

Gillian Charlesworth
Professional Regulation and Consumer Protection Department
RICS
By email: carsberg@rics.org

FITNESS TO PRACTISE AND LEGAL
AFFAIRS DIRECTORATE

Telephone: 020 7572 2573

Facsimile: 020 7572 2510

e-mail: David.Gomez@rpsgb.org

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Dear Ms Charlesworth,

Re: Reform of RICS Regulatory Framework

I am pleased to enclose the response of the Royal Pharmaceutical Society of Great Britain (“the Society”) to your recent consultation document, and a document setting out the context in which the Society’s response is made.

The Society welcomes the opportunity to comment on your consultation document, and is content for this response to be published.

I look forward to receiving the results of the consultation in due course. In the meantime, please do not hesitate to contact me should you require any further information.

Yours sincerely,

David Gomez

Legal Advisor

Royal Pharmaceutical Society of Great Britain

ANNEX 1

RESPONSE OF THE ROYAL PHARMACEUTICAL SOCIETY OF GREAT BRITAIN TO THE RICS CONSULTATION

The Society congratulates the RICS on a clear and well reasoned consultation document.

The Society generally supports the proposals to move towards a more principle based rules set, and a risk based approach to monitoring and enforcement. However, the Society would urge the RICS to be wary of the dangers of “gold plating” and lack of clarity about obligations that are necessarily inherent in such an approach. The dangers of aspirational guidance and lack of minimum thresholds and criteria were well highlighted in the 5th Shipman Report. There needs to be a clear definition, and understanding within the surveyors’ profession, as to which supplementary guidance is mandatory, and which is best practice or of evidential use only. The relationship between the Rules and the supplementary guidance and technical standards could usefully be formalised in the Rules.

The Society has some concerns about the RICS proposals for internal staff screening of “administrative breaches” and “minor breaches.” In order to secure public confidence in the new system, the Society would urge the RICS to consult upon, and to establish, clear standards, thresholds and criteria for referral of cases to the Disciplinary Panel and to put in place systems to audit the use of consent orders and fixed penalties. The Society has concerns about the proposal that information about consent orders should not be made public. It could be argued that members of the public have a right to know if the firm or professional whose services they are using, is subject to conditions (even if this is on a voluntary basis).

The Society has considerable misgivings about the proposal to require members to pay a deposit prior to a disciplinary hearing. This might be viewed as establishing a barrier (or indeed as a form of co-ercion) in cases where a member seeks to dispute a fixed penalty or consent order by requiring a full hearing to be held.

To promote consistent decision making, the Society recommends that “Indicative Sanctions Guidance” and case summaries should be developed for the use of the Disciplinary Panel, setting out the circumstances in which particular sanctions should be imposed. The Society would also recommend the

use of a legal Chair for the Disciplinary Panel, rather than a Legal Assessor, and the clear adoption of a civil standard of proof in the procedure Rules for the Disciplinary Panel.

The Society considers that the outcomes of all disciplinary cases should be made public. In relation to the composition of the Conduct Committee, the Society would recommend the use of competencies in the appointments process, in line with those published by the Judicial Studies Board, and the establishment of formal systems of appraisal.

In the interests of objectivity, the Society considers that it would be preferable for the Conduct Committee to play no part in the appointment of the Scrutiny Committee. It is not clear why a shelf life of only three years has been proposed for the Scrutiny Committee. In line with its recommendation for clear audit procedures above, the Society considers that the Scrutiny Committee should be made a permanent fixture in the new procedures.

In relation to the draft Rules of Conduct for firms, the Society considers that the use of “situations” in Rule 1 is ambiguous and may prove difficult for members and firms to comply with. In Rule 2, the Society considers that the use of “responsibly” is potentially vague and does not really add much to the substance of the Rule, the purpose of which is to protect the public. Similarly, the same word could be deleted from Rule 6.

In relation to the draft Rules of Conduct for members, the Society considers that the use of “proper regard” in Rule 2 is ambiguous and may be exploited at a disciplinary hearing. In Rule 3, the words “and at such times” may usefully be inserted before “as the Institution may require.” The use of the word “appropriately” in Rule 4 begs many questions.

The Society appreciates the many difficult practical and drafting issues involved in the establishment of new procedures. It is hoped that these comments will be of assistance.

ANNEX 2

Context in which the response of the Royal Pharmaceutical Society of Great Britain (“the Society”) is made:

The Society performs various roles on behalf of both the public and its members. First and foremost, it is the regulatory and professional body for pharmacists in all aspects of practice. It has a statutory duty to maintain the register of pharmacists and pharmacy premises; there are approximately 12,500 pharmacy premises in Great Britain, and around 47,000 member pharmacists working in all sectors of the profession in Britain and overseas. Of these, around 22,000 work in community pharmacy, 5,500 in hospitals and 1,600 in the pharmaceutical industry. Others work in research, teaching, in health authorities and related activities.

Key duties of the Society include safeguarding the public with respect to the dispensing and distribution of medicines, and enforcing the laws controlling the conduct of pharmacies and the sale of medicines and poisons. The Society also has responsibility for maintaining the standards of the profession through its disciplinary procedure. An Infringement Committee acts as a screening committee dealing with allegations of breaches of the ethical code and other cases of professional misconduct. Upon the recommendation of the Infringement Committee, cases can be referred on to the Statutory Committee which has the power to remove a pharmacist or premises from the statutory register.

As well as fulfilling its statutory roles in public health, the Society operates widely to promote the development of the science and practice of pharmacy. It oversees and regulates the training and professional accreditation of pharmacists, set standards for and regulates the inspection of pharmacy premises, and promotes the contribution made by the profession to government, the media and other stakeholders. It also advocates the career attractions of pharmacy to potential new members of the profession. It has a significant publishing division, producing both reference volumes and journals; possesses a unique library and museum; and organises conferences and other events of international interest.

The Structure and Operation

The Society is governed by a Council comprising members of the profession and a smaller number of Privy Council nominees. In 1843, Queen Victoria granted the Society its Royal Charter, giving it a corporate framework that was refined by supplemental charters in 1901, 1948 and 1953. In December 2004, the Society was granted a new supplemental charter.

In March 1937, King George VI became the Society's patron and the monarch has been patron of the Society ever since. In May 1988, the Queen agreed that the title "Royal" should be granted to the Pharmaceutical Society of Great Britain.

Elected members serve on the Council for three years and elect their own President, Vice-President and Treasurer. The immediate Past-President also serves as an Officer. The Council meets at least six times every year to discuss key issues affecting pharmacy and to decide on policies and practice. The Council is advised on particular areas of pharmacy policy by a number of committees and sub-committees as well as by a number of membership and special interest groups. There are 130 branches of the Society, organised through 11 regions, which provide a local focus for members.

The Royal Pharmaceutical Society is working to modernise and reform its role, constitution and ways of working. The aim is to create a modern, effective, and efficient regulatory and professional body for pharmacy, committed to quality and improvement and to meet its responsibilities to the public and the profession.

In December 2004, the Society was granted a new supplemental charter. The Society's Council is currently working on proposals to inform and implement new legislation (an order under Section 60 of the Regulatory Reform Act 2001).