to respond positively to the specific challenges within Foster/Donaldson, the Government timetable for developing proposals to implement the reviews will see officials begin to assemble concrete ideas for legislation (and the required slot in the 2007 Queen's speech) in the Spring, by which time any review will be underway and the reviewer is likely to have scheduled meetings with health departments and civil servants if not met them already. The initial phase of the review will be producing a clear direction of travel in time for Government to take a view on whether that would fit with their own expectations and policies and to begin to build into their timetable anything that needs legislative provision, at which point the Society will be moving into the process of gaining member approval for any changes. This can then be timetabled alongside any legislative process.

The timetable for the initial phase would look something like:

- Months 1 and 2: Information gathering, including focus groups, meetings with the Council and other Society structures, visits to Scotland, Wales, consultation with other regulatory bodies and stakeholder organisations, followed by the development of a consultation document.
- Months 3 to 6: consultation
- Months 7 and 8: development of initial proposals and report to Council.

## **5. Risk Implications**

A review would need to take account of the range of risks and implications associated with potential models. These would include financial, reputational and legal risks and employment and pension implications. Failing to conduct such a review and to consult on the outputs could lead to decisions on the Society's future being insufficiently informed, exposing the organisation and the profession to unnecessary risks, including those related to the Society's responsibilities as an employer, and the Council to risk in relation to their fiduciary duty to safeguard the Society.

## **6. Resource Implications**

We estimate the cost of this type of review as in the order of £200,000 over 2007 and 2008, involving as it would a reviewer of the appropriate standing, with 0.8wte senior administrative support for eighteen months plus expenses for travel etc. This would have to be resourced from the Society's contingency budget.

## **7. Recommendation**

The Council is asked whether it wishes to instigate an independent review, by a person with suitable skills, experience and stature, of the Society's future structure, organisation and functions, to report initially in the summer of 2007.

Rob Darracott  
Director of Corporate & Strategic Development