

Council – 20 February 2008

Recommendations to the Department of Health relating to the new structure of the Council

Executive summary and recommendations

Introduction

Schedule 1 of Part 1 paragraphs 1A and 1B of the draft Statutory Instrument sets out the parameters of the Health Professions Council Constitution Order.

The two paragraphs are attached as background information (see appendix 1)

The Department of Health is seeking the views of the Health Professions Council on a number of options relating to the new constitution of the Council. Each option is detailed in the next section of this paper.

In addition, the Niall Dickson report on recommendations that will enhance public confidence in the healthcare professional regulators was made available on 8 February 2008.

As with the White Paper, there are several references to good practice already undertaken by the Health Professions Council.

The recommendations of particular note in the Dickson report for this paper are as follows:

- 1 Councils should be made up of between 9 and 15 members, recognising that some regulatory bodies may need to move incrementally towards this range (5.4).
- 2 The Councils should ensure that they have structures relevant and appropriate for each of the 4 UK countries (9.1).
- 3 There should be involvement of the 4 UK countries in the appointments process (9.2).
- 4 There should be clear criteria for the knowledge and skills required for an effective council (9.3).
- 5 The maximum terms of office should be two terms of 4 years (5.3b).

Date	Ver.	Dept/Cmte	Doc Type	Title	Status	Int. Aud.
2008-02-12	a	CER	PPR	Recommendations to DH	Final	Public
					DD: None	RD: None

- 6 The memberships of Councils should be managed in a staggered fashion to ensure a degree of continuity and stability (5.3c).
- 7 The Appointments Commission should consider identifying individuals suitable as chairs from within each Council. Chairs' skills and attributes should be determined by the Appointments Commission (7.6, 7.8).

To assist the reader of this paper, the recommendations linked to the structure of the Councils and other governance issues, have been cross referenced to the number of the recommendation and the numbered paragraph in the report.

The HPC Executive will present a detailed review of the report at the Council meeting on 27 March and in particular, assess the HPC against the report's 39 recommendations.

In general the following options reflect previous discussions by the Council and existing arrangements used by the Council or the Shadow HPC.

Decision

The Council is requested to make the following recommendations. Please note that the reference numbers correlate to the paragraph numbering used on page 15 and 16 of the draft Statutory Instrument (at appendix 1)

The size of the Council

1B(1)(a)

Dickson Report: 5.3, 5.3(a), 5.3(f), 5.4 and R18, R22

Recommend the number of Council members

Dickson Report 5.4

Either,

recommend that the change to the size of the Council is undertaken in one step

Or,

recommend the number of incremental steps to be used by 2011

1B(1)(a) and 1B(1)(a)(2)

Dickson Report 5.1

Either,

recommend parity of registrant and lay Council members

Or,

recommend an alternative option.

Home countries

1A(1)(3)

Dickson Report 5.3(a)

Recommend the minimum number of Council members for England, Northern Ireland, Scotland and Wales.

Terms of office

1B(1)(b) Either,

recommend that the terms of office for members of the new Council will not be dependent on the served terms of office of the existing Council.

Or,

recommend alternative option.

1B(3)(a)

Dickson Report 5.3(b) R20

Either,

recommend that Council members will be able to hold a maximum of two terms of office of up to four years per term.

Or,

recommend an alternative option.

1B(1)(b)

Dickson Report 5.3(c) R21

Either,

recommend that for the first term of office:
25% of Council members will be appointed for one year.
25% for two years.
25% for three years.
25% for four years.

Or,

recommend an alternative option.

1B(1)(b)

Dickson Report 5.3(b) R20

Either,
recommend that except for the first term of office after the coming into force of the new Section 60, that all the terms of office will be for four years.

Or,

recommend an alternative option.

Appointment of Chair

1B(1)(c)

Dickson Report 7.4, 7.6, R39, R30

Either,

recommend that the chair is appointed by the Appointments Commission before other members of the Council are appointed.

Or,

recommend an alternative option.

1B(1)(c)

Either,

recommend that the first term of appointment for the chair is for four years.

Or,

recommend an alternative option.

1B(1)(c)

Either

recommend that the chair is elected by the Council after the end of the first term of office of the chair.

Or,

recommend an alternative proposal.

1B(3)(b)

Either,

make no recommendation about the maximum period for which a member of Council may serve as chair of the Council during a specified period.

Or,

recommend alternative arrangements.

Deputising arrangements in respect of the chair

1B(1)(d)

Either,

continue the existing deputy arrangements as per the current standing order of Council. [i.e. If the President is absent from, or otherwise unable or unwilling to preside at a meeting, the members present shall, as the first business of the meeting, elect one of their number to preside at that meeting.] – see appendix 2

Or,

recommend alternative deputy arrangements.

Quorum

1B(1)(e)

Recommend the quorum of the Council.

Recommend if the quorum will make reference to a minimum of registrant or lay members. – see appendix 2

Cease, remove or suspend from office

1B(1)(f) Either,

recommend that the existing arrangements are adopted for the circumstances in which members cease to hold office or may be removed or suspended from office. – see appendix 2

Or,

recommend alternative arrangements.

Attendance

1B(3)(d) Either,

recommend that the existing arrangements are adopted for the attendance of members of the Council at meetings of the Council. – see appendix 2

Or,

Recommend alternative arrangements.

Council vacancies

1B(3)(e) Either,

recommend that the existing arrangements are adopted.
– see appendix 2

Or,

recommend alternative arrangements.

Qualifications, competencies and experience

1A(4)(b)

Dickson Report 5.3(a), 5.3(b), 5.3(e), 7.1, 7.2, R18, R19

[5 July HPC 111/07 – see appendix 3]

Please note that this is a “may” rather than a “shall” clause.

Make recommendations.

Membership

1A(1)(4)(a) [5 July HPC 111/07 – see appendix 3]

Please note that this is a “may” rather than a “shall” clause.

Make recommendations.

Appendices

Draft Statutory Instrument pages 15 and 16 appendix 1

Examples of current arrangements: appendix 2

Council governance discussion paper – July 2007 appendix 3

HPC’s Standards of Education and Training
for Council and Committee Members appendix 4

The Council discussed the issues raised relating to governance at the following meetings:

Strategy workshop held on 23 February 2007 appendix 5

Council paper from meeting held on 29 March 2007 appendix 6

Letter to Nick Clarke, DH – 30 March 2007 appendix 7

Strategy workshop held on 30 May 2007 appendix 8

Strategy workshop held on 5 July 2007 appendix 9

Council away day held on 4 October 2007 appendix 10

Summary of discussions of October 2007 Away day appendix 11

Resource implications

None

Financial implications

None

Appendices

None

Date of paper

7 February 2008

Appendix 1

Amendment of Schedule 1

9.—(1) Schedule 1 (The Health Professions Council and Committees) is amended in accordance with the provisions of this paragraph.

(2) Part I is renumbered Part 1(a).

(3) In Part 1, for paragraphs 1 to 12 substitute the following paragraphs—

“Membership: general

1A.—(1) The Council shall consist of—

- (a) registrant members, that is members who are registrants; and
- (b) lay members, that is members who are not and never have been registrants.

(2) The members of the Council shall be appointed by the Privy Council.

(3) The Privy Council shall ensure that, at any time, at least one member of the Council lives or works wholly or mainly in each of England, Scotland, Wales and Northern Ireland.

(4) Where the Privy Council directs that the Appointments Commission is to exercise any function of the Privy Council relating to the appointment of members of the Council under section 60 of the Health Act 2006 (Commission to exercise Privy Council’s appointment functions), the directions may include provisions—

- (a) requiring the Appointments Commission to ensure that, at any time, a specified number of members of the Council are drawn from such categories of persons as are specified in the directions;
- (b) setting out the background, qualifications, competencies, interests and experience that potential members of the Council, or categories of potential members of the Council, must have, or that it is desirable that they should have, in order to be considered for appointment (and may set those criteria by reference to published criteria, which are amended from time to time, of the Privy Council, the Appointments Commission or another body);
- (c) in respect of the procedure to be followed by the Appointments Commission as regards the suspension or removal of members of the Council (where it is directed to exercise those functions).

(5) Before the Privy Council directs that the Appointments Commission is to exercise any function of the Privy Council relating to the appointment of members of the Council, the Privy Council shall consult with the Council.

Matters for the order of the Privy Council under article 3(8)

1B.—(1) An order under article 3(8) shall include provision with regard to—

- (a) the numbers of registrant members and lay members of the Council;
- (b) the terms of office of members of the Council (the order may provide that these are to be determined by the Privy Council, on appointment);
- (c) the appointment of a chair of the Council and his term of office;
- (d) deputising arrangements in respect of the chair;
- (e) the quorum of the Council; and
- (f) the circumstances in which members cease to hold office or may be removed or suspended from office (standing orders of the Council may make provision with regard to the suspension of a member from office, pending confirmation or termination of that suspension in accordance with the provisions of the order under article 3(8)).

(a) Part 1 has been amended by the Health and Social Care (Community Health and Standards) Act 2003, Schedule 12, paragraph 8, the Health Act 2006, Schedule 8, paragraph 48, and Schedule 9, and by S.I. 2004/2033.

- (2) But an order under article 3(8) must not include any provision which would have the effect that a majority of the members of the Council were lay members.
- (3) An order under article 3(8) may include provision with regard to—
- (a) the maximum period for which a member of the Council may hold office as a member during a specified period;
 - (b) the maximum period for which a member of the Council may serve as chair of the Council during a specified period;
 - (c) the education and training of members of the Council (the order may provide for the education and training of the members to be the responsibility of another body, and for the requirements with regard to education and training to be set and varied by that body from time to time);
 - (d) the attendance of members of the Council at meetings of the Council; and
 - (e) the effect (if any) of any vacancy among the members of the Council or any defect in the appointment of a member.
- (4) An order under article 3(8) may contain such incidental, consequential, transitional or supplementary provisions as appear to the Privy Council to be necessary or expedient.”
- (4) For paragraph 13, substitute the following paragraph—

“Procedure of the Council and committees

13. Subject to any provision made by this Order or by rules under this Order, the Council may regulate its procedures and the procedures of its committees and sub-committees, other than its statutory committees, by standing orders.”

- (5) In paragraph 16 (powers of the Council), in sub-paragraph (7), omit “election or”.
- (6) Part II is renumbered Part 2.
- (7) In paragraph 17 (Education and Training Committee), for sub-paragraphs (1) and (2) substitute the following paragraphs—
- “(1) The Council shall by rules provide for the composition of the Education and Training Committee, and those rules shall include provision with regard to—
- (a) its size and membership;
 - (b) the appointment, suspension and removal of its members;
 - (c) the deputising arrangements for its chair; and
 - (d) the quorum at its meetings.
- (2) The rules may make provision for a body (including a committee of the Council) to assist the Council in connection with any function relating to the appointment of members or particular members of the Education and Training Committee (including suspension or removal from office).
- (2A) Subject to any provision made by this Order or by rules under this Order, the Education and Training Committee may regulate its own procedure.”
- (8) For paragraph 18 (which relates to the constitution of Practice Committees), substitute the following paragraph—
- “18.—(1) The Council shall by rules provide for the composition of each Practice Committee, and those rules shall include provision with regard to—
- (a) its size and membership;
 - (b) the appointment, suspension and removal of its members;
 - (c) the deputising arrangements for its chair; and
 - (d) the quorum at its meetings.
- (2) The rules may make provision for a body (including a committee of the Council) to assist the Council in connection with any function relating to the appointment of members

Appendix 2

Appendix 1

Current arrangements in respect of the following;

Deputising arrangements in respect of the President;

Council Standing Order 8

8. If the President is absent from, or otherwise unable or unwilling to preside at, a meeting the members present shall, as the first business of the meeting, elect one of their number to preside at that meeting.

Quorum

Council Standing Order 10

10. The quorum at any meeting of the Council shall not be less than half the members of the Council for the time being and of the members which constitute that quorum the number of registrant/practitioner members shall not exceed the number of lay members by more than one.

Cease, remove or suspend from office

Schedule 1, Part 1, paragraph 9 (2) (a-g)

9. —(1) Each member's term of office will be for a period of 4 years.
- (2) A person shall be removed from office as a Council member if—
 - (a) there is a change in his qualifications, interests or experience such that it appears to the Privy Council that he will no longer contribute to the Council's exercise of its functions in such a manner as justifies his continued membership;
 - (b) he ceases to live or work wholly or mainly in the United Kingdom or, if he has been appointed as a member in respect of one of the countries of the United Kingdom, in that country;
 - (c) he ceases to be registered in the part of the register in respect of which he was appointed;
 - (d) he ceases to be wholly or mainly engaged in the practice, teaching or management of the profession for which he is registered and in respect of which he was appointed or in the research mentioned in paragraph 2(2)(a)(iv);

- (e) an order has been made against him by a Practice Committee;
- (f) he is removed by a majority of at least two-thirds of the other members of the Council because of a serious and persistent deficiency in his attendance at meetings or in his conduct or performance at meetings;
- (g) such other circumstances as may be provided for by the Council in standing orders occur.

Attendance

Council Members' Code of Conduct - Attending meetings

Council members should endeavour to attend all Council meetings, and any meetings of committees of which they are a member.

There may be circumstances in which Council members are unable to attend a meeting, in which case they should send their apologies as soon as possible to the Secretary of the Council or the relevant committee. Registrant members who are unable to attend a Council meeting should inform their alternate, giving them as much notice as possible.

Where a Council member is unable to fulfil their role over a prolonged period, they will be asked to discuss their position on the Council with the President.

Council members' attendance records will form part of the Council members' annual performance review and particular consideration will be given to meetings where a Council member has not attended and has not given notice of their absence.

Council vacancies

Schedule 1, Part 1, paragraph 8 (1-4)

8. —(1) Where a member does not complete his term of office, his successor shall be appointed for the remainder of the unexpired term—

- (a) in the case of registrant and alternate members, by the Council; and
- (b) in the case of lay members, by the Privy Council.

(2) In this paragraph "the unexpired term" means the period beginning with the date on which the member ceased to be a member and ending with the date on which his full term of office would have expired.

(3) If the unexpired term is less than twelve months, the vacancy need not be filled.

(4) The person appointed for the unexpired term shall, in the case of a registrant member or alternate member, be registered in the same part of the register as the member he is to replace and, in any case, shall live or work wholly or mainly in the same country of the United Kingdom.