

Council meeting 1 & 2 February 2005

OPEN BUSINESS

## Report of the Devolution Review Group

### **Purpose**

To receive the report of the Council's Devolution Review Group – Lord Fraser will present the report at 15.45 on 1 February – and to determine next steps.

### **Action required**

Council is asked to receive the Report and to agree

- i. that it be published
- ii. in principle, that National Boards for Scotland and Wales be constituted to replace the current Scottish and Welsh Executives, and that a new National Board for England be constituted
- iii. that the office prepare a forward plan for agreement at the April Council. The plan will provide for the appropriate consultation with the members, the development of draft concordats etc, and will be informed by further discussion by the Council during the March review days

### **1. Background**

Since the creation of the Scottish Parliament and Welsh Assembly in 1999, the RPSGB has sought to shape and influence policy relating to pharmacy in three administrations. Policy divergence is occurring now, and is expected to increase, particularly if or when different political parties control the various administrations. The three pharmacy plans clearly demonstrate that each country has its own strategy for using pharmacy expertise in the delivery of healthcare.

In February 2004 the Council agreed that a time limited Review Group should be established under the chairmanship of Lord Fraser of Carmyllie to examine devolution in more detail in respect of the Society's functions, structures and ways of working.

### **2. Next steps**

The Devolution Review Group makes a number of recommendations concerning the mechanisms by which the Society's business should be discharged effectively in Scotland, Wales and England. However the Group has also confined itself to broad principles and the detailed interplay of any new Boards with the Council and its supporting structures will need to be considered, as will their constitution.

Council will recall that the establishment of these supporting structures (at least as far as Scotland and Wales are concerned) is the subject of a specific provision in the Charter:

“7. The Council (1) shall by regulation, and subject to appropriate consultation, establish structures in Scotland and Wales to reflect devolved powers and responsibilities for health and other relevant matters.”

This was designed to reassure the Council that a future Council could not dissolve structures in Scotland and Wales simply by decision, and to reassure the devolved administrations that any change to existing structures would be subject to Privy Council approval.

This means that the establishment of national boards will require regulations, and there will need to be some discussion about the nature of “appropriate consultation”, how much detail should be covered in the regulations and how much in concordats, guidance, governance etc.

The Council will need to take a view regarding the interplay between any proposed national boards and its supporting structures, and the constitution of the boards in order to inform any consultation with the members. It may be helpful to reserve some time at the March review days to inform the development of a forward plan to be presented to the April Council.

### **3. Risk Implications**

The risks associated with failing to meet the constitutional challenge presented by devolution are identified in the Review Group’s report.

### **4. Resource Implications**

A sum has been included within the 2005 budget against the likelihood of costs associated with implementation of the Review Group’s recommendations. These will be identified as part of the forward plan.

Robert Darracott  
Director of Corporate & Strategic Development



**Royal Pharmaceutical Society  
of Great Britain**

Helping pharmacists achieve excellence

# **Devolution – A Framework for the Future**

## **The Fraser Report**

**Report of the RPSGB Devolution Review Group**

January 2005

## **Contents**

	<b>Page</b>
Introduction	1
Background	2
Political Situation	4
The RPSGB	7
The Process	8
Conclusions and Recommendations	13

## **Appendices**

1. Scottish Executive and Welsh Executive Byelaws Section XXII and XXIV
  2. List of All Party Groups in the National Assembly for Wales and Cross Party Groups in the Scottish Parliament
  3. Key and Wider Stakeholder Responders to Consultation Documents
  4. Scottish Executive Response to Consultation Document
  5. Welsh Executive Response to Consultation Document
  6. Suggested Structure for English National Board
  7. Suggested Structure for National Boards under Council
  8. Scottish and Welsh Views on the Chairman of the Executives being a member of Council
-



## **Royal Pharmaceutical Society of Great Britain**

Helping pharmacists achieve excellence

### **Introduction**

I was invited by the Council of the Royal Pharmaceutical Society of Great Britain to chair a Group to examine the devolutionary impact of recent statutes on the workings of the RPSGB. The fuller terms of reference are set out in the Background section of this Report.

We would not necessarily have wanted to start at the point requested of us but it is clearly essential now that to achieve maximum effectiveness the RPSGB will want to respond to the political realities of devolution in Great Britain.

One option might have been to disband the RPSGB in favour of three societies in England, Scotland and Wales. No one on the Group favoured that and we encountered virtually no support for that approach anywhere in Great Britain. On the contrary the desirability of a single Royal Pharmaceutical Society for Great Britain setting consistent national standards is probably better understood now than when we started. Having said that, it is my personal opinion that the Council of the RPSGB would be ill-advised to ignore the sensitivities of Scotland and Wales both within and outwith the profession and should give an enhanced role to pharmacists resident in England.

I am particularly grateful to the pharmacist members of the Group for the long hours that they have put in at home, in Edinburgh, Cardiff and London and for their constructive contributions even if unanimity on detail was not entirely possible.

Finally the moderating talents of Paul Jervis were invaluable in clarifying the thinking of the Group, as were the tireless efforts of Michele Savage in not only drawing together into a coherent form our deliberations on the report but also for carrying out a consultation on an unprecedented scale. The RPSGB owes a debt of gratitude to both for so enhancing its reputation.

**Lord Fraser of Carmyllie**

24 January 2005

## **Background**

The Royal Pharmaceutical Society as the professional body for pharmacy seeks to lead the profession and as the regulatory body is responsible for assuring the competence and fitness of pharmacists to practise, setting standards for education and practice, guiding pharmacists towards excellence and dealing with the small number who fall short of acceptable standards. The RPSGB is constituted under its Royal Charter. Members of the RPSGB are those persons registered as pharmaceutical chemists under the Pharmacy Act 1954. Under the Act, the RPSGB maintains the register of pharmacists and exercises professional discipline through the Statutory Committee.

The RPSGB combines its regulatory and professional functions with a statutory enforcement role. It has law enforcement duties under the Medicines Act 1968, the Animal Health and Welfare Act 1984 and the Poisons Act 1972.

The Council is the governing body of the RPSGB. The Council currently comprises 21 elected pharmacists and 3 lay members appointed by the Privy Council. In May 2002, the Council agreed that the RPSGB should retain its integrated regulatory and professional roles within a reformed organisation, meeting modern regulatory requirements. Within this framework, the RPSGB's principal duties would remain those of regulating, developing and leading the profession of pharmacy within the context of the public benefit.

The Council recognised that a framework needed to be considered that would reflect devolution in Scotland and Wales. The current constitutional arrangements for the Scottish and Welsh Executives and the Departments in Scotland and Wales are set out in the Byelaws (Sections XXII and XXIV), attached here as appendix 1. The responsibilities of the Executives are as follows:

### ***Scottish Executive***

The functions of the Executive include the implementation in Scotland of the policies of the RPSGB, the management of York Place, Edinburgh, the arrangement of meetings in Scotland for the advancement of the objects of the RPSGB, the organisation and supervision of the local branches of the RPSGB in Scotland, and the making of recommendations to the Council upon any matters affecting the RPSGB and its members in Scotland.

### ***Welsh Executive***

The Welsh Executive is responsible under the authority of the Council for the implementation in Wales of the policies of the RPSGB, the organisation and supervision of the local branches of the RPSGB in Wales, and the making of recommendations to the Council upon any matters affecting the RPSGB and its members in Wales.

The Council agreed that a time limited Review Group to examine devolution in more detail should be established under the Chairmanship of Lord Fraser of Carmyllie, the independent Chairman of the Statutory Committee. It was agreed that this review should look at the function, structures and ways of working and include the flexibility to extend to any future devolved administration in England.

Terms of Reference for the review were agreed as follows:

1. To consider and recommend a framework for devolution of functions of the Society.

2. To consider the scope and role of policy making by the Executives.
3. To consider the role and structure of the Scottish Executive and of the Welsh Executive and the Scottish and Welsh Departments.
4. To consider the impact of potential primary legislative power in Wales and devolved administrations in England.
5. The recommended arrangements for governance and accountability.

N.B The Group was **not** asked to provide costed models for their recommendations.

The members of the Group were appointed in a personal capacity by the RPSGB Council and are:

Lord Fraser of Carmyllie	
Ann Lewis	Secretary and Registrar
David Thomson	Immediate past Chairman of the Scottish Executive
Angela Timoney	Chairman of the Scottish Executive
Andrea Robinson	Immediate past Chairman of the Welsh Executive
Mair Davies	Chairman of the Welsh Executive
Alison Ewing	Member of Council
Digby Emson	Member of Council
Maurice Hickey	Member of Council (resigned from Council, December 2004)
Gillian Hawksworth	Immediate Past President of the RPSGB
Colin Ranshaw	Member of Welsh Executive
Paul Jervis	Honorary Senior Research Fellow, Constitution Unit, University College London

This Group having examined the issues surrounding devolution in detail is now reporting back to Council with its recommendations.

## **Political Situation**

Devolution is the delegation of power from Central Government to national Parliaments and Assemblies. Devolution was one of the key issues in the 1997 election for the Labour Party, whose manifesto pledged to hold referenda on whether to introduce a devolved form of government in Wales and Scotland. Following the election of the Labour Government, successful referenda were held in Scotland and Wales and the Scottish Parliament and the National Assembly for Wales were established.

### ***The National Assembly for Wales***

The National Assembly for Wales was established in 1999 under the Government of Wales Act 1998. The Labour Party leads its current administration. In February 2002, the National Assembly voted to make clear the difference in roles between ministers and the Assembly as a whole. The Assembly develops and implements policy in the areas of:

- economic development
- transport
- Assembly business
- finance
- local government
- public services
- education and lifelong learning
- health and social care
- social justice
- housing and regeneration
- environment
- planning and countryside
- culture
- Welsh language
- sport.

The Assembly is also responsible for more than 50 public bodies. These include the Welsh Development Agency, the Higher Education Funding Council for Wales, the Sports Council for Wales and the Welsh Language Board. The Welsh Assembly Government is accountable to the National Assembly for Wales, which debates and approves legislation.

The Assembly has direct responsibility for health and social care in Wales. Now in its second term, it is using its powers fully to develop policies that reflect the needs of the people of Wales. As a consequence, large numbers of information, consultative and implementation documents have been and continue to be issued, often with a very short consultation period.

The Assembly has 24 Committees and 13 All-Party Groups (appendix 2). The All-Party Groups are non-statutory and include Assembly members and key stakeholders. They can be very influential on the Committees and the Welsh Assembly Government.

The budget for the Assembly 2004-2005 was £11.9 billion, an increase of 6% on the previous year. The health and social care budget saw an 8.9% increase, demonstrating that health is a priority for the Welsh Assembly Government.

The Richard Commission Report 2004 recommended that the Assembly should be a legislative body able to exercise powers in areas where administrative and secondary legislative have been devolved including health and education. Although these recommendations were not accepted by the Labour administration in Wales, the views of independent experts are that it is likely that, in time, the Welsh Assembly will gain the same legislative powers as the Scottish Parliament. The Group has proceeded on the basis that, for all practical purposes affecting pharmacy, any structural changes should assume that the powers of the National Assembly of Wales and the Scottish Parliament will, in time, be much the same.

### ***The Scottish Parliament***

The Scottish Parliament was established in 1999 under the Scotland Act 1998. The Executive was established in 1999, following the first elections to the Scottish Parliament. The current administration is led by a coalition between the Scottish Labour Party and the Scottish Liberal Democrat Party.

The Scotland Act is cleverly constructed. Instead of seeking to define what is devolved from Westminster it restricts itself to defining what is reserved to Westminster. All else in effect is for the Scottish Parliament.

- health including the regulation of new health professions.
- education and training
- local government
- social work
- housing
- planning
- tourism, economic development and financial assistance to industry
- some aspects of transport, including the Scottish road network, bus policy and ports and harbours
- law and home affairs, including most aspects of criminal and civil law, the prosecution system and the courts
- the Police and Fire services
- the environment
- natural and built heritage
- agriculture, forestry and fishing
- sport and the arts
- statistics, public registers and records
- regulation of all new professions

The UK Parliament at Westminster retains power to legislate on any matter, but the convention of devolution is that the UK Parliament will not normally legislate on devolved matters without the consent of the Scottish Parliament.

The Scottish Parliament managed an annual budget of more than £20 billion in 2002-2003 and will manage almost £26 billion in 2005-2006. It is estimated that around 40% of the allocated budget is spent on health. With 29 Committees and 50 Cross Party Groups (Appendix 2) there is considerable scope for the RPSGB to be fully involved in all aspects of the Scottish Parliament ensuring that the pharmacy profession is represented at all levels.

The Committees are more powerful and proactive than the Committees of the Westminster Parliament. They fulfil the functions of both Standing and Select Committees and are able to consider major policy issues, hold Ministers and public

agencies to account and scrutinise legislation. Unlike Westminster Committees, they are also able to initiate legislation.

A key element of the Scottish Parliament is pre-legislative scrutiny. Legislation is usually extensively consulted upon before a bill is presented to the Scottish Parliament. This requires a written response, informal consultations at civil service and ministerial level followed by oral evidence to a parliamentary committee. In common with the National Assembly for Wales, **consultation periods can be very short**, although there is opportunity to engage with the process as Bills proceed through the committee system.

### ***Principles***

Financial support for the Scottish Parliament and Welsh Assembly is determined by the Barnett formula – that is, a combination of a block grant plus an increase of 10.5% of identifiable UK expenditure. In addition, the Scottish Parliament is able to vary the basic rate of income tax by up to 3p in the pound. Any changes to the amount of block allocation have historically been assigned to health services.

The Committees of both the Scottish Parliament and the Welsh Assembly seek to liaise closely with local government, health bodies, trade unions, business, civic bodies, community organisations etc. The aim is to make decisions in Scotland and Wales in a way that examines the options rationally and encourages consensus, compromise and co-operation rather than rigid party confrontation.

### ***English Devolution***

Following the overwhelming 'No' vote in the North East Assembly referendum, it is not anticipated that there will be a devolution of powers to the English regions in the immediate future. However, the recommendations later in this report are flexible enough should English devolution occur at some time in the future.

## **The RPSGB**

Since the introduction of political devolution in 1999, the RPSGB has sought to shape and influence policy relating to pharmacy in three administrations – Westminster, the Scottish Parliament and the Welsh Assembly. There has now begun to emerge a degree of policy divergence between Scotland, England and Wales and this is expected to increase further, particularly should there be different political parties in Government. The three pharmacy strategies clearly demonstrate that each country has its own plan for the delivery of pharmaceutical care and that pharmacy is key in the delivery of each country's healthcare agenda. (To date there has been divergence in emphasis in NHS policies and structures in the three countries but so far no fundamental inconsistencies of approach. If this should change at some point in the future what is proposed as a structural framework might need to be re-visited)

The plans can be summarised as below:

**'The Right Medicine'** is the Scottish Executive Health Department strategy for pharmaceutical care in Scotland. Key elements of the strategy have been to enable pharmacists in both primary and secondary care to provide a professional service that meets the needs of the population. Part of the strategy is also to get the message to the public that community pharmacy is part of NHS (Scotland). In Scotland, community pharmacies are recognised as walk-in-centres for first access point for primary care health services; this is different to England where walk-in-centres are seen as separate from other NHS services.

**'Remedies for Success'** is the Welsh Assembly Government's vision for the future of pharmacy in Wales. This 10 year pharmacy strategy sets out to provide people in Wales with access to pharmaceutical care that is fast, convenient, appropriate for their needs and consistently delivered to a high standard. Although similar to both Scotland's 'Right Medicine' and England's 'Pharmacy in the Future' there are issues that are unique to the Welsh strategy.

**'Pharmacy in the Future'** sets out a vision of how pharmacy can play a full part in delivering the vision of the new modernised English NHS as outlined in the 'NHS a plan for investment, a plan for reform' published in July 2000. This strategy for pharmacy aims to give patients the right care at the right time, in the right way and of the right quality.

It should be noted that 'Pharmacy for the Future' also sets out the vision for reserved matters, in particular the modernisation of professional regulation consistent with the plan for the reform of the regulation of all health professionals.

There is a strong desire by both Scotland and Wales to have health policies that reflects the needs of the people. As a consequence, health policies will on occasions be different from what is developed and implemented in England, for example on foundation hospitals. It is important that the RPSGB is able to effectively manage and implement those differences to the benefit of the profession and patients.

It is important for the future of the RPSGB in Scotland, Wales and England that it recognises that although the regulation of existing health professionals remains a 'reserved power', health policy is fully devolved to the Welsh Assembly Government and the Scottish Parliament. The RPSGB must be able to fully represent the pharmacy profession and patients at the highest level in government and ensure that in any health context it is a key player in the development of policies that have implications for the pharmacy profession and patients in Scotland and Wales.

## **The Process**

### ***Meetings***

Formal meetings of the Group under the Chairmanship of Lord Fraser of Carmyllie took place on 5 occasions in London, Edinburgh or Cardiff. For the process to be as open and transparent as possible the Group agreed that the meetings should be open to all members and this was advertised as widely as possible through the website, *Pharmaceutical Journal* and branch network.

The RPSGB Director for the Scottish Department, the RPSGB Secretary to the Welsh Executive, and the Chief Pharmaceutical Officers for England, Wales and Scotland were invited to attend the meetings of the Group as observers.

Evidence was taken at these meetings from:

- RPSGB Scottish Executive
- Michael McMahon MSP for Hamilton North and Bellshill
- Association of Scottish Chief Pharmacists
- Scottish Specialists in Pharmaceutical Public Health
- School of Pharmacy, University of Strathclyde
- Scottish Pharmaceutical General Council
- Scottish Pharmaceutical Federation
- RPSGB Welsh Executive
- The Court Service of Wales
- Welsh School of Pharmacy
- Community Pharmacy Wales
- Association of Pharmacy Technicians
- Marcus Longley, Associate Director, Health and Social Care Consultancy, Welsh Institute for Health.

### ***Consultation Document***

A consultation document was sent out to identified key stakeholders in the pharmacy profession and these responses were used to identify pharmacy bodies that the Group wished to take evidence from at the meetings of the Group.

A further consultation document was also sent out to identified bodies outside the pharmacy profession to find out what, if any, changes had been made by their organisations as a result of devolution.

Both documents were available on the RPSGB website and from the Project Manager.

### ***Branches***

The consultation document was sent to all branch secretaries, who also received regular updates on the review.

Throughout the review the Project Manager and members of the Group have spoken at branch meetings about the process. This resulted in a number of responses from branches to the consultation document. The meetings were well attended by members. In Wales a number of Assembly Members attended and contributed to the debate.

### **Communications Strategy**

The *Pharmaceutical Journal*, the RPSGB website and regular press releases were used to notify and inform the members and pharmacy profession about the review and its progress and have promoted access to the consultation document.

### **The Council**

Regular updates were given to Council throughout the review. Lord Fraser presented the Review Group's initial discussions on how there might be a restructuring under the Council to reflect the political change brought out by devolution at the Council Strategy Day in December 2004.

### **Key Stakeholder Consultation Document Responses**

For the process of the consultation and to define some clear parameters for responding to the questions asked, the Group agreed that the 20 key functions of the RPSGB agreed by Council, together with a brief example of the type of activity that comes under each key function, would be used to define what the RPSGB does as the professional and regulatory body for the pharmacy profession.

The consultation document was sent out to 39 pharmacy bodies. Some 23 responses (Appendix 3) were received, including from the Scottish Executive and Welsh Executive whose responses are attached (Appendices 4 & 5). Responses were also received from 5 branches and 14 individual members.

The functions as defined in the key consultation document and the questions are shown below.

<b>Key Function</b>	<b>Examples of Activity</b>
1. Controlling Entry	<ul style="list-style-type: none"> <li>▪ Maintenance of registers of pharmacists and premises</li> </ul>
2. Pre-registration education	<ul style="list-style-type: none"> <li>▪ Accreditation of degree courses</li> <li>▪ Accreditation of pre-registration training</li> <li>▪ Administering and monitoring progression of trainees.</li> </ul>
3. Controlling Registration	<ul style="list-style-type: none"> <li>▪ Ensuring compliance with legislative requirements of pharmacists.</li> <li>▪ Ensuring compliance with legislative requirements for registration of premises</li> </ul>
4. Training	<ul style="list-style-type: none"> <li>▪ Standards for under graduate training</li> <li>▪ Standards for training for technicians</li> </ul>
5. Provide strategic leadership for the profession	<ul style="list-style-type: none"> <li>▪ Creating vision and mission for the Society</li> <li>▪ Identifying strategic objectives</li> <li>▪ Policy formulation</li> </ul>
6. Promote and represent the profession	<ul style="list-style-type: none"> <li>▪ Talking to decision-makers and opinions-leaders</li> <li>▪ Fostering public awareness of the profession</li> <li>▪ Responding to consultations</li> <li>▪ Organising events</li> </ul>
7. Setting and enforcing standards of practice	<ul style="list-style-type: none"> <li>▪ Inspection</li> <li>▪ Legal and ethical advisory service</li> <li>▪ Production of high level principles</li> <li>▪ Production of guidance and standards</li> </ul>

8. Setting and enforcing educational standards	<ul style="list-style-type: none"> <li>▪ Accrediting courses for supplementary prescribing</li> <li>▪ Providing guidance and advice</li> </ul>
9. Promoting good practice	<ul style="list-style-type: none"> <li>▪ Providing guidance and advice on legal and ethical issues</li> <li>▪ Quality assurance</li> </ul>
10. Continuing professional development	<ul style="list-style-type: none"> <li>▪ Systems for planning and monitoring CPD</li> <li>▪ Providing guidance and advice</li> </ul>
11. Assessing professional competence	<ul style="list-style-type: none"> <li>▪ (likely to be introduced in the future)</li> </ul>
12. Revalidation	<ul style="list-style-type: none"> <li>▪ (likely to be introduced in the future)</li> </ul>
13. Providing support for improvement	<ul style="list-style-type: none"> <li>▪ Supporting development through branch network</li> <li>▪ Providing guidance and advice</li> </ul>
14. Dealing with poor performance	<ul style="list-style-type: none"> <li>▪ Acting as prosecuting authority</li> <li>▪ Dealing with complaints</li> </ul>
15. Removal from the register	<ul style="list-style-type: none"> <li>▪ Statutory Committee</li> </ul>
16. Advise government, other professions and the public	<ul style="list-style-type: none"> <li>▪ Public affairs programme.</li> <li>▪ Briefing key opinion formers</li> <li>▪ Collaborative working with other organisations.</li> </ul>
17. Promote scholarship, research and the advance of knowledge	<ul style="list-style-type: none"> <li>▪ Research Studentship Awards</li> <li>▪ Providing library and information services</li> <li>▪ Publishing professional and learned books and journals</li> </ul>
18. Foster collaboration with other relevant bodies	<ul style="list-style-type: none"> <li>▪ Working with other professional and regulatory bodies and patient/public representative organisations</li> </ul>
19. Promote pharmacy as a career	<ul style="list-style-type: none"> <li>▪ Promoting and funding education</li> </ul>
20. Provide a benevolent function for members.	<ul style="list-style-type: none"> <li>▪ Listening Friends</li> <li>▪ Pastoral Care</li> <li>▪ Benevolent Fund</li> </ul>

### **Question 1**

In light of devolution how should the RPSGB relate to its members and the pharmacy profession in England, Scotland and Wales, in its role:

- As the professional body for pharmacists?
- As regulator of the pharmacy profession?
- As the public voice of the pharmacy profession?

### **Question 2**

Currently, policy is agreed by Council with input from the Scottish Executive and the Welsh Executive. One of the main roles of the Scottish Executive and Welsh Executive is to implement the Council's policy.

How should policy be formulated for England, Scotland, Wales and Great Britain?

Is it acceptable that the same RPSGB policy is implemented differently in England, Wales and Scotland in response to differing national requirements?

### **Question 3**

Is there a need to reflect the diversity of social policy in England, Scotland and Wales in the education policy of the Society?

If so, how should this be done?

### **Question 4**

Proposals for European legislation, and the way that legislation is implemented may have different policy consequences in England, Wales and Scotland. When addressing European issues how should the Society ensure the views of England, Scotland and Wales are appropriately represented?

### **Question 5**

Should the role, remit and membership of the Scottish Executive and Welsh Executive or their successors change to reflect devolution?

If so, in what way?

### **Question 6**

As the RPSGB operates at the moment all disciplinary cases are heard in London. The policy objective has been to ensure consistency in the enforcement of professional standards. It has been suggested that cases should be heard close to where they originate for either legal or language reasons.

What would be the disadvantages and advantages of hearing cases in the country of origin?

### **The responses to the questions in the consultation document are briefly summarised below.**

The majority of responders agreed that the regulatory function should continue to be performed on a GB basis, although there were some areas that could possibly be devolved e.g., register of premises to respond to the differing requirements of the national governments. In Scotland, the local pharmacy is to be the first stop for primary care and this may require a higher standard of premises.

With regard to the development and implementation of policy most responders thought it was acceptable that policy could be developed and implemented differently in Scotland and Wales in line with the devolved healthcare policy but it should still be set within a GB framework.

It was generally agreed that undergraduate education should continue to be a GB wide function but that there may be a need for some differences in post graduate education dependent on the requirements of the NHS in each country.

To deal with any European legislation that may have different consequences for England, Wales and Scotland most responders were in agreement that this could be dealt with by ensuring that there was representation from the country or countries affected on any delegation representing the RPSGB during the consultation.

Responders felt that both the Welsh and Scottish Executive should have a strengthened role that would enable them to adequately represent the pharmacy profession at the highest levels in Scotland and Wales. An English Executive should also be established to sit alongside the Welsh and Scottish Executive to represent

the profession where the Department of Health was dealing purely with English issues.

There was also agreement that the names of the Executives should be changed to avoid confusion, particularly in Scotland where the Scottish Government is called the Scottish Executive. Some alternatives included 'College', 'Council' or 'Board'. There was no settled preference although 'Board' appeared the most popular.

Most responders felt that for consistency and cost it was more practical to continue to hold meetings of the Statutory Committee in London but with the option to hold them elsewhere if required for reasons of law, language, or public interest.

### **Wider Stakeholder Consultation Document Responses**

The wider stakeholder consultation document was sent out to bodies and organisations outside pharmacy profession some 15 responses (appendix 3) were received back.

The majority of organisations who responded have made some changes in their organisation to respond to devolution and this has been to ensure that they can be seen as key players by the Scottish Parliament and Welsh Assembly. The following comments provide a flavour of the responses:

*'The offices in Scotland and Wales can and do develop distinctive responses to the national agenda on the wide range of legislative and policy developments – within the UK policy framework'*

ABPI

*'Wales only issues are dealt with by policy staff in our Cardiff Office'*

Mind Cymru

*'We have separate dedicated lobbying teams for Westminster and the Welsh Assembly, but London-based managers co-ordinate these'*

NFU

*'Our structure does allow different policies to be made to reflect the differing approaches to health care taken by each home country. However, there are many areas that cover the UK as a whole and the College's policies in these circumstances would be agreed at UK Council level'*

RCGP

*We have had to restructure to ensure that we effectively monitor and respond to the work of the Scottish Government. This involves putting specialist-staffing resources into our government affairs functions in Scotland. These staff develop effective relationships with government at all levels and the political parties.*

UNISON

## **Conclusions and Recommendations**

The Group took the view, after considerable discussion, that the RPSGB had no option but to follow the political devolution of power to the Scottish Parliament and the Welsh Assembly. Both were assuming responsibility for important NHS functions in their respective countries and if the RPSGB did not mirror these changes, then the profession would lose out in the proper representation of its views to those having the responsibility for the delivery of the NHS in the respective countries.

Where the Group would propose to go further than the present asymmetrical devolution of political power to Edinburgh and Cardiff is with the recommendation that a new English Executive or Board should be established under the RPSGB Council.

The Group reasoned that most of the work now being undertaken within the Department of Health in Whitehall is concerned exclusively with the delivery of NHS services in England. Only a minority of its time is taken up with those reserved matters of GB application. In such circumstances where there are exclusively English matters to be considered this should be done under the direction of a body exclusively comprising practitioners in England, together with English lay representatives. This body should work collaboratively with the other National boards as appropriate.

Appendix 6 sets out a possible structure for an England National Board while Appendix 7 sets out a suggested new structure for the English, Scottish and Welsh Boards under the Council.

This is not to suggest a new raft of employees will be necessary, since those already within RPSGB at Lambeth could undertake this work. What will be necessary, however is a mindshift clearly appreciating when they are working on a GB-wide issue and when they are addressing country-specific issues. The cultures of each of the constituent countries needs to be recognised

One of the resentments encountered in both Edinburgh and Cardiff was that all English pharmacy issues are equated with GB ones. It was the clear view of the Group that if within Lambeth High Street there was a much clearer separation of exclusively English issues from GB ones and there was a clear recognition that some issues were exclusively Scottish or Welsh, much of that sense of resentment would fall away.

Professional bodies have found that responding to political devolution has increased their costs somewhat, and the smaller bodies have found this increase hardest to accommodate. The increases have come particularly when the bodies concerned previously had not had any form of devolved administrative/representative structures.

The RPSGB already has representative structures in the devolved administrations in Scotland and Wales. Therefore the only new structural element is whatever is needed to address the English question. The cost of this need not be prohibitive.

**The Group had little difficulty in concluding that the RPSGB should be devolving power where the issue was exclusive to one country within GB.** The more difficult problem is where an issue first arises, possibly uniquely, in one country, which clearly has GB implications. The most prominent example of this to date has been the proposed abolition of prescription charges in Wales, but there are others looming and it must be anticipated that this will continue to be the case.

The Group discussed the approach taken by the Westminster Government on the introduction of political devolution, in agreeing 'Concordats' with the new devolved administrations. Concordats are neither contracts nor sets of rules. Rather they are statements of intent about how the different parties will work together. As such they are aspirational.

Concordats cannot be drafted until the allocation of responsibilities between the parties involved has been agreed. The Group believes that, if its recommendations are implemented, potential difficulties between Lambeth, Edinburgh and Cardiff might be alleviated by the development of appropriate Concordats to describe how the three Boards and Lambeth will work together. While it was not part of the Group's task to try to draft such Concordats, the Group would **recommend that Concordat(s) be developed between the three Boards and Lambeth and suggest that the following points be included.**

- (i) That the Council should be informed as soon as possible of any issue with GB implications.
- (ii) That in the absence of a timely response from the Council, the National Board responds as it sees appropriate notwithstanding its acknowledgement that the issue has GB implications
- (iii) That in that event the decision of the National Board will be the policy of RPSGB for the time being.

**BUT**

- (iv) That the Council after consultation reserves the right to adopt or amend the National Board policy and if it does amend that decision the National Board will be bound to follow Council policy.

The National Boards would have 5 prime functions.

1. Provide strategic leadership and support for pharmacy practice development in [country].
2. Assist development of Council policy and its implementation in [country], and develop and implement policy specific to [country].
3. Promote pharmacy and its contribution to health.
4. Provide professional advice to government and its agencies, NHS bodies, and other health and social care organisations in [country].
5. Support the Society's Branches in [country].

The Group was surprised at the strength of feeling that disciplinary regulation should remain a GB issue to ensure consistency of decision making and that the Statutory Committee or its successor body should continue to sit in RPSGB rooms in Lambeth High Street and **agrees with that widespread view.**

It was considered that some relatively modest modification might be necessary. The Statutory Committee or its successor should be prepared in an appropriate case to sit outside London where there was good reason to do e.g. where a Welsh pharmacist or patient requested that proceedings be held in Welsh under the Welsh Language Act. Another example might be where there was some feature of a case from Scotland which made it more appropriate to hear the case within the separate jurisdiction of Scotland, or where it was in the public interest to do so.

The Welsh language and the obligations of a public body under the Welsh Language Act was looked at in much detail by the Group and evidence was heard from the Court Service of Wales. The Group agreed that it should be recommended to Council that a Welsh Language Scheme is developed by the RPSGB. The Council agreed this on 2 December 2004.

**The Group agreed with the representations to it that the common core of undergraduate and pre-registration education should remain a GB function but that there could be variations in post-graduate education and training. It is not suggested that post-graduate education should be wholly devolved to the National Boards, but that it should be a joint function.**

As the UK is the Member State to the EU, it is important that the views of Scotland, Wales (and Northern Ireland) are fully represented at European level. The UK Government addresses this problem by ensuring that the delegation has representative members from each of the affected devolved governments. These members can lead the debate on particular issues where European legislation may have greater consequences for one of the devolved governments. The Group considered this would be a suitable model for the RPSGB to adopt. This would ensure that when dealing with European issues the National Boards were fully represented. **The Group recommends that a representative from each of the affected National Boards be included in any European delegation and should the matter have a more significant implication for one country, the National Board of that country should lead on the matter, although the ultimate decision would be for the RPSGB Council.**

The Group discussed the matter of the Chair of the National Board sitting on the Council as a matter of right or, conversely, the elected National member of the Council chairing the National Board. The Group, although being aware that the Council had taken decisions on this previously, felt that under the terms of reference the Council should revisit this issue as it warranted further discussion. The Group was unable to reach a consensus, with Scotland and Wales having very different views. **It was agreed that both arguments should be put forward to the Council and that the Council should be asked to look again at this important issue at some point in the future.** These arguments are set out in Appendix 8.

The Government of the Scottish Parliament is called the Scottish Executive; this has caused much confusion with the RPSGB in Scotland also having a Scottish Executive. The Group agreed that the Executive should be re-named, as this will avoid any further confusion. Many suggestions were made including "Colleges", "Boards" and "Councils". **The Group although recommending that the Executives should be re-named, is not making a recommendation as to what they should be called.** It has, however, earlier in this Report referred to National Boards in the hope that this clarifies the situation at least as far as Scottish readers are concerned.

Key to the engagement of the National Boards with the Council and the Directorates at Lambeth is the relationship with the Director for the Scottish Department and Secretary to the Welsh Executive. Recently the Director for the Scottish Department and Secretary to the Welsh Executive have been invited on an *ad hoc* basis to attend the regular meeting of the RPSGB Directors. The Group agreed that it is important they now become formal members of the Executive Directors' meetings. This would ensure that there is a formalised two-way communication between the Executives and the other Directorates on a regular basis. This is particularly important in the

areas of policy development and the representational role that the National Boards will play as a result of these recommendations. **The Group recommends that the Director for the Scottish Department and the Secretary to the Welsh Executive become formal members of the Executive Group with immediate effect and have common titles and equivalent roles.**

Although the administrative functions of the RPSGB are currently discharged from London, the Group discussed whether they could be better discharged from elsewhere, as this would help reduce the perceived Lambeth dominance of the RPSGB but could also have a reduced cost implication for the RPSGB. The Group agreed that this was not something that could be achieved in the short term but should be considered as part of the long-term strategy of the RPSGB. **The Group recommends that the RPSGB should review what administrative functions are currently discharged from Lambeth, that could in the fullness of time be discharged from either Scotland, Wales or elsewhere in GB.**

If the Council accepts the essential change recommended of establishing National Boards under the Council, it is suggested that there would be a value in having these meet regularly during the course of the year. Key principles of the Boards would be Kennedy governance, elected local leadership, access to expertise, transparency, equivalence of respect and relevance to members.

## **Appendix 1**

### **Byelaws**

#### **SECTION XXIII: SCOTTISH DEPARTMENT**

1. The Scottish Department of the Society shall consist of those members of the Society whose addresses in the Register are in Scotland and shall be governed by a body – to be called “the Executive of the Scottish Department” and hereinafter called “the Executive” – acting under the authority of the Council.
2. The Executive shall consist of the President, the Vice-President and such other members of Council as may be resident in Scotland, ex officio, and, in addition, 18 members of the Society elected from and by members whose addresses in the Register are in Scotland.
3. Six of the elected members shall go out of office in each year, and the vacancies shall be filled by election, the retiring members being eligible for re-election. The six elected members who go out of office shall be the elected members who have been longest in office without re-election.
4. The elections shall be conducted upon such dates and in such manner as may be determined by the Executive. Casual vacancies occurring in the elected members shall be filled in such manner and subject to such conditions as the Executive may determine.
5. The Executive shall elect from among their number a Chairman and a Vice-Chairman to hold office for such period as may be determined by the Executive.
6. There shall be a Secretary of the Scottish Department of the Society resident in Scotland whose duties shall be determined by the Council and who shall be appointed by the Council after considering any recommendation of the Executive.
7. The functions of the Executive will include the implementation in Scotland of the policies of the Society, the management of the Society's House in Edinburgh, the arrangement of meetings in Scotland for the advancement of the objects of the Society, the organisation and supervision of the local Branches of the Society in Scotland, and the making of recommendations to the Council upon any matters affecting the Society and their members.
8. The Executive may appoint from their members such committees or subcommittees as may be necessary to assist them in carrying out their functions. Persons not being members of the Executive may be co-opted in an advisory capacity to any such committee or subcommittee.
9. The Secretary shall submit to the Secretary of the Society a report of each of the meetings of the Executive and such reports upon the Scottish Department of the Society as he may be requested by the Council to submit.
10. Members of the Executive shall be entitled to receive such fee and reimbursement of expenditure incurred on travel, accommodation and subsistence as they may by resolution from time to time determine, but not exceeding the fee and sums for reimbursement of expenses incurred payable to members of Council, for attendance at meetings of the Scottish Department Executive or any meeting of a committee of the Executive or subcommittees of such a committee.

## **SECTION XXIV: WELSH EXECUTIVE**

1. The Welsh Executive, acting under the authority of the Council, shall consist of the President, the Vice-President and such other members of Council as may be resident in Wales, ex officio, and, in addition, 12 members of the Society elected from and by members whose addresses in the Register are in Wales.
2. Four of the elected members shall go out of office in each year, and the vacancies shall be filled by election, the retiring members being eligible for re-election. The four elected members who go out of office shall be the elected members who have been longest in office without re-election.
3. The elections shall be conducted upon such dates and in such manner as may be determined by the Executive. Casual vacancies occurring in the elected members shall be filled in such manner and subject to such conditions as the Executive may determine. The member so appointed shall hold office for such period as the person whom he has replaced would have held office.
4. The Executive shall elect from among their number a Chairman and a Vice-Chairman to hold office for one year and be eligible for re-election.
5. There shall be a Secretary of the Welsh Executive resident in Wales and based in the Society's headquarters in Cardiff whose duties shall be determined by the Council and who shall be appointed by the Council after considering any recommendation of the Executive.
6. The full title in English of the Welsh Executive shall be: "Royal Pharmaceutical Society of Great Britain – Welsh Executive" and the full title in Welsh shall be: "Cymdeithas Fferyllol Frenhinol Prydain Fawr – Gweithgor Cymru."
7. The Executive shall be responsible under the authority of the Council for the implementation in Wales of the policies of the Society, the organisation and supervision of the local Branches of the Society in Wales, and the making of recommendations to the Council upon matters affecting the Society and its members.
8. The Executive may appoint from their members such committees or subcommittees as may be necessary to assist them in carrying out their functions. Persons not being members of the Executive may be co-opted in an advisory capacity to any such committees or subcommittees.
9. The Secretary shall submit to the Secretary of the Society a report of each of the meetings of the Executive and such other reports upon the Welsh Executive as may be requested by the Council.
10. Members of the Executive shall be entitled to receive such fee and reimbursement of expenditure incurred on travel, accommodation and subsistence as they may by resolution from time to time determine, but not exceeding the fee and sums for reimbursement of expenses incurred payable to members of Council, for attendance at meetings of the Welsh Executive or any meeting of a committee of the Executive or subcommittees of such a committee.

## **Appendix 2**

### **National Assembly for Wales**

#### **Current All Party Groups**

- Deaf Issues
- Disability Group
- Older People
- Cancer
- Autism Reception
- Waterways
- Animal Welfare
- Sustainable Development
- New Economic Opportunities
- Adult Learning
- International Development
- Nurses
- Sport

### **Scottish Parliament**

#### **Current Cross Party Groups**

- Animal Welfare
- Asthma
- Borders Rail
- Cancer
- Children and Young People
- Chronic Pain
- Construction
- Crofting
- Cuba
- Culture and the Media
- Cycling
- Deafness
- Disability
- Drug and Alcohol Misuse
- Epilepsy
- Funerals and Bereavement
- Gaelic
- Human Rights
- International Development
- Kidney Disease
- Learning Disability
- Lupus
- M.E.
- Men's Violence Against Women and Children
- Mental Health
- Nuclear Disarmament
- Oil and Gas
- Older People, Age and Ageing
- Palestine
- Palliative Care
- Refugees and Asylum Seekers
- The Scots Language
- The Scottish Economy
- Waste Management
- Affordable Housing
- Architecture and the Built Environment
- Autistic Spectrum Disorder
- Renewable Energy
- The Scottish Contemporary Music Industry
- Scottish Traditional Arts
- Sexual Health
- Sports
- Strategic Rail Services for Scotland
- Survivors of Childhood Sexual Abuse
- Tackling Debt
- Textiles, Clothing and Footwear
- Tibet
- Tobacco Control
- Visual Impairment
- Women

## Appendix 3

### **Key Stakeholder Responses**

- RPSGB Welsh Executive
- RPSGB Scottish Executive
- Association of Pharmacy Technicians (UK)
- Joint Response: Association of Scottish Chief Pharmacists (Acute Care)  
Association of Scottish Chief Pharmacists (Primary Care)  
Scottish Pharmaceutical General Council  
Scottish Pharmaceutical Federation  
Scottish Specialists in Pharmaceutical Public Health  
School of Pharmacy, The Robert Gordon University  
School of Pharmacy, Strathclyde University
- Boots Pharmacists Association
- Community Pharmacy Wales
- Company Chemists Association
- Guild of Healthcare Pharmacists
- Guild of Healthcare Pharmacists (Scotland)
- Institute of Pharmacy Management International
- Lothian Area Pharmaceutical Committee
- National Association of Women Pharmacists
- National Pharmaceutical Association
- National Public Health Service for Wales
- Pharmaceutical Services Negotiating Committee
- Welsh School of Pharmacy
- Welsh Committee for the Professional Development of Pharmacy

### **Wider Stakeholder Responses**

- ABPI
- British Dental Association (Scotland)
- College of Optometrists
- Health Professions Council
- Institute of Healthcare Management
- Law Society of Scotland
- MIND Cymru
- National Farmers' Union of England and Wales
- Nursing and Midwifery Council
- Royal College of General Practitioners
- Royal College of Physicians of Edinburgh
- Royal College of Physicians and Surgeons of Glasgow
- Royal Institute of British Architects
- UNISON (Scotland)
- National Audit Office

### **RPSGB Branch Responses**

- Aberdeen and North East Scotland
- Clwyd
- Edinburgh and Lothians
- Glasgow and West of Scotland
- Hull and District Branch
- Slough and District

## **Appendix 4**

### **ROYAL PHARMACEUTICAL SOCIETY OF GREAT BRITAIN**

#### **SCOTTISH EXECUTIVE**

#### **RESPONSE TO THE RPSGB DEVOLUTION REVIEW CONSULTATION**

### **INTRODUCTION**

The Society's Scottish Executive warmly welcomes the Council's establishment of the Devolution Review and the appointment of a Chairman with Lord Fraser's standing and knowledge. The Scottish Executive decided to establish a Devolution Review Working Group to assist development of its contribution to the Review because the Chairman and Immediate Past Chairman of the Scottish Executive are members of the Devolution Review Group in a personal capacity. The Working Group was chaired by Rose Marie Parr, Vice Chairman of the Executive, and has met on three occasions. The Devolution Review was also the main agenda item for the Executive's formal meeting on 20 October 2004. The twenty functions and six questions listed in the Devolution Review Group's Consultation Document were extensively debated at each of these meetings. It was, however, decided that the written response from the Scottish Executive would be based on high-level principles rather than details.

### **POLITICAL CONTEXT**

The Scotland Act (1998) reinstated the Scottish Parliament after a break of some three hundred years. It gave the Scottish Parliament a wide range of responsibilities for policy development and implementation in areas including health and community care, education and training, justice, economy, housing and regeneration, business and industry. Around forty percent of the Parliament's budget is devoted to health and community care and over thirty percent of the Parliament's time is allocated to consideration of health matters. Since devolution in 1999 the Scottish Parliament has enacted over sixty pieces of health legislation. This compares to around four or five pieces per year of all types of Scottish legislation processed through the Westminster Parliament prior to devolution. The Parliament's ability to pass primary legislation enables the Scottish Executive to develop and implement policies that differ significantly from those in other countries within the UK and to do so in a much shorter timescale.

The Scottish Executive is a coalition of the Scottish Labour Party and the Scottish Liberal Democrat Party. The main policy objectives of the coalition are set out in a formal Partnership Agreement that reflects the political priorities of both parties. The Scottish National Party forms the main opposition and the Parliament also has MSPs from the Conservative, Scottish Socialist and Green Parties, as well as a number of Independents.

The Scottish Parliament is determined to develop Scottish solutions for Scottish problems in a way that is open, transparent, and accessible. Legislation may be initiated by the Executive, through Private Members Bills, and as a result of public

petitions. As a result it is much easier for issues of public concern to be debated in the Scottish Parliament and for appropriate legislation to be developed.

This ability has been particularly apparent in issues relating to health and social care. Most indicators demonstrate that the health of the Scottish population is poorer than in the rest of the UK and amongst the worst in Europe. Relevant factors include economic and social deprivation, and lifestyles based on employment in heavy industry, agriculture and fishing. Starting from this low baseline Scotland's future is further compromised by an overall decline in population, within which the elderly population is growing. The Scottish Parliament is determined to tackle these problems by focussing on health and social care policy and implementing change at a much quicker rate than in the rest of the UK. All health care professions need to be dynamic and proactive in developing and implementing policy to meet the needs of the people and their representatives.

The reinstatement of the Scottish Parliament has had a profound effect on politics in Scotland and has resulted in an increased focus on issues that are important to Scotland. Policies affecting public services are increasingly diverging from those in England as solutions to meet the needs of the people in Scotland are identified and implemented.

Unfortunately there is a lack of understanding of devolution in England and a belief that it has only affected Scotland and Wales. Although there is now a clear separation of UK and English functions in Government Departments based at Westminster this distinction is not often apparent in business conducted on the floor of the House. Most people in England still believe that when, for example, the Secretary of State for Health announces a Policy Initiative or the Department of Health publishes a White Paper that these apply to the whole of the UK. In reality they only directly affect the NHS in England though they may have some indirect impact on policy in the other countries.

## **PRINCIPLES**

In debating devolution issues the Society's Scottish Executive identified five guiding principles:

1. The Society's Scottish Executive needs to increase its ability to voice professional and leadership issues for Scottish pharmacists.
2. The Society's Scottish Executive needs the ability to horizon scan, identifying the issues that will affect pharmacy in Scotland and where pharmacy can improve health in Scotland.
3. The Society's Scottish Executive needs the authority to undertake proactive policymaking.
4. Structure follows function: the Society's Scottish Executive, Scottish Department and Director need adequate resources to undertake new and appropriate functions.
5. The Society's Scottish Executive needs effective input to the comprehensive functions associated with a modern regulator.

Each of these principles is discussed in more detail below.

1. Professional and Leadership Issues

The profession must respond appropriately to the demands placed upon it by changes to the structure of NHSScotland and the re-engineering of service delivery. Pharmacy practice has developed to meet local needs and these local developments will increasingly become part of standard practice across Scotland. The new Community Pharmacy Contract in Scotland will include important elements of pharmaceutical care as part of the core services. For example, medication review, which is an Advanced Service in the Contract for England and Wales, will form an essential part of the Chronic Medication Service, and supplementary prescribing will be a core component of this service. This creates particular issues in relation to the education, training and support of pharmacists in general and prescribing pharmacists in particular. It is essential that the Society in Scotland is seen as the point of contact for all such professional issues.

Redesign of services and the new Community Pharmacy Contract will impact significantly on hospital-based pharmacy services. Implementation of supplementary and independent prescribing will enable hospital pharmacists and support staff to fully embrace the principles and philosophy of pharmaceutical care, which underpin the strategy for the profession in Scotland.

Other organisations and individuals responding to the Devolution Review have expressed universal support for the Society to provide professional leadership for pharmacists resident in Scotland. The leadership role should not be restricted to purely Scottish issues but there must also be appropriate input to GB, UK and European matters. Pharmacists in Scotland must also have demonstrable influence on the Society's education and research policies and strategies.

2. Horizon Scanning

The Society's Scottish Executive has attempted to respond to the many consultation documents issued by the Scottish Executive Health Department and other Scottish health bodies. In doing so, however, it has been driven by the agendas of other organisations rather than setting its own priorities. The timescale for response to consultations is often short and the resources available to the Scottish Executive have not allowed comprehensive and detailed responses to be prepared. Effective mechanisms for identifying issues that will affect the profession in Scotland in the medium to long term are essential for the Society to develop a strategic approach. Full engagement with the membership through Branches, Area Pharmaceutical Committees, and other representative bodies is a necessary component of this work. Issues that will be important in the near future include the development of a strategy to follow 'The Right Medicine', service re-design, workforce planning, review of exemption from prescription charges and implementation of the new Community Pharmacy Contract.

3. Proactive Policy Making

As noted above, the Society's Scottish Executive tries to respond effectively to requests for advice from Scottish Ministers, the Scottish Parliament and many other organisations. It has been hampered by its role within the Society, which is limited to implementation of Council policy in Scotland, and by the Society's overall orientation towards policy and priorities in England. Issues have arisen where Council policy is either out-of-date or non-existent, constraining the Executive's ability to respond timeously. The Scottish Executive must be in a position to formulate, within broad principles, policy on issues that are specific to Scotland, though accepting that such policy would be subject to review if the issues subsequently had a wider application. The ability to develop policy in the Scottish context would significantly enhance the Society's credibility with Government, NHSScotland and the membership.

4. Structure following Function

The Society's Scottish Executive is structured and has developed ways of working that support its narrowly defined role. The composition and operation of the Executive, including sub-structures, will require extensive review in light of additional responsibilities devolved by Council. The review will also have to take account of corporate governance requirements to ensure that extended responsibilities are properly discharged. The Executive must also be able to inform and contribute directly to the work of Council. It is important that the Director for the Scottish Department is able to contribute fully to management of the Society and has equal status with other Directors.

This principle also applies to the Council and its substructures. It is essential that these are considered contemporaneously with those of the Scottish Executive, to ensure an effective overall structure.

5. Modern Regulator

Under the Scotland Act (1998) regulation of existing health care professions is reserved to the Westminster Parliament. The Scottish Executive fully supports retention of regulatory functions on a GB wide basis. Professional standards and the Code of Ethics must apply to all pharmacists and technicians registered with the Society wherever they practice.

The Kennedy Report identified functions of a modern regulator that go beyond traditional disciplinary functions. There are important aspects of this wider role that the Scottish Executive would wish to influence. In particular, development of postgraduate education and training, and of specialisms within pharmacy, should meet the requirements of professional practice in Scotland. Support for CPD and for those identified as performing poorly may well be provided more effectively on a local basis. Council policy on undergraduate education, technician training, fitness to practice, and revalidation should take account of Scottish requirements.

## **DISCUSSION**

Devolution of responsibility to a Scottish Parliament for a wide range of matters that affect their everyday lives was the expressed will of the people of Scotland, the policy of the UK Parliament, and enacted through The Scotland Act (1998). The Act specifies the areas of government reserved to the UK Parliament at Westminster, and that all other areas of policy, legislation and implementation are devolved to the

Scottish Parliament. The Scottish Executive seeks to improve the lives of people in Scotland by developing and implementing policies that address issues in ways that are consistent with its political beliefs and Scottish cultural values. In doing so it looks for assistance from organisations representing Scottish people and understanding those beliefs and values. It follows that any organisation wishing to influence the political agenda must be able to demonstrate its understanding of Scottish issues and commitment to finding appropriate solutions.

The Royal Pharmaceutical Society of Great Britain has its Headquarters in London, with small offices in Edinburgh and Cardiff. In Scotland it is widely perceived as being Anglo-centric with an agenda that is focussed on the requirements and influence of the Department of Health in England. This is a serious handicap to effective operation in a devolved political environment. A radical review of responsibilities, functions, structures and cultural values is essential if the Society is to overturn these perceptions.

The Society's Scottish Executive strongly supports the retention of a GB-wide organisation with professional standards and a Code of Ethics common to all members. Management of the Society's regulatory functions should remain centralised, but there may be cases that should be heard in Scotland, under Scots Law, particularly when there are issues reflecting practice in Scotland or there is public interest. The Scottish Executive requires input to policy on regulatory matters and some elements of the wider role of a Modern Regulator would be implemented more effectively at a local, regional or national level.

Consultation undertaken as part of the Devolution Review has demonstrated strong and widespread support for the Society's Scottish Executive providing leadership for the profession in Scotland. There is a general recognition that the Society is the only body that can speak on behalf of all pharmacists and a willingness to work with a strengthened Scottish Executive to develop and promote pharmacy practice. Many respondents have expressed deep frustration that the Society has not been responsive to the needs of the membership in Scotland and has failed to take full advantage of opportunities to inform and influence the health agenda. The Devolution Review is seen as probably the last chance to create an organisation that meets the expectations of pharmacists, policy makers and the Scottish people.

The Society must recognise that health policy is developed and implemented separately in each of the constituent countries, though there are overarching themes and increasing influence from the European Union. Development of policy within the Society must reflect the differing requirements of each country and enable prompt responses to requests for advice and information. There must always be clarity when forming policy whether it involves European, UK/GB, or national issues, and mechanisms must be developed to ensure input from appropriate sources.

The Society's Scottish Executive needs the authority to act in ways that will enable it to effectively perform the leadership role that it and members in Scotland want. The overall responsibility of the Society's Council is recognised and appreciated, but it is anticipated that the new Council will operate at a strategic level, setting broad principles within which the Scottish Executive can develop policies that reflect Scottish experience and practice.

In adapting to a devolved government structure it would seem sensible for the Society to adopt a similar model, defining those responsibilities that should be 'reserved' to the centre and allowing all others to be devolved. Thus issues affecting Great Britain as a whole, including those emanating from the EU, should be considered centrally, but ensuring appropriate input from the constituent countries. Issues affecting one country, exclusively or mainly, should be considered within that country, in liaison with the centre. There will, therefore, be a need to create an 'English Executive' so that matters affecting only England can be managed in the same way as those affecting only Scotland or Wales.

There is no doubt that operating effectively within a devolved environment requires additional resources, both people and funds, as a variety of activities have to be undertaken at three locations instead of one. It is probable that the Society's Scottish Executive will need to meet more frequently, establish standing sub-committees, and have the ability to set up a range of short-life working groups. This additional level of activity will need to be supported professionally and administratively. It is, however, unlikely that the majority of members would approve of a significant increase in fees specifically to support devolution. It will be necessary, therefore, to review current activity across the Society to identify where resources can be redirected to achieve devolved objectives. In the short-term it is inevitable that most of the Society's staffing resource will be based at Lambeth, though consideration should be given to relocating functions in the longer-term. It will be essential that the three national Executives are able to commission work from Lambeth, that Lambeth can commission work from the Executives, and that there is a clear and credible mechanism for prioritisation to meet the needs of each country.

## **CONCLUSION**

The Royal Pharmaceutical Society of Great Britain is the professional and regulatory body for all pharmacists in Great Britain. In order to discharge all of its functions effectively the Society must work closely with the Departments of Health, NHS bodies and other health organisations in each of the three countries. The UK Parliament and people in Scotland and Wales have chosen to devolve a wide range of responsibilities, including health, to the Scottish Parliament and Welsh Assembly. This has enabled health policy and delivery of health services to be designed in ways that meet the particular needs of each country. The Society must reflect these political realities if it is to be successful and the Devolution Review has created the opportunity to change responsibilities, structures and processes in ways that will take pharmacy forward for the benefit of the profession and public. Maintaining the 'status quo' would lead to further loss of credibility and a very high level of dissatisfaction amongst pharmacists in Scotland.

Rose Marie Parr  
Vice-Chairman,  
Scottish Executive,  
Royal Pharmaceutical Society of Great Britain

7 January 2005



**Response to Devolution Review Group:  
Key Stakeholder Consultation Document October 2004**

**Purpose**

This is the response of the Welsh Executive of the Royal Pharmaceutical Society of Great Britain to the Key Stakeholder Consultation Document issued by the Society's Devolution Review Group. It draws upon the discussions of the Executive on devolution during the period 2003-4, and specifically on an all-day meeting of the full Executive on 8<sup>th</sup> October 2004. It addresses the six specific questions raised in the document, and seeks to take account of our best estimates of the likely future impact of the continuing development of devolution in Wales. In each case, the triple (and inter-related) requirements for suitability, feasibility and acceptability have guided our discussions.

**Question 1**

The 20 functions listed in the Consultation Document appear to be a comprehensive definition of the role of the Society, as professional body, modern regulator and public voice. To answer Question 1, each is considered in turn, using the four-part categorisation suggested in the document itself (unitary, hybrid, national, neutral). However, we believe that it is helpful to distinguish two types of responsibility for each: that for

- the determination of policy in a particular area, and for
- the implementation of policy.

We would summarise these responsibilities as follows – the functions have been slightly re-grouped to reflect their shared aspects:

<i>Key Function</i>	<i>Determination of policy</i>	<i>Implementation</i>
1. Controlling Entry	Unitary	Unitary
2. Pre-registration education	Unitary	Unitary
4. Training	Unitary	Unitary

The Executive fully supports the concept of one professional and regulatory body for pharmacy across all of Great Britain. The control of entry to the profession, and the determination of policy for pre-registration education and for training are three core aspects of defining the nature of that profession and should therefore be unitary responsibilities. Similarly, efficiency requires that they be discharged centrally.

<i>Key Function</i>	<i>Determination of policy</i>	<i>Implementation</i>
3. Controlling Registration	Unitary	Hybrid

Policy on the control of registration is probably inseparable from the functions considered above, and should therefore be unitary – if they were not considered as a whole, then the profession would start to lose cohesion. However, as far as the implementation of overall policy in this area is concerned, we would make a distinction between the registration of *pharmacists* and that of *premises*. Whilst it is important that the former meet GB standards, it is likely that the latter will in future need to take greater account of diverging national health policy.

For example, it is likely that the National Assembly will in future wish to encourage the development of new services in community pharmacy premises in Wales, in response to specifically Welsh requirements. It is also likely – and desirable – that these new services should be delivered from premises which meet the requirements of those services, and are independently verified as doing so. It would be sensible for the Society’s inspectors to include such issues in their regular inspections. The specific standards against which the inspectors would evaluate premises should be developed for Great Britain – to ensure conformity across the whole profession – but with close regard to the Welsh context, upon which the Welsh Executive would be an essential source of advice and information.

<i>Key Function</i>	<i>Determination of policy</i>	<i>Implementation</i>
5. Provide strategic leadership for the profession	Hybrid	Hybrid
6. Promote and represent the profession	Hybrid	Hybrid

These functions are substantially shaped by the external environment of the profession – leadership must reflect the political and policy context, and the promotion and representation of the profession clearly must address the interests and priorities of the audience. However, each should also reflect the profession’s own view of its future, which must necessarily have cohesion across GB.

Achieving this fine balance has proved problematic in the past, however. One example is the unsatisfactory way in which the Society responded to the National Assembly’s decision to abolish prescription charges. The Society’s policy on prescription charges had been developed many years previously, and was of little help in shaping the Executive’s response to the Assembly. It proved impossible for the Society to develop more specific and relevant policy in the timescale required in Wales, perhaps because Welsh issues did not attract sufficient priority from the Society nationally. Issues such as this require some changes to the Society’s ways of working, which are further discussed below.

<i>Key Function</i>	<i>Determination of policy</i>	<i>Implementation</i>
7. Setting and enforcing standards of practice	Hybrid	Hybrid
8. Setting and enforcing educational standards	Unitary	Hybrid
9. Promoting good practice	Unitary	Hybrid

Standard setting for the profession must take place within a GB context to ensure cohesion and consistency. Practice standards will of necessity require some adaptation to meet national (Welsh) requirements; educational standards are by their nature more generic and can therefore be unitary. As far as the implementation of standards is concerned, we would envisage a substantial role for the Welsh Executive (or equivalent), their task being to interpret those national standards in the Welsh context. Similarly, the promotion of good practice must be tailored to Welsh requirements if it is to be successful and acceptable.

<i>Key Function</i>	<i>Determination of policy</i>	<i>Implementation</i>
10. Continuous professional development	Unitary	National

Continuous professional development raises somewhat different issues from the other aspects of education and training considered above. On the one hand, a degree of unity across the profession is required to maintain a common identity for pharmacists; on the other hand, CPD of all the educational elements is the one most closely linked to the demands of service provision, which are likely to vary between the three nations. Implementation should therefore be devolved entirely to the nations, where close links with local NHS commissioners and providers and HEI's will be required to ensure continuing relevance and acceptability. We recognise that CPD for pharmacists working outside the NHS would be a unitary issue.

<i>Key Function</i>	<i>Determination of policy</i>	<i>Implementation</i>
11. Assessing professional competence	Unitary	Hybrid
12. Revalidation	Unitary	Unitary
13. Providing support for improvement	Hybrid	Hybrid
14. Dealing with poor performance	Hybrid	Hybrid
15. Removal from the register	Unitary	Unitary

Functions 11 to 15 are closely linked. Certain of them – especially 12 and 15 – require standards set for the whole profession, rigorously implemented in a fair and equal manner for all pharmacists (and technicians). The assessment of professional competence will need to take due account of the local (i.e. Welsh) context, although inasmuch as it may be a precursor to revalidation, it must operate to common (GB) standards. However, support for improvement (13) and dealing with poor performance short of formal sanctions (14) must be implemented in a way which reflects local context, both to be effective, and to satisfy the requirements of external stakeholders.

<i>Key Function</i>	<i>Determination of policy</i>	<i>Implementation</i>
16. Advise govt, other professions and the public	Hybrid	Hybrid
17. Promote scholarship, research and the advance of knowledge	Hybrid	Hybrid
18. Foster collaboration with other bodies	Hybrid	Hybrid
19. Promote pharmacy as a career	Hybrid	Hybrid

These functions are primarily the means by which the other – mainly professional – agendas are to be delivered. They therefore require a high degree of delegated authority for determining policy and for its implementation, and GB delivery of the function only in those instances where this is the most efficient solution.

<i>Key Function</i>	<i>Determination of policy</i>	<i>Implementation</i>
20. Provide a benevolent function for members	Neutral	Neutral

Several possible ways of delivering this function can be envisaged, and they should be delivered in whichever ways are most effective and efficient.

## Question 2

In part the answer to Question 2 is contained in the above answer to Question 1 – in as far as it relates to the *locus* of decision-making and implementation, and also to the cases where implementation may be different in the three nations. However, equally as important is the question of the *ways of working*. These are particularly important in the context of those functions – the large majority - which are described above as being unitary or hybrid.

In the past, there has been a certain amount of frustration and unease about the way in which RPSGB nationally has, on occasion, responded to Welsh issues. Three examples may serve to illustrate this:

- difficulty in ensuring that issues of concern to Wales alone command attention at the GB level – for example, the lack of current policy on the removal of prescription charges referred to above
- difficulty in ensuring that RPSGB national initiatives and resources are tailored to Welsh needs – for example, the generation of material for external audiences which is located solely in the context of the English NHS
- a more general perception that top-level decision-making forums within RPSGB are not sufficiently informed about the current state of health policy in Wales, and sometimes tend unconsciously to regard the English NHS as being synonymous with the NHS throughout GB – for example, the dominance of English issues and references in Council and senior staff discussions.

These examples are by no means representative of the totality of the RPSGB's work – much of it is highly relevant and useful within Wales. However, there have been several instances where ways of working could have been improved.

We would like to recommend five developments in the ways of working which will help to make the RPSGB fit for the world of devolution:

### 1. *The principle of Subsidiarity*

The principle governing any individual decision on the locus for decision-making and implementation should be that of 'subsidiarity' – that RPSGB centrally does not take action (except in aspects which clearly fall within the regulatory powers reserved to GB) unless it is more effective than action taken at the national

(Welsh) level. This will provide a reference point for further discussions on the impact of devolution on the Society

2. *A Concordat*

The relationship between the Welsh Executive and its staff, and Council and RPSGB central staff, should be spelt out in a formal statement. This should cover, *inter alia*, respective areas of competence, as well as the mechanisms for prioritisation, resource allocation, information sharing and collective decision-making. It should also contain a suitable regular mechanism for a joint review of the way in which the concordat is being implemented.

3. *Formal internal prioritisation mechanisms*

One key dilemma in relation to the GB:Wales relationship concerns access to central resources. Clearly, in many cases, it is more efficient and effective for scarce staff resources to be concentrated at one point within RPSGB rather than being dispersed between England, Scotland and Wales. However, it is vital that each of the nations should be able to access those specialist resources as they are required. Appropriate mechanisms should therefore be developed (and listed in the Concordat) to ensure that this is possible. For example, they might include:

- Service level agreements and other budget-based mechanisms governing the time allocated by central resources to the requirements of the three nations; and/or
- A central mechanism for filtering and agreeing the relative priority of issues of relevance to England, Scotland or Wales

4. *Welsh representation on Council sub-structures*

The current proposed membership of Council recognises the principle that Council's decision-making should be properly informed about the needs and circumstances of the three nations. Two places on Council (one pharmacist, one lay) are accordingly reserved for each of the three nations. It is equally important that the various key bodies beneath Council are also so informed, and an appropriate number of places should be reserved on these committees, boards etc for this purpose. Consideration should be given to the formal engagement of these representatives with the Welsh Executive and the Welsh Department.

5. *Re-location of central resources*

In order to achieve maximum value for money in the administration of the Society's business, and also to reduce the perceived dominance of the London/England agenda, consideration should be given (on a case-by-case basis) to re-locating central departments from Lambeth to Cardiff, Edinburgh, or indeed elsewhere.

**Question 3**

This has been addressed in the answer to Question 1 – see in particular the comments in relations to functions 4, 8 and 10.

**Question 4**

It would appear that the comments contained in answer to Question 2 are also relevant to the need to ensure that Welsh perspectives are represented in

discussion on European legislation. The five suggestions in Question 2 should ensure that this issue is adequately addressed.

### **Question 5**

As the process of devolution continues to gather pace, the role of the Welsh Executive within RPSGB should be as follows:

- To ensure that the development of the Society's GB policies is adequately informed about the context and requirements of Wales
- To inform and support the holders of the two Wales reserved places on Council
- To inform and support the substructures of Council and any postholders with responsibility for Wales/Scotland
- To implement GB policy within Wales
- To apply the GB policy framework to develop policy within those areas devolved to the Welsh Executive
- To be an effective RPSGB 'shop front' in Wales, both for external stakeholders and for members
- To support the Society's branches within Wales – to ensure that they are able to operate effectively within the Welsh context

To be able to discharge this role effectively, it is vital that the clear majority of the Executive should consist of pharmacists, directly elected by the membership in Wales (as they are at present). We do not consider that elections should be carried out on the basis of geographical or sectoral (community, hospital etc) constituencies. To reflect the role of the modern regulator and the new remit of the Council, we believe that the Executive should also have a Technician member (when technicians are regulated by the Society) and a lay member. The total number of members of the Executive should be kept to the minimum consistent with the need to represent the diverse nature of the profession in Wales and the need to meet the requirements of the role set out above.

One further point should be emphasised. The ability of the Welsh Executive to fulfil its role will depend in part on the contribution of its Secretary/Chief Executive. In order to ensure that the Welsh Executive has routine access to the information it requires, and is able to influence key policy and prioritisation debates at the formative stage (i.e. before they are presented to Council), the Welsh Secretary/Chief Executive should have the same effective status within the organisation as the Scottish Chief Executive and other board-level directors of the Society. This does not speak to issues of pay comparability, but rather to the need for a Welsh voice where key decisions are made.

### **Question 6**

This is not an issue upon which we have strong views. We believe that the key issue is that the processes should be conducted fairly and rigorously, and their location is very much a secondary issue. Clearly, if there is a requirement to conduct any part of any proceedings in the medium of Welsh, they must be achieved; but in many cases could be achieved satisfactorily in London.

**English National Board**

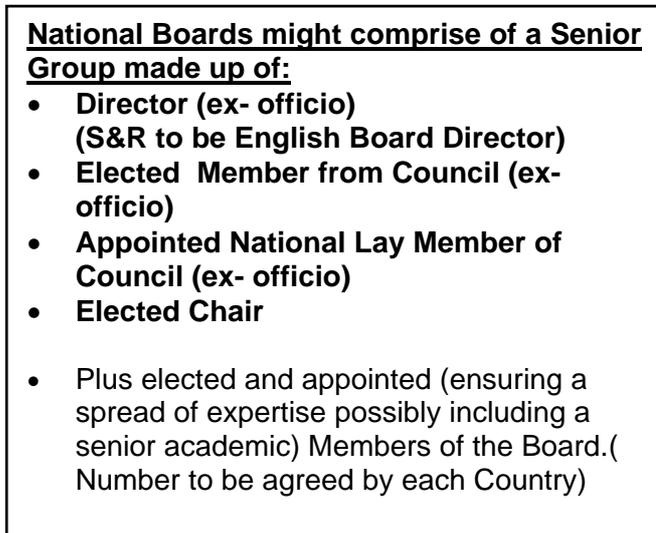
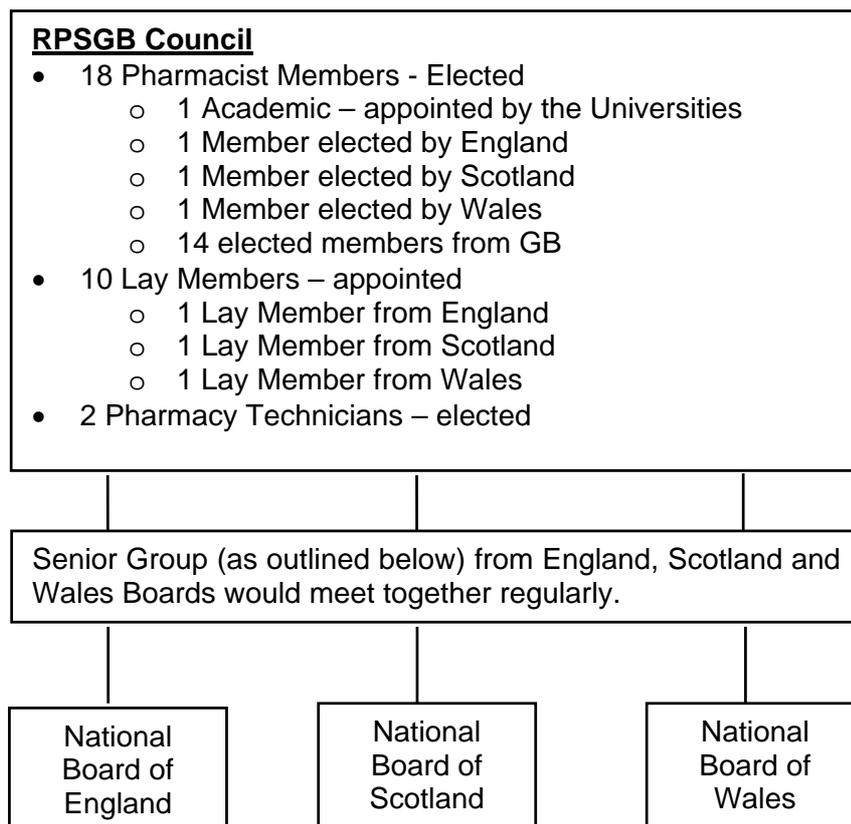
The English National Board might consist of:

- Director (ex officio) – (S & R to be English Board Director?)
- Elected English member of Council (ex officio)
- Appointed English Lay Member of Council (ex officio)
- Elected Chair (pharmacist)
- Plus, elected and appointed (ensuring a spread of expertise possibly including a senior academic) members of the Board.
- It is suggested that there should be between 12 and 16 (max) members of the English National Board.
- Consideration should be given (by election) to sectoral places for pharmacists.
- An academic national expert should be appointed and possibly a pharmaceutical scientist (from industry).
- The emphasis should be primarily focused on appointed or elected, in line with Scotland and Wales, branch and regional representation for the remaining places.
- Whilst this constitution satisfies an English professional advisory board there may be a place for additional lay membership. Their inclusion will be highly dependent on the structure of the Welsh and Scottish Boards to ensure consistency across all three.

## Appendix 7

### Devolution Review Group Proposed Structure of National Boards under Council

This briefing note reflects the discussions of the devolution review group on how the RPSGB might be structured to best meet the need of devolution.



This Structure would

- Provide a direct link to Council from the Boards.
- Ensure all matters relating to England, Wales and Scotland are part of the Council's continuing debate and dialogue.
- National Boards would be fully appraised of all GB developments and what this means for them.
- The **senior group** of four would meet regularly throughout the year to discuss relevant issues and strategy relating to Council.

The Boards would have 5 prime functions:

1. Provide strategic leadership and support for pharmacy practice development in [country].
2. Assist development of Council policy and its implementation in [country], and develop and implement policy specific to [country].
3. Promote pharmacy and its contribution to health.
4. Provide professional advice to government and its agencies, NHS bodies, and other health and social care organisations in [country].
5. Support the Society's Branches in [country].

## Appendix 8

**The Group discussed the matter of the Chair of the National Board sitting on the Council as a matter of right or, conversely, the elected National member of the Council chairing the National Board. The views of the Scottish and Welsh Executive's are shown below:**

### **The Scottish View**

1. The Chairmen of the Scottish and Welsh Executives are accountable to their Executives. They have observer status at Council and do not have voting rights. Although they may be invited to speak they are not part of the Council structure. The relationship between Council and its Executives is, therefore, fractured.
2. It is proposed that members be voted on to the Board by pharmacists in that country. The Board would then elect a Chairman who would go to Council with a cohesive and consistent view from that country. As with any corporate body they would have to act corporately on Council issues.
3. The workload for Council members is heavy, but if Board working groups are preparing papers, collating responses etc, the Chairman of a National Board should be well briefed and additional work would not be onerous.
4. The proposed structures in the Devolution Review, if accepted, will mean that National Boards will become important bodies in developing and delivering Council policy. It is important that there is a direct link with Council so that Council can ensure its policies are implemented.
5. There has to be effective two-way communication and this will allow national organisations to become truly engaged with the GB body.
6. If the Chairman of the National Board is different from the nationally elected pharmacist on Council there will be confusion in that country as to who has the senior role: the person who votes and is on the GB body or the person who works locally and has observer status on the national body?
7. If each country has a Board and the Chairman sits on Council this will enable Council to have a powerful and influential role at GB and national levels.

### **The Welsh View**

The view of the Welsh Executive is that the Chairman of the devolved board should not be a member of Council or that a member of Council cannot stand for Chairman of a national board. The Welsh Executive fully debated this issue at its review day in 2002 and 2003. This position was agreed for the following reasons:

1. Members of Council have a corporate responsibility and represent the profession as a whole and not a delegated interest.<sup>1</sup> The Chairman is mandated by the Board to present its views at Council. Objectivity in any subsequent debate may be compromised if the Chairman were also a member of Council. This may cause loss of credibility with the Board and lead to instability.

---

<sup>1</sup> Note: the holder of the reserved national seats are not mandated by an electorate, rather they bring expertise of the devolved national context to Council as a whole and share corporate responsibility for all issues.

2. The roles of both Member of Council and Chairman of the Executive/Board requires significant commitment of time and effort from a practising pharmacist. The Board Chairman workload would preclude the post holder from participating in the full range of activities of a pharmacist Council member.
3. The combination of both will adversely effect the contribution that the individual could make to either role. This level of involvement would limit the number of potential candidates.
4. The Chairman of the Executive/ Board has a high profile in the devolved country. Credibility within this environment would be compromised by the dual role.