

COUNCIL

Minutes of the meeting held Tuesday 5 December and Wednesday 6 December 2006 at 1 Lambeth High Street, London SE1

Tuesday 5 December 2006

PUBLIC BUSINESS

Present

President	Mr H Patel
Vice-President	Mr G Alexander
Treasurer	Mr J Jolley

Ms S Agha	Mr M Astbury
Mr J Buisson	Mr D Carter
Dr B Curwain	Mr S Dajani
Professor S Denyer	Mrs D Drury
Dr P Entwistle	Mrs D Eustace
Mr J Gentle	Mr A Gush
Mr J Hanlon	Mrs S Hikins
Mrs C Hunt	Mrs L Jacobs
Mr R Jobling	Mr A Kershaw
Mrs L Morgan	Mr G Phillips
Mr C Ranshaw	Ms M Saunders
Professor M Schofield	Mr D Simpson
Mr D Thomson	Mr S Wells

In attendance

Mr Peter Jones, Chairman Welsh Executive; Dr Rose Marie Parr, Chairman Scottish Executive.

06/115 Apologies for absence

Professor A Michell.

06/116 Declaration of interests

The President reminded Council members that they should have regard to any conflict of interest which might be relevant to any of the items on the agenda and if so, should make a formal declaration of such interest at the beginning of the discussion of the item. Declarations would be minuted.

Mr Douglas Simpson and Mr Jonathan Buisson declared that, as former employees of the Society, they were members of the RPSGB Pension Scheme.

06/117 Welcome to guests

The President welcomed the following guests: Mr Alastair Buxton, Buckinghamshire Branch; Mr David Evans, Anglia Region Chairman; Mr David Stanton, Halifax and District Branch.

06/118 Minutes of the public business part of the meeting of Council held on 10 & 11 October 2006 and 1 November 2006

06/118.1 Annual declaration of fitness to practise (06/98 refers)

Mr Simpson raised a number of concerns relating to the decisions taken by the Council in October to refuse to provide letters of good standing and ultimately to remove members from the register who did not sign the annual declaration of fitness to practise on the retention fee form.

The Secretary & Registrar confirmed that the Council had agreed the specific wording in the minute.

Ms Mandie Lavin, Director of Fitness to Practise & Legal Affairs confirmed that the Society had a clear mandate to set the requirements for registration and also to determine what would happen if those requirements were not met. The annual declaration of fitness to practise was common across all health professional regulators and an important quality assurance mechanism to protect the public. Failure to take action against those members who repeatedly refused to sign the declaration undermined the integrity of the Register and could, if an investigation occurred, cause reputational risk to the Society.

Dr Sue Ambler, Acting Director Education & Registration, explained that the annual retention fee was due for payment on 1 January of each year – that had always been the case. The custom had been to allow a period for payment following that date, but that period had been gradually shortened over the last few years, in 2007 reminder letters would go out in mid January. Erasures from the Register did not finally take place until around the end of March each year. . It was noted that after three letters in 2006 the number of members for whom a declaration had not been received had fallen to around 100.

The importance of clear communication with the membership on these issues to ensure understanding and compliance was remitted to the Public Affairs Planning Group to consider.

06/118.2 Responses to Department of Health Consultation on “The regulation of the non-medical healthcare professions” (Foster) and “Good Doctors, Safer Patients” (Donaldson) (06/114 refers)

It was noted that in “(iv) the professional body must be run by pharmacists” the word “*run*” should be understood to mean “*governed*”.

With these two clarifications,

Council

resolved

that the minutes of the public part of the meeting held on 10 and 11 October 2006 and on 1 November 2006 be received and agreed as a correct record.

06/119 Matters arising: Section 60 Order

Mr John Hanlon asked to have recorded his dissent from Art 49(3) of the Pharmacists and Pharmacy Technicians Order (section 60 Order) which included the requirement to notify employers of the person concerned when an allegation was referred to a fitness to practise committee. The following Council members also indicated that they wished also to record their dissent to that provision of the Order: Mr Gerald Alexander, Ms Seema Agha, Mr Martin Astbury, Mr Jonathan Buisson, Mr David Carter, Dr Brian Curwain, Mr Sid Dajani, Mrs Dorothy Drury, Mrs Davan Eustace, Mr John Gentle, Mr Andrew Gush, Mrs Sylvia Hikins, Mrs Corrine Hunt, Mrs Lesley Morgan, Mr Graham Phillips, Mr Colin Ranshaw, Mr Douglas Simpson, Mr David Thomson, and Mr Stephen Wells.

Mrs Christine Gray, Head of Corporate Governance, advised the Council that the requirement at Article 49(3) reflected government policy for all health professional regulators. The Society had asked that discretion be allowed in such referrals, but that request had been refused.

The Secretary & Registrar reported that it was not now possible to propose amendments as the Order had been laid in Parliament.

Council

agreed

- i. that the President should write to the Minister informing him of the Council's dissent from that provision in the Order, and
- ii. when an opportunity arose in future legislation, the matter should be taken up again.

06/120 Secretary and Registrar's report

06/120.1 Department of Health Consultations on "The regulation of the non-medical healthcare professions" (Foster) and "Good Doctors, Safer Patients" (Donaldson)

The President commented that the Society's response had been submitted to the Department of Health. That response had set out a number of possible models for the future structure of the Society. Further work was progressing and at some point a decision on a future structure for the Society would be required of the Council.

06/120.2 Section 60 Order

The Secretary & Registrar reported that the Pharmacists and Pharmacy Technicians Order had been laid in Parliament and was due to be considered by the Parliamentary Joint Committee on Statutory Instruments on 6 December. Debate in a House of Commons Committee and in the House of Lords was expected to take place in January. Following approval by both Houses, it was anticipated that the Order would be made at the Privy Council meeting on 7 February 2007.

06/120.3 Council election 2007

The Secretary & Registrar introduced paper 06.12/C/129, which had been circulated.

Council

noted

- i. the Council members whose term of office expired in 2007 (Elected Mr Gerald Alexander, Mr Sultan Dajani, Mrs Davan Eustace, Mr John Gentle, Mrs Corrine Hunt, Mr John Jolley, Mr Stephen Wells; appointed: Mrs Lorna Jacobs, Mr Alan Kershaw, Professor Michael Schofield) and

agreed

- ii. to appoint Electoral Reform Ballot Services Limited as the scrutineer for the Council elections in 2007, and
- iii. that the date from which newly elected or re-elected and newly appointed or re-appointed members of the Council take office in 2007 be Saturday 19 May 2007.

06/120.4 Minutes circulated since the October meeting of Council

Council

received

the minutes of the following committees, which had been circulated.

Governance	20 September 2006
Law & Ethics	26 September 2006
Practice	27 September 2006
Science	28 September 2006
Welsh Executive	5 October 2006

06/121 Responding to Foster/Donaldson: The future organisation of the Society - thoughts on potential models and conducting an independent review

Council

agreed

that the discussion of papers 06.12/C/144 and 145, which had been circulated as part of the Council's confidential business, be moved into public business and be considered as the first item of business on Wednesday 6 December 2006.

06/122 Business Plan and strategic objectives 2007

Mr Robert Darracott, Director Corporate & Strategic Development, introduced paper 06.12/C/130, which had been circulated.

He commented that the aim with the 2007 Business Plan had been to set out objectives which could be measured. As the year progressed newly agreed objectives would be assimilated as well as noting those objectives which had been achieved. He suggested that the Council should give time to consideration of the Plan at a strategy session in 2007.

Council members welcomed the Business Plan. A few comments were made which would be addressed in next iteration of the Plan.

The President thanked Mr Darracott and all staff who had had an input into the compilation of the Plan.

Council

noted

the Society's Business Plan for 2007.

06/123 Post-S60 Order education function

Mr Damian Day, Head of Accreditation, introduced paper 06.12/C/131, which had been circulated.

A unified education function, which clarified standard setting and standards checking, decision making and appeals was proposed. An Education Advisory Group would be created to advise Council on education policy and would be similar to the existing Education Committee. It would be appointed by the Council's Appointments Panel. A complementary statutory Education Committee would be responsible for appeals relating to education decisions. The statutory Education Committee would be appointed by the Society's Appointments Group to take office in 2008. The next step in the process would be to draft the Education Rules.

Council noted that the proposals were fully supported by the Education Committee.

Council welcomed the paper and commended the work which had gone into achieving the solutions proposed. Several comments were noted which would be taken into account when drafting the Rules.

Council

agreed

structures and processes to manage the education work of the Society, post-Section 60 Order (as set out in the paper), as follows:

- i. the function of an Education Advisory Group;
- ii. the composition of an Education Advisory Group;
- iii. the method of appointment of an Education Advisory Group;
- iv. the function of a statutory Education Committee;
- v. the composition of a statutory Education Committee; and
- vi. the method of appointment of a statutory Education Committee.

06/124 Developing a Patient and Public Involvement Strategy: results of consultation on draft strategy and proposals for a way forward

Mr Ray Jobling, one of the Council member sponsors for PPI, introduced paper 06.12/C/132, which had been circulated.

The consultation responses had overwhelmingly been in favour of the proposed draft strategy and that the Society's work should develop further to integrate PPI across the range of its activities and into its normal ways of working. It was an important way for the Society to build social capital on which to draw.

Council members commended the work in developing the strategy and welcomed the progress made. Concerns regarding the affordability of implementing the strategy fully at the current time were noted. The proposals

had been reviewed in the recent budget process and were considered achievable.

Council

noted

- i. the results of the consultation on the draft PPI strategy;

agreed

- ii. the revised PPI strategy; and
- iii. that should further resources than budgeted be required, then a full report be brought back to the Council setting out future resource requirements, in order that the Council could consider if it was necessary to revise its priorities.

06/125 Code of Ethics review

Mr Douglas Simpson, Chairman of Law & Ethics Committee, introduced paper 06.12/C/133, which had been circulated. Council had agreed to consult on the Code of Ethics Review Working Group's proposed text for the revised Code of Ethics at the 1 November 2006 strategy day and was now asked formally to ratify that decision.

Council

ratified

the decision made at the Council strategy day on 1 November 2006 to consult on the Code of Ethics Review Working Group's proposed text for the revised Code of Ethics as outlined in the paper.

06/122 Consultation procedures for professional standards and guidance documents

Ms Lynsey Balmer, Head of Professional Ethics, introduced paper 06.12/C/134, which had been circulated.

The revised Code of Ethics would be based on seven principles of ethical practice to inform the conduct, performance and practice of all registered pharmacists and pharmacy technicians. It was proposed that where more detailed guidance was required for a specific area of practice or professional activity, it would be provided in separate documents with clearly indicated status (e.g. mandatory or good practice requirements). Work was currently underway to develop standards for pharmacy owners, superintendent pharmacists and other pharmacists and pharmacy technicians with management responsibilities. Additional guidance on the sale and supply of medicines, patient consent and confidentiality was also being developed.

Comments were noted regarding circulation of the consultation documents and the possibility of consideration by committees other than Law & Ethics if timescales permitted.

Council

agreed

the proposed process for consulting on the professional standards and guidance documents that would supplement the revised Code of Ethics.

06/123 Referral from Infringements Committee: Errors in Pharmacy Practice

The President welcomed the opportunity presented by the proposals put forward for the Society to influence the Government to decriminalise dispensing errors as a step towards eliminating the pervading blame culture and encouraging openness about errors and learning from mistakes.

Dr Phillida Entwistle, Chairman of Infringements Committee, introduced paper 06.12/C/135, which had been circulated together with the report "*Patient Safety in Community Pharmacy: Understanding Errors and Managing Risk*". It was proposed that the Society should again actively seek amendments to the Medicines Act to decriminalise dispensing errors (which was current Council policy) and that the current referral criteria to Infringements Committee be amended.

Dr Entwistle reported that at the Committee's recent policy day, two other recommendations had also come forward which Council would be asked to consider in 2007 following the development of clear proposals. Those were that a considerable number of those cases with low priority for the Committee could be dealt with more effectively by empowering the Inspectorate to do more at a local level and suggested a mechanism by which policy on investigations could be developed once the new statutory Investigating Committee was in operation.

Council welcomed the paper and fully supported the decriminalisation of dispensing errors.

Council

noted

that the Infringements Committee would consider proposals for Council regarding empowering the Inspectorate to act locally and developing investigations policy in the future; and,

on the recommendation of the Infringements Committee

agreed

- i. that a change to the legislation which would have the effect of decriminalising errors, be sought, and
- ii. that the current referral criteria to Infringements Committee be revised to prevent the referral of dispensing errors which do not bring pharmacists' fitness to practise into question.

Wednesday 6 December

PUBLIC BUSINESS

Present

President	Mr H Patel
Vice-President	Mr G Alexander
Treasurer	Mr J Jolley

Ms S Agha	Mr M Astbury
Mr J Buisson	Mr D Carter
Dr B Curwain	Mr S Dajani
Professor S Denyer	Mrs D Drury
Dr P Entwistle	Mrs D Eustace
Mr J Gentle	Mr A Gush
Mr J Hanlon	Mrs S Hikins
Mrs C Hunt	Mrs L Jacobs
Mr R Jobling	Mr A Kershaw
Mrs L Morgan	Mr G Phillips
Mr C Ranshaw	Ms M Saunders
Professor M Schofield	Mr D Simpson
Mr S Wells	

In attendance

Mr Peter Jones, Chairman Welsh Executive, Dr Rose Marie Parr, Chairman Scottish Executive.

Apologies for absence

Professor A Michell, Mr D Thomson.

06/124 Responding to Foster/Donaldson: The future organisation of the Society - thoughts on potential models and conducting an independent review

Following discussion in the Council's committee session the previous day, and building on previous discussions, the President asked the Council to discuss papers 06.12/C/144 and 145, which had been circulated.

The following interests were declared: Mr Jonathan Buisson and Mr Douglas Simpson were members of the Society's staff pension scheme; Mrs Lorna Jacobs was a member of a fitness to practise committee of another health professional regulator; Mr Gerald Alexander was a member of the Board of the National Pharmacy Association and a member of the Pharmaceutical Services Negotiating Committee; Mr Hemant Patel was a member of the Board of the National Pharmacy Association; Mr Colin Ranshaw was a member of the Guild of Healthcare Pharmacists.

The Council was fully aware of the gravity of the discussion and the far reaching effects their decisions at the meeting could have on the Society and the profession. The President asked that all Council members state their views on the way forward for the Society in order to ensure a full discussion.

There was general agreement that the Society should continue to work with the Government to bring about a positive resolution of the issues.

The Foster Report had sought clarification of the roles of the Society. A number of models were possible and should be explored. There was general agreement that pharmacy needed both credible, competent regulation, wherever this sat, and strong professional leadership for pharmacists. Some also supported a representative role for pharmacists.

Two strands to the discussion emerged.

A number of Council members wished the Council to take a decision in principle that the professional and regulatory roles of the Society should be undertaken by separate bodies and proposed a review subsequent to such a decision to indicate how the separation might be achieved. It was considered that taking such a decision would show decisive leadership to the membership and to the Government.

Other Council members wished only to take such a decision following an independent, thorough, objective and timely review of the Society, which considered the risks and benefits of various ways forward. Such a review would allow an exploration of thinking around separation of functions or continuation of functions in the same or related organisations. It could also cover a number of other options such as two independent bodies working alongside each other and, perhaps, benefiting from shared service provision, or complete separation with a new, independent regulator for pharmacy being established and with a professional body along the lines of the medical Royal Colleges.

The following points were made in discussion.

- The Society had a duty to all its members and Council was of the view that however the issues were resolved the membership should be consulted on the way forward. The National Pharmacy Boards should be given the opportunity to consider the issues and feed in to the Council.
- There were concerns about low morale in the membership and action needed to be taken to reach out to the branches and regions and interface more with members.
- Developing a working model with the required clarification of separation would be an opening to negotiate with the Government for the best possible solution.
- There was strength in having a regulatory organisation informed by professional understanding and leadership. There is strength in a professional organisation being advised, supported and weighted by the presence of regulation.
- The Council's vision statement was "to advance health and well-being through promoting excellence within the pharmacy profession". It should be possible to find the most sustainable structure in line with that vision and within the current political constraints.
- Council policy presupposed a two-board model, separate legal entities, or a regulatory board with a lay majority and a Council with a pharmacist majority, but there was a view that the Government would insist that the regulatory board should be dominant.

- The integrated role model had served the public interest well in pharmacy. But the external environment had changed. Regulation must continue to be a partnership between professionals and lay people, but it was thought likely that in future regulation would be led by lay people.
- Some Council members considered that the profession was currently over-regulated and the Society was over-emphasising regulation in terms of strategy and resourcing.
- Council members had a collective responsibility for the sound stewardship of the Society and great care was needed not to push this organisation into crisis. Council members also needed to have legal advice on their own personal liabilities resulting from their fiduciary responsibilities. Mr Darracott reported that initial legal advice had been sought and that the matter was complex. More detailed legal advice would be required before the Council decided which model to pursue.
- There were also implications for the staff of the Society and the Council had a responsibility to the staff.

The President clarified that the Council would not be taking a final decision on the future structure of the Society until there had been consultation with the membership.

Council

agreed

- i. to support the clarification of the separation of regulatory and professional functions;
- ii. to support an independent review that would
 - Define the principles of separation of functions
 - Consult widely, and in particular, with members of the profession
 - Consider the options and models
 - Consider the implications including efficient and economical linkages, membership and registration links, legal, human resource and financial matters, benefits, risks and costs
 - Propose a way forward;
- iii. to establish a steering group on the independent review of the Society to, on behalf of the Council,
 - ensure that the independent review was going forward within timescale and that there were no barriers to timeliness
 - receive and instruct legal advice on the HR implications and legal advice specific to the duties and responsibilities of Council and Council members and
 - report back to the Council as appropriate;
- iv. the steering group to be established under the standard operating procedures for working groups;

- v. the composition of the Steering group to be the President (Chairman), the Vice-President, the Treasurer and two lay members of the Council with the Secretary & Registrar as lead staff member;
- vi. funding would be provided through the contingency fund; and
- vii. the group would report in March 2007 on progress and conclude when the independent review was completed.

Council further

agreed

- viii. that the confidential papers which Council members had considered be made available publicly.

06/125 Long-term conditions and community pharmacy

Mr Paul Gimson, Lead Pharmacist, Long Term Conditions and Public Health, presented paper 06.12/C/136, which had been circulated.

The report made proposals to develop a strategy building on research undertaken by the Society into the role of pharmacy in long term conditions. Although the research had been in community pharmacy, the strategy would cover pharmacy as a whole, particularly including clinical and primary care pharmacy. There were GB-wide implications, but also specific implications in England, Scotland and Wales which would mean a different focus for the work in each country, being lead by the relevant national Pharmacy Board. In England, the Chief Pharmaceutical Officer had proposed the establishment of a task force. Council was of the view that the strategy should be GB-wide.

Council welcomed the report. The task force for England was supported, but it was suggested that Scotland and Wales be invited to send observers in order to learn from the English experience.

A Council sponsor was required for the strategy. Council members interested in undertaking that role were asked to submit their names with a short note of why they wished to undertake the role, to the Secretary & Registrar as soon as possible. The Officers would then make an appointment.

Council

agreed

- i. to note the research findings on the contribution of community pharmacy to managing long-term conditions
- ii. to endorse the recommendations of the research published to date;
- iii. the development of a long-term conditions and self-care strategy across Great Britain focused through the national Pharmacy Boards;
- iv. the setting up of a taskforce on long-term conditions and pharmacy in England
- v. the appointment of a Council sponsor for the work

06/126 Practice Research Adjudicating Panel name change

Council considered paper 06.12/C/137, which had been circulated.

Council

agreed

that the "Practice Research Adjudicating Panel" be re-named the "BPC Practice Research Panel".

06/127 Recording of dissent from a Council decision.

Council

noted

the register of dissent by Mr Martin Astbury from the decision recorded at minute 06/72.3 of the public business session of the Council meeting held on 1 & 2 August 2006 regarding the schedule of Council and committee meetings 2007.

06/128 Farewell to Rob Darracott

The President thanked Rob Darracott for the enormous contribution he had made to the Society as Director of Corporate & Strategic Development over the past three years. He created the Directorate, drawing together a group which includes HR, Corporate Governance, Business Intelligence, Policy Development, Corporate Secretariat, Research & Development and Science. He contributed significantly to the establishment of the new Council and the development of its strategic objectives and business plan, and was instrumental in the Society's devolution work. His contribution to strategy and operations leaves the Society much better placed to face the challenges of the future.

The President, on behalf of the Council and the Society, wished Mr Darracott well in his new post.

The Secretary & Registrar thanked Mr Darracott on behalf of his Directorate team and the Executive team and for his support in helping her to develop and embed the team approach into the ways the Society works. She paid tribute to his work developing the culture of the organisation and staff values and promoting achievement.

Mr Darracott thanked the President, Secretary & Registrar and the Council for their good wishes. He emphasised that the change in organisational culture that effective team working represented was of great value to the Society. He paid tribute to the teams of people that worked across the Society and urged Council to cherish those people, because they knew what they were doing and were great people to work with.

06/129 Council update and progress on strategic objectives

Council

noted

the update and progress report, which had been circulated at 06.12/C/138.

06/130 Report from Council member branch sponsors

Council

noted

the report, which had been circulated at 06.12/C/139.

06/131 Infringements Committee: statistics

Council

noted

the report, which had been circulated at 06.12/C/140.

06/132 Council for Healthcare Regulatory Excellence (CHRE): draft minutes for 25 October 2006

Council

noted

the unapproved minutes of the meeting of CHRE on 25 October 2006, which had been circulated at 06.12/C/141.

The President closed the public business of the Council