

GPhC Governance Working Group

Final report to PRLOG

March 2009

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Introduction

The Pharmacy Regulation and Leadership Oversight Group (PRLOG) established the GPhC Governance Working Group (GGWG) to consider proposals for the governance framework of the General Pharmaceutical Council (GPhC). The GGWG first met in September 2008 and concluded its work in January 2009.

The Group is firmly of the view that the GPhC must exemplify a 'gold standard' of governance. Some have taken this to imply a high level of expenditure. In fact, the reverse is the case. 'Gold standard' practice demands efficiency and best use of resources. The Group has kept this in mind throughout – as is borne out by, for example, its recommendations on the size of the Council, the minimalist approach to committee structures and the clear focus of the Council's work provided by the Policy Governance model.

The establishment of a General Pharmaceutical Council provides a unique opportunity to create a new organisation without the constraints of historical precedent. The group bases its recommendations entirely on best practice.

Of necessity this final report compresses a great deal of work into a small space. In places skeleton rationales are set out for decisions that were discussed at length and informed by thorough background research. The full background papers on which the group drew to reach its recommendations will be made available to the shadow GPhC to help further inform its policy-setting.

The bulk of the recommendations contained within this final report were presented to PRLOG by the Group in an Interim Report in December 2008. PRLOG considered these recommendations and accepted the majority. It made some considered amendments which the group accepted and which are incorporated in this final report. PRLOG deferred decision on three of the recommendations (numbers 3, 4 and 7) and subsequently canvassed its members' views by email. Government officials' final decisions on these are recorded alongside the Group's original recommendations in this final report. In this way the Group seeks to make clear the source and iteration of the proposals.

I am very grateful to my fellow Group members for their insights, commitment and enthusiasm. It has been a pleasure to work with this formidably able, knowledgeable and experienced group of individuals.

I am pleased to present the Group's final report and recommendations to PRLOG.

Rosie Varley OBE

Chair, GPhC Governance Working Group

1. Remit

- 1.1 The remit of this working group is to produce advice for the Pharmacy Regulation and Leadership Oversight Group (PRLOG) and the shadow General Pharmaceutical Council (GPhC), and in particular:
- To consider proposals for the governance framework of the GPhC in the light of best practice and government policy, for eventual submission to the shadow chair/CEO/council of the GPhC as appropriate
 - To consider how best to embed good governance in the workings of the GPhC through induction and training for council members, staff and committee members
 - To keep PRLOG informed of progress with the GPhC governance framework
 - To consider and advise on such other governance issues as may be referred to it by PRLOG
- 1.2 The initial draft remit had proposed an additional external review stage, including a review by counsel. The Group felt that this stage would be unnecessary in the light of the legal scrutiny that the proposals would receive once they were reflected in the GPhC Constitution Order, and of the public consultation process on the Pharmacy Order. The Group further believed that an external filter would compromise the advice of the Group itself and PRLOG to government and the shadow GPhC.

2. The GPhC's approach to governance

- 2.1 The Group views the establishment of the GPhC as a chance to avoid the usual piecemeal accumulation of governing principles, policies and processes, and to create a governance framework from scratch that can work as a coherent, efficient whole.
- 2.2 This opportunity to create something better than what has gone before must be regarded as a plain duty in the current context, where the governance of health professional regulators is coming under a harsh spotlight, and where their boards are being called to account in an unprecedented way. The risks of inadequate board governance are simply too great for the GPhC to contemplate a complacent reliance on custom and practice.
- 2.3 Accordingly, the Group has tried to clear its collective mind of all assumptions of how a board should work, and has looked for integrated theories or frameworks of governance that could be adapted for the GPhC's purposes. This has proved to be no simple task. The board governance canon includes a plethora of overarching principles or philosophies, and of codes, guidance and handbooks tailored to specific sectors. Some of these are sound and well-respected, and together form the basis of much of what is currently understood to be best practice in non-profit governance in the UK. In particular, the Group would highlight Robert Greenleaf's concept of servant-leadership¹, in which the individual is a servant first, making the conscious decision to lead in order to better serve others, not to increase their own power. This is an attractive and well-respected approach and one which we would suggest could usefully be adopted by the GPhC chair and council members as an underpinning philosophy to inform all aspects of their work.

¹ *The Servant as Leader* Greenleaf, 1970

In the Group's opinion, however, very few of these concepts, codes or manuals could be described as a comprehensive and translatable operational framework.

- 2.4 The major exception is John Carver's Policy Governance model. This model has been endorsed by Sir Adrian Cadbury as "... a fully integrated and coherent system of governance, a significant advance on management thinking, as near a universal theory of governance as we at present have."². The Council for Healthcare Regulatory Excellence (CHRE) has recently recommended the Policy Governance model to the health professional regulators as a group via the *Enhancing Confidence* White Paper working group report³. Since then CHRE has specifically commended the model to the GPhC: "We advise that the governance arrangements of the GPhC reflect the findings of [the *Enhancing Confidence* report] and the 'policy governance' model developed by John Carver".⁴
- 2.5 *Policy Governance – a summary*
More detail on the model can be found at Appendix Three but, to summarise, the Policy Governance model answers the question "where does the board's job end and the CEO's job begin?" by distinguishing between "ends" and "means". The board's job is to decide the "ends" of the organisation -- what benefit it should produce, for what people and at what cost -- rather than the "means" by which these ends might be achieved. The board maintains control over means as well as ends by defining which managerial "means" it would prohibit as being unethical or imprudent ("executive limitations").
- 2.6 In this model, all board decisions are termed "policies" and are conceived of as a nested set—smaller decisions within larger ones, with the board always beginning at the larger size (i.e. the broadest, least detailed level) and working "inward" to a stopping point where the board is happy with all reasonable interpretations from that point on. The board can then tell its CEO that as long as the ends are accomplished and the unacceptable means do not occur, the CEO can make any further decisions within these policies that he or she deems wise.
- 2.7 Once the board has created its policies, its job is to regularly monitor, evaluate and review them, to ensure that the ends are being fulfilled. This usually takes the form of a report given at the board meeting by the CEO on a particular policy, in which the CEO will explain how he or she has interpreted what compliance with the policy might look like, and provide the evidence to show whether or not the organisation is complying.
- 2.8 Among other advantages, the Policy Governance model:
- is an integrated, operational framework that covers every aspect of the board's work;

² Foreword by Sir Adrian Cadbury to *'Corporate Boards That Create Value'* (J Carver, C Oliver, Jossey Bass 2002)

³ *Implementing the White Paper Trust, Assurance and Safety: Enhancing confidence in health professional regulators – final report* (DH, June 2008) – Appendix 3

⁴ *Advice to the Department of Health and the Pharmacy Regulation and Leadership Oversight Group on aspects of the establishment of the General Pharmaceutical Council* (CHRE, September 2008), para 7.2

- clearly defines and distinguishes between the role of the council, the chief executive and the staff (*see section 7 of this report, below*) and gives the chief executive absolute clarity about his/her role and what s/he is and is not empowered to do;
- avoids policy gaps as it makes it impossible for an issue not to be covered by board policy at some level;
- can accommodate other philosophies of governance researched during the Group's work, such as servant-leadership;
- avoids the board acting as a rubber-stamp for detailed staff documents, and staff having to go back to the board every time a small change is required; and
- has informed the 12 underpinning principles of regulation contained within *Enhancing confidence*, which thus fit very well within the model.

2.9 The Group has considered the Policy Governance model in comparison with a selection of other relevant governance approaches. It finds the model powerful and appealing and, without itself attempting to flesh out the framework, **recommends that the GPhC should adopt the Policy Governance model as an overall governance approach. It further recommends that if the GPhC shadow council does not choose to adopt the Policy Governance model, it should adopt some other integrated governance framework.** The Group has considered the remainder of its work programme in the light of the Policy Governance model.

3. The composition of the GPhC Council

- 3.1 Aspects of the composition of the GPhC's council will be prescribed by government in a Constitution Order. A number of broadly similar draft Constitution Orders for health professional regulators were published during 2008. All contained similar provisions on:
- education & training of members
 - disqualification for appointment as a member
 - term of office and cessation of office of the chair (see section 5)
 - deputising arrangements for the chair (see section 5)
 - effect of vacancies etc. on the validity of proceedings
 - suspension and removal of members from office (see section 13).
- 3.2 In considering its proposals for the GPhC council, the Group has taken as its starting point its belief that the GPhC should exemplify a 'gold standard' of governance, taking account of *Enhancing Confidence*. It appreciates that the creation of the GPhC provides a rare opportunity to produce proposals based solely on best practice. The Group's aim is for the best candidates to be appointed to the GPhC council, and it has sought to minimise the restrictions on the process to achieve this.
- 3.3 *Size and composition of the council*
Enhancing confidence recommended councils of 9–15 members. The Group believes that the council should be as small as is practicable, taking account of the balance between inclusivity and effectiveness. The White Paper *Trust*,

*Assurance and Safety*⁵ proposed at least parity between lay and registrant council members; hence, a requirement for at least 50% lay membership would ensure as much flexibility as possible. The Group understands that the smaller the council, the greater the concerns that would arise about the balance and spread of membership, so it has emphasised that the Appointments Commission's directions should include a requirement to maintain the confidence of the regulated professions as well as that of the public. The Group is conscious that the council will not be doing the job of the executive, and that there will be other mechanisms for engaging with stakeholders, including the professions. The council's size should be viewed in that context. Having considered all these aspects, the Group **recommends a council of 10 members, at least five of whom would be lay.**

NB: Government officials have subsequently confirmed that their advice to Ministers will be that the GPhC council should have 14 members including the Chair.

3.4 *Definition of 'lay'*

The Group has striven to avoid placing unnecessary restrictions on those who could be appointed as lay members of the GPhC. It has not, therefore, excluded members of other health professions or persons with a pharmacy degree who have never been registered as a pharmacist but **recommends that for the purposes of membership of the GPhC, a lay person be defined as someone who is not and has never been registered as a pharmacist or pharmacy technician either in the United Kingdom or elsewhere.** If the GPhC does not have a non-practising register, those currently on this register could choose to register as practising pharmacists, in which case they would be eligible for appointment to the GPhC as a registrant member, or they could decide not to register, in which case they would not be eligible either as a registrant or a lay member. The Group appreciates that this might seem harsh to those excluded from either lay or registrant membership of the GPhC, but feels it will be necessary if the council is to enjoy public and patient credibility.

NB: Government officials have subsequently confirmed that their advice to Ministers will be that "lay" should also exclude anyone who has ever been registered as a health professional.

3.5 The 'grandparenting' period for statutory pharmacy technician registration is expected to commence before appointments are made to the GPhC council and the Group therefore **recommends that, during this period, anyone who is or has ever been a pharmacy technician, whether registered or unregistered, should not be appointed as a lay member of the GPhC.**

3.6 The Group further **recommends that health professionals who have been de-registered or disciplined by their own professional regulator in the UK should be excluded from membership of the GPhC; and that the Appointments Commission should consider carefully whether legal professionals and others with a vested interest in legal representation to and on behalf of the regulator should be excluded.**

⁵ *Trust, assurance and safety: the regulation of health professionals in the 21st century*, London, Department of Health, February 2007

3.7 *Reserved places on the council*

Enhancing confidence recommended that 'No group should have guaranteed places on the council. Members, including those who are also registrants, should not be considered to be representative in any way'⁶. CHRE's advice on the establishment of the GPhC⁷ also commended the principle that "there should be no representative members on the new council and no reserved places for interest groups'. Having given the matter careful consideration, the Group does not favour the statutory reservation of council member places to groups of any type, beyond the requirement for at least parity between lay and registrant members. The Group recognises the sensitivity of the issue, and is aware, both of the strong arguments against reserved places and of the political implications. However, the Group feels that, while it is important that council members should bring different perspectives, the reservation of council member places in legislation would restrict the appointments process and dilute the message that council members would be appointed, not to represent a particular group, but to work as part of a corporate body with collective responsibility for the benefit of all those within the GPhC's remit.

3.8 The Group nonetheless believes that the Appointments Commission should be required in Directions to produce a council that works; in other words, a council informed by all relevant perspectives and able to maintain the confidence of stakeholders, including those whom it regulates. Engagement with registrants and other stakeholders is not something that can be ensured by any calibration of council membership, but is a matter of outreach. As CHRE stated in its advice 'The council should engage with its key interest groups including patients, the public, registrants, employers, educators and the devolved administrations, and be confident that it understands their views and priorities. The membership of the council should have the capacity and skill to understand the priorities of each of these key constituents'.

3.9 With the above in mind, **the Group recommends that there should be no reserved geographical places on the GPhC council and no places reserved specifically for each of the professions regulated by the GPhC, nor for specific sectors of practice.** Instead, the Appointments Commission, while bearing in mind the need to assure the calibre of appointees, should be required in Directions to aim for a council that reflects the geographical extent of its powers and includes a range of backgrounds, competencies and experience that will facilitate the council's discharge of its statutory obligations e.g. to have regard to the interests of registrants, prospective registrants and groups of registrants and to co-operate with stakeholders.

NB: Government officials have subsequently confirmed that their advice to Ministers will be that the GPhC should have reserved places for a member living or working wholly or mainly in each of the participating countries. There should be no other reserved places.

3.10 In relation to the potential inclusion of Northern Ireland in the GPhC's remit in the future, the Group **recommends that no provision for this be made in the GPhC council composition at this stage.** If NI were to be included at a future date, the Appointments Commission should then ensure that the

⁶ *Implementing the White Paper Trust, Assurance & Safety: Enhancing confidence in healthcare professional regulators*, DH, June 2008, recommendation 18

⁷ *Advice to the Department of Health and the Pharmacy Regulation and Leadership Oversight Group on aspects of the establishment of the General Pharmaceutical Council*, CHRE, October 2008

council membership satisfied the requirements of the extended remit. The proposed cycle of appointments (see section 4) would generate vacancies every two years and provide regular opportunities to redress any geographical or skill imbalances that had emerged.

3.11 *Impact of service as an RPSGB Council member*

Government officials have advised that RPSGB Council members will be eligible for appointment to the GPhC and will be welcome to apply. In addition, no previous service on the RPSGB Council would count towards the maximum time that may be served on the GPhC (see section 4), as the GPhC will be a new legal entity. Government officials have further advised that council members will not be able to serve concurrently on the RPSGB and shadow GPhC, because of the potential for conflict of interest. RPSGB Council members will therefore be able to apply for appointment to the GPhC but may not serve concurrently on the RPSGB Council and the shadow GPhC. The issue of cross-membership of pharmacy bodies once the GPhC is established is covered in section 11 below.

3.12 *Quorum*

In line with proposals for other health professional regulators, the Group **recommends that the quorum for the GPhC council should be half the council membership plus one**, i.e. a council of 10 members would have a quorum of 6. **If the membership is more than 50% lay the quorum should require an appropriate professional/lay balance.**

4. Terms of office

4.1 The Group believes a 4-year term is appropriate to reflect the guidance generally applicable to public bodies. However, the capacity for the Privy Council to have discretion to determine the term of office of each member, on appointment, would seem useful, for example, when a member has served one 4-year term and wishes to be reappointed but not for a full term, or in order to manage and retain experience and skills, should a proportion of council members retire at any one time. The Group therefore **recommends that the term of office for council members should be as determined by the Privy Council up to a maximum of four years.**

4.2 *Limit on terms of office*

A limit on terms of office for council members should balance the organisation's need for members to gain experience so as to contribute effectively against the desirability of periodically bringing new blood into the council. The Group has decided to reflect the proposals within the majority of the recent constitution orders in its **recommendation that the total time served as a council member should be limited to a maximum length of service of eight years in aggregate within any twenty year period.**

4.3 It further **recommends that there should be provisions to bring to an end the service of a chair or member who is not performing adequately.**

4.4 *Turnover and casual vacancies*
Enhancing Confidence states:

“Councils should aim to achieve regular turnover managed in a staggered fashion to ensure a degree of stability and continuity.”
(para 5.3c)

While there will inevitably be an occasional need to fill a casual vacancy, it would not be advisable to run a recruitment exercise every year, due to the impact on planning and the cost and workload involved. The Group therefore **recommends that:**

- (i) **Initial appointments to the GPhC should be for two or four years, followed by a rolling programme of biennial appointments, generally for a 4-year term.**
- (ii) **the GPhC should not be obliged to fill a casual vacancy in its membership where the remaining term of office is one year or less.**

4.5 *Emergency provisions*

The Office of the Commissioner for Public Appointments (OCPA) Code provides that, where a full-term reappointment to a board is not appropriate (e.g. pending a merger or review), an extension of the current term may be considered. This is described as exceptional and not as a means of circumventing the appointments procedure or the Code's 10-year rule. The Code also states that consideration of a third term of office on an 'upper tier' body, although rare, may take into account the fact that the post-holder 'will provide continuity during a period of change'. Emergency provisions might also be needed during war or civil emergencies such as a flu pandemic or following acts of terrorism, when pharmacy's own contribution at this time could require the council to be at full capacity and fully functioning in emergency sessions. The Group **recommends that the appointing body should be able to extend the term of office of a GPhC member in exceptional circumstances, for a maximum of 12 months, without a requirement for the extension to be publicised.**

5. Chair of the GPhC Council

- 5.1 The first Chair of the GPhC will be appointed by the Privy Council. The Group feels that the chair will need to be able to command the confidence of the public and the regulated professions, while also having the leadership skills to chair a national board. On the understanding that the job description should make these requirements clear, the Group **recommends that there should be no requirement for the chair to be either lay or registrant. It further recommends that the chair should always be appointed** (as opposed to appointment in the first instance with future chairs being elected from within the council membership)
- 5.2 The Group **recommends that the term of office for the Chair should be four years, with the potential for a further four years' re-appointment subject to satisfactory appraisal**, as it believes this will help ensure stability and enable the Chair to bed in the new regulator.
- 5.3 Finally, the Group **recommends that no specific position or job description be created for a deputy chair or other officers, but that the deputising arrangements that have appeared in the draft constitution orders so far** (e.g. in article 10 of the draft General Osteopathic Council Constitution Order) **be replicated for the GPhC.** While no statutory posts should be created the group advocates a pragmatic approach whereby, at the discretion of the Chair and Council, **one or two members with appropriate experience and ability should be identified in advance to support the Chair and act in his/her absence with appropriate agreed remuneration.**

6. Role of the Council and underpinning principles

- 6.1 *Enhancing Confidence* contains a set of underpinning principles that it recommends for adaptation by the health regulatory councils to reflect their particular roles. The GGWG has **accordingly recommended a version of these principles for GPhC adoption, with amendments to reflect the GPhC's forthcoming legislation, and also its adherence to the principles of policy governance and proportionality as recommended by CHRE.**

7. Council and staff roles

- 7.1 The Group's recommendations in this area have drawn on *Enhancing Confidence* and the Policy Governance model, and are built on the assumption that the roles of Chief Executive and Registrar will be combined in the GPhC (if this was not the case, further consideration would need to be given to ensuring proper accountability to the council for the discharge of all the GPhC's functions). The GGWG **recommends the description of the relationship between the role of the council and the role of the staff in the GPhC as set out in 7.2-5 below:**
- 7.2 The council is the governing body of the organisation. As such, it acts as the agent of the public that the organisation exists to serve. **The council is statutorily accountable to the Westminster and Scottish Parliaments, as the representatives of the public, for all the organisation's actions (regulation of pharmacists and pharmacy technicians in Wales is covered by the Westminster Parliament, which will ensure the reports it receives from the GPhC in furtherance of its statutory duty are placed before the Welsh Assembly).** This does not mean that the council is, or should be, involved in all those actions. Essentially, **the council defines the organisation's policies, delegates their implementation and monitors to check that this is done but does not carry out the organisation's work.**
- 7.3 *Enhancing Confidence* states that "*The role of council members is to hold the executive to account (within appropriate employment practices) and bring their knowledge, skill and experience to bear to ensure that all statutory duties are delivered in a cost-effective and appropriate manner.*"⁸. **The role of the GPhC's staff is to assist the council in formulating its policies, implementing those policies and administering the GPhC's statutory responsibilities** (while bearing in mind that the CE&R may have statutory duties and powers of his/her own). **The staff must be free to give honest and impartial advice to the council, without fear or favour.**
- 7.4 **The council delegates activities to its staff through the Chief Executive & Registrar (CE&R). The CE&R reports directly to the council and is accountable to the council for the organisation's performance,** which is assessed against criteria derived from the council's policies. **All other staff members are accountable to the council through the CE&R.**
- 7.5 **The CE&R should be given a level of authority consistent with this accountability.** The council should not tell the CE&R how to manage the organisation, nor should it give directions to staff members other than the CE&R. This should not prevent interactions between council members, the

⁸ *Enhancing confidence in healthcare professional regulators: Final report* (DH June 2008), para 7.1-2

CE&R and other members of staff: it means simply that the CE&R is instructed by the council as a whole. The CE&R will then delegate work to staff as he or she thinks appropriate and will ensure that the council receives reports to allow it to monitor the implementation of its policies.

8. Chair's and Council members' job descriptions

- 8.1 **The GGWG has provided a draft combined job description to Government officials**, which has been informed by the relevant recommendations contained within *Managing Public Appointments (Cabinet Office 2006)* and the *Code of Practice for Ministerial Appointments to Public Bodies (OCPA 2005)* and other relevant guidance. It has also been informed by recent job descriptions and competencies for similar positions, including those of the reconstituted General Chiropractic Council (the GCC's competencies have been offered as an exemplar to other health regulators in *Enhancing Confidence*, which recommends that "all regulatory bodies draw up a generic skills and competency framework for council members" (para 7.2)).
- 8.2 **The qualities sought should include the right motivations, the right levels of competence and the ability to operate at a strategic level. Lay members of council should not be regarded as a substitute for patient and public involvement.**

9. Induction, training and development

- 9.1 Induction, training and development is important to any organisation. The importance of such a programme is heightened in the case of a new body such as the GPhC, where the whole council, at least half of whom will not be GPhC registrants, will be starting from scratch in a new organisation. The design of the GPhC's first induction programme must reflect the fact that the organisation will not be in "steady state", that participants will be working through all the issues from the start, and that they will need to agree their shadow period work programme. An external facilitator will be needed to help them through the process and the chair should play a significant role in setting out the direction.
- 9.2 The Group has considered a number of potential pitfalls and pointers for success that have been identified by other regulators and in guidance produced by the Chartered Institute of Personnel and Development (CIPD). It notes in particular the importance of social events in helping the group knit together as a team, and the dangers of information overload.
- 9.3 Informed by the above, **the Group has made recommendations for the elements of an initial GPhC induction programme, summarised below:**
- **Induction should begin with a two or three day induction event, and continue through the shadow period, with another event just before the new council goes live**
 - **The underlying principle that should run through the induction process should be the council's role in public protection, and the council members' corporate responsibility in this respect**

- **The first day should begin with a session or sessions emphasising the role of the GPhC in promoting the wellbeing of the public and protecting patients through the maintenance of high standards in professional practice, and go on to explore the implications of this in terms of the members' role, responsibilities, conduct, and behaviour. This should be followed by a session outlining the background to the GPhC's establishment, the drivers for reform and the wider regulatory, social, economic, and political framework within which the GPhC will operate**
 - **Opportunity for informal networking/teambuilding**
 - **The second day should include taster sessions on:**
 - **areas of the GPhC's work;**
 - **pharmacy practice presentations;**
 - **the role of the new professional body and other stakeholder bodies;**
 - **legislation;**
 - **rules & transitional arrangements; and**
 - **the future work programme in the shadow period to establish the council**
 - **The third day, which should be held later on in the induction period, should include sessions on:**
 - **overall funding and financial matters**
 - **equality and diversity**
 - **reflection of devolution in the council's/organisation's work**
 - **management of interests**
 - **pharmacy practice (to complement sessions in first phase; members are likely to have more questions at this point)**
- 9.4 The Group hopes that its recommendations as ratified by PRLOG will be not only adopted, but owned by and embedded in the future work of the GPhC. The Group's work should be commended to the council at the induction event, and the report of its recommendations as adopted by PRLOG should be provided to all successful candidates on appointment. It should also be explained that a significant amount of time during the shadow period will be devoted to discussion of these recommendations.
- 9.5 The Group has also identified a number of likely common training and development needs. **In addition, externally-delivered Policy Governance training, and facilitation of policy-setting, will be needed if this model is adopted by the council.**
- 9.6 **Shortly before going live, the council should have a workshop that provides an opportunity for members to reflect together on their development to date and their experiences during the shadow period, and to discuss any issues that have emerged.**
- 9.7 **All members should have the opportunity to carry out visits (e.g. for lay members to go to pharmacies, or for registrant members to experience other sectors of practice) to enhance their knowledge and experience.**

10. Remuneration and expenses

- 10.1 The Group has produced proposals for a remuneration and expenses policy for the GPhC council, the main points of which are summarised below. The structure of remuneration and expenses should:
- support the proper function of the council
 - support the recruitment, retention and contribution of high quality candidates
 - reflect the Nolan principles of public life
 - avoid disincentives to good governance.
- 10.2 For a remuneration policy to be effective, it should be matched against a clear understanding of the role, and the volume and value of the work to which this relates. It should be competitive with similar bodies so as to attract good candidates. The council member role is the same for both lay and registrant members and the Group **recommends that the remuneration policy be the same for both lay and registrant members.**
- 10.3 *Enhancing Confidence* proposed annual remuneration as a standard arrangement for all the health professional regulators. Overall, annual remuneration seems the best match for the criteria identified by the Group and it **recommends that GPhC members receive an annual remuneration, rather than a daily attendance fee.**
- 10.4 The Group further **recommends that the annual remuneration should be:**
- **£12,000 for a council member, and**
 - **£48,000 for the Chair, to reflect the significant extra time commitment and responsibility that the role will demand.**
- 10.5 Comparator organisations may make a distinction for the additional responsibility that chairing a committee entails. The Group prefers the concept of an exceptional discretionary additional allowance to council members taking on significant extra responsibility. Non-council members chairing committees such as a fitness to practise committee would have separate remuneration arrangements. The Group **recommends that at the discretion of the Remuneration Committee** (see section 18), **an exceptional additional provision, no greater than £2,500 p.a., should be payable to council members taking on significant extra responsibility as part of their role.**
- 10.6 While the Group was not asked to comment on an expenses policy for staff or non-council committee members, visitors etc, it believes that the expenses policy should be consistent and the levels of reimbursement should be the same for all.

11. Managing interests, gifts and hospitality

- 11.1 *Managing interests*
The Group's recommendations in this area have been based on the following definition of conflicts of interest: "*any interests, financial or otherwise, that you, your family or your friends have that could influence, or be seen to influence, decisions that you might take on behalf of the GPhC*".

- 11.2 The Group has approved a draft template for a Register of Interests for commendation to the GPhC and **recommends that members of the GPhC council and the Chief Executive & Registrar be required to register relevant interests and to declare such interests when appropriate so that those conducting business are aware of them.** It should be made clear to members that they should err on the side of declaration and registration if they are unsure whether or not to disclose, and in so doing they should bear in mind that the perception of potential bias can be as important as the reality. However, while the maintenance of a register is important, it is not of itself sufficient. It is even more important that relevant interests should also be declared and recorded as appropriate when an item is discussed or considered.
- 11.3 The chair and council should receive written guidance to help them distinguish between fundamental and manageable conflicts of interest. Put simply, the former would preclude participation in any related council discussion (this will always be the case where there is a direct pecuniary interest), while the latter would allow participation if an appropriate declaration were made. The Group **recommends that the Cabinet Office principles on the declaration of interests within meetings should be reflected in the council's standing orders and other governance guidance as appropriate.**
- 11.4 The Group has considered whether any conflicts of interest would be so fundamental as to disbar someone from appointment to the council, but on balance **recommends that there should be no absolute proscription of any category of applicant, but rather that the Appointments Commission should judge applicants for GPhC council membership on a case-by-case basis.** However, the recruitment literature should make it clear to applicants that they will be expected to demonstrate the ability to make independent judgements unaffected by external influences. The Group **recommends that the literature should also make clear that certain categories of applicant, such as, for example, those who are members or employees of relevant representative organisations, would normally be considered to face an irreconcilable conflict of interest and so be ineligible, and the onus would be on such applicants to demonstrate how they could maintain the requisite independence and maintain public confidence in their work for the council despite this.**
- 11.5 The Group further **recommends that those appointing members of the GPhC council to undertake specific roles should bear in mind the need to minimise conflicts of interest.**
- 11.6 The Policy Governance model places the onus on the council to maintain integrity and hold itself to its governance policies. The GPhC Chair, council and Chief Executive & Registrar will have a joint responsibility to embed these principles in the working life of the council by the establishment and maintenance of a culture of best practice in managing relevant interests. The Group **recommends that management and declaration of interests should be covered in the council induction.**
- 11.7 *Gifts and hospitality*
The Group **recommends that:**
- i) **members of the GPhC council be required to register for publication any gifts, hospitality or benefits received, in line with the agreed guidance,**

- ii) **the committees and the staff should work to policies that are no less transparent and rigorous; and**
- iii) **the following information should be provided to all GPhC council members and candidates for appointment:**

“Gifts and hospitality

Members of council should not place themselves under any obligation to outside individuals or organisations that might influence them in the performance of their official duties or, just as importantly, that might give rise to a perception that they might be so influenced. Members should avoid accepting hospitality or gifts that might call into question their independence or impartiality.

Members of council should disclose for publication any gift, hospitality or benefit received. It is not necessary to record gifts with a value of less than £20 or hospitality such as a light lunch as part of a working event, but a declaration should be made every time the benefit provided is significant and could therefore be perceived as having an actual or potential influence on the conduct of a member of council. Members should err on the side of declaration if they are unsure whether or not to disclose”

12. Code of Conduct

12.1 The GGWG has **approved a briefing paper on council member codes of conduct, to inform the GPhC council’s policy-setting in this area.** The paper provides background on the common themes within existing health care regulatory council codes, including:

- the Nolan Principles of Public Life
- reputation/personal behaviour
- confidentiality/transparency
- charity trustee criteria
- attendance
- collective responsibility
- equality and diversity
- interests, gifts and hospitality
- conflicts of interest
- council/executive relationships/roles

together with advice from the reports of the Committee on Standards in Public Life and the Cabinet Office guidance on codes of practice for board members of public bodies, and from the Policy Governance literature.

12.2 The Group has deliberately not tried to construct a draft code, as the Policy Governance model is very clear that councils need to think through and set their own codes as part of their policy set. The Group does, however, **recommend that:**

- **if the GPhC council decides to adopt Policy Governance model then the code itself should be built on Policy Governance principles.**
- **the Code should begin with a statement to the effect that the core duty of a regulator is to protect the public, and that this duty should**

permeate every aspect of the council's work and should inform the rest of the Code.

- **it should be clear that provisions around collective responsibility and the clear distinction of personal views from those of the council are non-negotiable and the GPhC Code will have to include these as a minimum.**

13. Suspension and removal of Council members

13.1 Consultations have already taken place on Constitution Orders to implement the constitutional recommendations of *Trust, Assurance and Safety* for a number of other health professions regulators. These draft Constitution Orders all introduce a significant change in the area of council discipline, by taking the function of suspension and removal of council members away from the councils themselves and giving it instead to the Privy Council (which may delegate this role to the Appointments Commission). The triggers for Privy Council action are detailed in the draft Orders. There are, however, provisions which would allow the councils to suspend a member provisionally, pending the taking of a decision by the Privy Council.

13.2 The Group has assumed that broadly similar provisions will occur in the Constitution Order for the General Pharmaceutical Council and is, in general, content with these, with the following qualifications:

- i) All the relevant draft Constitution Orders so far have provided that any lay member who ceases to fulfil the criteria for lay membership will be removed from a council. However, there does not seem to be an equivalent provision for registrant members who cease, for reasons other than fitness to practise, to be a registrant e.g. if they retire from the register, or are struck off for non-payment of fees. While this matter might well be covered elsewhere, the Group would **recommend that the GPhC Constitution Order contain either an explicit provision that any registrant member who ceases to fulfil the criteria for registrant membership will cease to be a member, or a general provision along the lines of a person ceasing to be a member if s/he ceases to satisfy any criterion which s/he had to satisfy in order to be appointed.**
- ii) The Group **recommends that the GPhC Constitution Order provide that a member of the GPhC council should cease to hold office if it is decided that he or she is no longer normally resident in the geographical area regulated by the GPhC**, on the grounds that council members will need to be aware of the current context within which pharmacy is practised in that area, and that someone who is not normally resident in that area may not have this awareness.
- iii) The Group **further recommends that removal from the council should be automatic and immediate in those cases where it is not discretionary**, as opposed to those which will require consideration by the Privy Council/Appointments Commission. **This should be reflected by the Constitution Order saying in these cases, not that the member should be removed from office by the Privy Council, but simply that they should cease to be a member.**

- 13.3 The Group also **recommends that the GPhC council should draft its standing orders in such a way as to allow it to carry out preliminary investigation in cases where it is not clear whether or not there is any case for the Privy Council to consider, and by extension to permit itself to provisionally suspend members on one of the grounds that could potentially lead to formal suspension by the Privy Council, as a neutral interim measure before referring to the Privy Council.** If the council were to make such a suspension, referral to the Privy Council would need to take place as quickly as possible after this.

14. Raising concerns

- 14.1 It will be essential that the GPhC establishes robust and clear mechanisms for the handling of concerns relating to council members or staff. **The Group has approved a set of flowcharts for submission to the GPhC council that show how concerns involving council members (either as subject or complainant) might be routed.** The aim has been to provide an umbrella process that could apply to all concerns, whether severe or lower-level, and relating to either behaviour (such as bullying or aggression) or probity. Obviously, the nature of the concern will need to be taken into account when deciding on routing; for example, an allegation against a council member of low-level inappropriate behaviour that is not resolved by early informal action might not, of itself, be a matter that could lead to suspension or removal, and so would be appropriate for internal resolution (e.g. by GPhC council direction) rather than referral to the Privy Council.
- 14.2 It should be understood, and guidance will need to make it clear, that the routing as set out in the flowcharts should not preclude the attempt and intention at all points in the process to resolve matters informally where possible and appropriate, and in particular that staff and members will be encouraged to attempt internal resolution of concerns before taking the exceptional step of referring them externally as a last resort. However, the likely Privy Council functions of suspension and removal of council members, and the whistleblowing provisions of the Public Interest Disclosure Act 1998, will need to be taken into account.

15. Council performance evaluation

- 15.1 The Group has explored ways in which the GPhC might evaluate its own performance as a council, and **recommends that the GPhC council should adopt a performance evaluation process based on brief self-evaluation at every meeting against the pre-established criteria set out in the GPhC council's policies, as prescribed in the Policy Governance model, together with an occasional wider review of the council's performance as a whole against the Underpinning Principles (see section 6 above).** This wider review could also include (at least in the first few years) an assessment of how the council is faring with the Policy Governance model. The council should also take this opportunity to evaluate its response to those performance issues that have been identified both at the previous review and during the intervening period, to determine that it has indeed adopted the necessary changes at optimal levels. The wider review should involve agreement of an action plan to put in place any necessary improvements.

16. Council member appraisal scheme

- 16.1 The Group **recommends that all GPhC council members be required to participate in an appraisal process as a condition of their appointment.**
- 16.2 It has considered a number of options for the process and **recommends that, while the detail of the process will be a matter for the GPhC chair and council, it should at the minimum include:**
- **Clear corporate and individual objectives**
 - **Self-assessment against these objectives**
 - **A review with the Chair, at which the chair's assessment of the individual's performance would be recorded and any development needs identified**
 - **An all-Council review of performance and behaviour towards the end of the year.**
- 16.3 The GPhC council may wish to go further than this and adopt a 360° appraisal process.

17. Monitoring performance

- 17.1 **The Group has produced proposals for how the GPhC council might monitor and evaluate the performance of the organisation in line with the Policy Governance model, for submission to the GPhC shadow council.** Under the Policy Governance model, the GPhC CE&R will be expected to make reasonable interpretations of the council's Ends and Executive Limitations policies, and to achieve the stated Ends while avoiding any of the unacceptable means set out in the Executive Limitations policies. Therefore, the CE&R will have to (i) reasonably interpret the council's policies; (ii) demonstrate compliance in line with these interpretations. The council must receive regular reports showing how the CE&R has carried out (i) and (ii). It must then judge the reasonableness of the CE&R's interpretations, and assess the data presented in each report to judge whether the interpretation has been achieved.

18. Non-statutory committees

- 18.1 The draft Pharmacy Order includes provision for three statutory committees of the GPhC: an Investigating Committee, a Fitness to Practise Committee, and an Appeals Committee. The Group has considered the need for additional, non-statutory committees within the context of the Policy Governance model and concluded that **non-statutory committees should be kept to a minimum, and that task & finish groups to advise on specific issues should be preferred to standing structures.** A simple structure can help ensure that bureaucracy is minimised, resources are focused on the outcomes to be achieved, and responsibilities and accountabilities are clearly understood.
- 18.2 The Group **recommends that the GPhC should create three non-statutory committees: Audit, Remuneration and Appointments.** The Group has produced draft proposals for each of these committees, for consideration by the GPhC council.

- 18.3 The Group noted that having a council member as chair of governance structures such as the Audit and Remuneration committees made the process of reporting to the Council easier. It therefore **recommends that the Appointments Commission be asked to ensure that the council includes at least one member with the competency to chair each of the Audit and Remuneration committees. If this is not the case for either committee at any time, the council should give serious consideration to the appointment of an independent chair. The chair of the Audit Committee need not be an auditor but should be someone with relevant understanding.**
- 18.4 The Group further **recommends that the Remuneration Committee should advise the council on the remuneration of council and committee members and that the council should always seek the Committee's advice before deciding on these matters.**
- 18.5 After careful consideration, the Group concluded that **an Education Committee should not be necessary and the GPhC should think seriously before creating any such committee.** The Group felt that a standing Education Committee would be difficult to disband once established and would run counter to the principle that committees should be kept to a minimum. The council should be able to take decisions in this area, informed by expert advice from a range of sources as appropriate, and the executive should take decisions within council policy. The Group did, however, **recommend that the RPSGB's Board of Examiners should be carried forward to the GPhC as an arm's-length body**, so as to provide a robust quality assurance mechanism.
- 18.6 The Group recognised the importance of recruiting high quality committee members through transparent processes. It therefore **recommends that the Appointments Committee should select, appoint and, where appropriate, terminate the appointments of: the statutory committees; the Board of Examiners, and non-council members of standing non-statutory committees.**

19. Devolution

- 19.1 The Group has endeavoured to ensure that **an understanding of and appropriate response to the requirements of devolution has permeated and informed the Group's recommendations; as must also be the case with their eventual realisation in the governance framework of the GPhC.** As well as bearing this prerequisite in mind for the duration of its work, the Group has produced some initial thoughts on how the GPhC should take account of devolution so as to facilitate effective regulation in each of the countries within its remit.
- 19.2 **The GPhC will need to demonstrate that it can be an effective regulator in all the countries within its remit, and must take due regard of the environment in each. If it is to gain the confidence of stakeholders it will need to field a credible presence in each country, and to avoid any appearance of anglocentricity or tokenism.**
- 19.3 As part of this, the Group has outlined likely functions in the countries within its remit and methods of facilitating effective devolved regulation that will need

to be borne in mind by the shadow GPhC when structuring the new regulator, while recognising that it will be for the GPhC itself to determine how it will operationalise the delivery of functions in the relevant administrations:

- *Accessibility*
If a regulator is providing public services for people in Scotland, Wales and England it should be accessible to those populations
- *Relevance*
The GPhC must ensure that the voice and interests of Scottish, Welsh and English patients and public are considered in the development of GPhC policy and guidance
- *Understanding and interpreting/translating the respective environments*
The local units should provide a two-way "translation service" both within the GPhC as a whole and within the respective administrations explaining how, where and why systems etc. are different
- *Government and stakeholder relations*
The new regulator will need to build a strong government and stakeholder relations capacity in the administrations of each of the countries within its remit to ensure that it plays a full part within the devolved policy and political process and is able to protect and advance its own interests and so those of the public in response to threats and opportunities.
- *Intelligence gathering/horizon scanning*
The GPhC will need to monitor developments across governments, governmental and non-governmental bodies including regulators and professional bodies.
- *Influencing policy*
In order to ensure that it plays a full role in policy-making processes in each country, the new body will need to perform a variety of local influencing activities. This will be facilitated if the new body is seen to be embedded in society in the countries within its remit.
- *Publications*
It will be important to ensure that the content and terminology of all GPhC publications are appropriate for Wales, Scotland and England.

19.4 **The GPhC must also be set up in such a manner that it could support a future decision either to extend its remit to Northern Ireland, or to leave Northern Ireland as a separate jurisdiction.**

19.5 The detail of how functions might be delivered will obviously be a matter for the GPhC itself. However, **the Group would recommend that the following principles be taken into account when designing the structures:**

- **It would seem essential to have a meaningful presence in each of the countries within the GPhC's remit**, although any premises and possibly some back-office functions could potentially be shared.
- **It would seem advisable to have a hub-and-spoke function which includes central oversight of communications in all the countries within the GPhC's remit, as well as management of EU matters from a GB perspective**, so that the GPhC can take a structured approach to liaison.

20. Scheme of Delegation

- 20.1 The GPhC's governing legislation will impose statutory functions on the council and on the CE&R. In practice, many of these functions will be carried out by the executive, within the terms of the legislation and the council's policies. The Policy Governance model provides a clear framework for delegation, monitoring and holding the executive to account. The Group has therefore **approved a draft Scheme of Delegation for consideration by the GPhC council, based on the delegation framework within the Policy Governance model and taking account of the provisions within the consultation draft of the Pharmacy Order.** The Scheme would form part of the council's board-management delegation policies within the PG framework.

21. Equality and Diversity

- 21.1 Promoting equality and diversity is an essential component of good governance. This is especially relevant to an organisation such as the GPhC, which will exist to serve the public. *Trust, Assurance and Safety* drew attention to the importance of equality and diversity in the regulation of health professionals, stating that it is critical that regulation 'is conducted in a manner that is fair, respectful, sensitive to diversity issues and free from discrimination'.
- 21.2 One of the underpinning principles proposed in the *Enhancing Confidence* report was that regulatory councils should ensure that equality and diversity issues are considered as part of all their work. The Group has accordingly **approved a draft Equality and Diversity Scheme for consideration by the council. Once finalised, this should be endorsed by the council and signed by the Chair and CE&R, to demonstrate commitment at the highest level within the GPhC.**

22. Handling complaints

- 22.1 It goes without saying that the GPhC will need an effective and efficient complaints-handling process; accordingly, **the Group has proposed a procedure for GPhC complaint handling. However, this on its own is not enough; it is vital that the GPhC should have a process in place to help it learn from complaints, as opposed to simply providing individual remedies as they arise. An organisation that is committed to providing good customer service will also seek to take general preventive measures to reduce the incidence of complaints.**
- 22.2 In addition to adopting the proposed complaints process, the Group recommends that the GPhC:
- **submits regular summaries of complaints received, showing how these have been handled and highlighting those where the organisation's standards of response have not been adhered to, to senior management;**
 - **monitors that learning points have been picked up and implemented;**
 - **adopts a workshop-based process for learning from recurrent complaints**

- **adopts e.g. customer care training as part of its overall customer care strategy; and**
- **provides summary information on complaints received and their handling in its Annual Report.**

Rosie Varley
March 2009

Summary of Recommendations

The GPhC Governance Working Group's recommendations are as follows:

Overall governance approach

1. The GPhC should adopt the Policy Governance model as an overall governance approach (2.9)
2. If the GPhC shadow council does not choose to adopt the Policy Governance model, it should adopt some other integrated governance framework (2.9)

Composition

3. The GPhC council should have 10 members, at least five of whom would be lay. (3.3)
NB: Government officials have subsequently confirmed that their advice to Ministers will be that the GPhC should have 14 members including the Chair.
4. For the purposes of membership of the GPhC, a lay person should be defined as someone who is not and has never been registered as a pharmacist or pharmacy technician either in the United Kingdom or elsewhere. (3.4)
NB: Government officials have subsequently confirmed that their advice to Ministers will be that "lay" should also exclude anyone who has ever been registered as a health professional.
5. The Appointments Commission should bear in mind during the grandparenting period for statutory pharmacy technician registration that anyone who is or has ever been a pharmacy technician, whether registered or unregistered, should not be appointed as a lay member of the GPhC. (3.5)
6. Health professionals who have been de-registered or disciplined by their own professional regulator in the UK should be excluded from membership of the GPhC, and the Appointments Commission should consider carefully whether legal professionals and others with a vested interest in legal representation to and on behalf of the regulator should be excluded. (3.6)
7. There should be no reserved geographical places on the GPhC council and no places reserved specifically for each of the professions regulated by the GPhC nor for specific sectors of practice. (3.9)
NB: Government officials have subsequently confirmed that their advice to Ministers will be that the GPhC should have reserved places for a member living or working wholly or mainly in each of the participating countries. There should be no other reserved places.
8. No provision should be made in the GPhC council composition at this stage in relation to the potential inclusion of Northern Ireland in the GPhC's remit in the future. (3.10)
9. The quorum for the GPhC council should be half the council membership plus one. If the membership is more than 50% lay the quorum should require an appropriate professional/lay balance. (3.12)

Terms of office

10. The term of office for council members should be as determined by the Privy Council up to a maximum of four years. (4.1)
11. The total time served as a council member should be limited to a maximum length of service of eight years in aggregate within any twenty year period. (4.2)
12. There should be provisions to bring to an end the service of a chair or member who is not performing adequately. (4.3)
13. Initial appointments to the GPhC should be for two or four years, followed by a rolling programme of biennial appointments, generally for a 4-year term. (4.4)
14. The GPhC should not be obliged to fill a casual vacancy in its membership where the remaining term of office is one year or less. (4.4)
15. The appointing body should be able to extend the term of office of a GPhC member in exceptional circumstances, for a maximum of 12 months, without a requirement for the extension to be publicised. (4.5)

Chair of the GPhC council

16. There should be no requirement for the chair to be either lay or registrant (5.1)
17. The chair should always be appointed (5.1)
18. The term of office for the Chair should be four years, with the potential for a further four years' re-appointment subject to satisfactory appraisal (5.2)
19. No specific position or job description should be created for a deputy chair or other officers, but the deputising arrangements that have appeared in the draft constitution orders so far should be replicated for the GPhC. The Chair and Council should have the discretion to identify one or two members with appropriate experience to support the Chair and act in his/her absence, with appropriate remuneration. (5.3)

Role of the Council and underpinning principles

20. The GPhC should adopt a version of the underpinning principles for health regulatory councils contained within the *Enhancing Confidence* White Paper working group report, with amendments as proposed by the GGWG to reflect the GPhC's forthcoming legislation, and also its adherence to the principles of policy governance and proportionality as recommended by CHRE. (6.1)

Council and staff roles

21. The council is statutorily accountable to the Westminster and Scottish Parliaments, as the representatives of the public, for all the organisation's actions (regulation of pharmacists and pharmacy technicians in Wales is covered by the Westminster Parliament, which will ensure the reports it

receives from the GPhC in furtherance of its statutory duty are placed before the Welsh Assembly). (7.2)

22. The council defines the organisation's policies, delegates their implementation and monitors to check that this is done but does not carry out the organisation's work. (7.2)
23. The role of the GPhC's staff is to assist the council in formulating its policies, implementing those policies and administering the GPhC's statutory responsibilities. The staff must be free to give honest and impartial advice to the council, without fear or favour. (7.3)
24. The council delegates activities to its staff, through the Chief Executive & Registrar (CE&R). The CE&R reports directly to the council and is accountable to the Council for the organisation's performance. All other staff members are accountable to the council through the CE&R. (7.4)
25. The CE&R should be given a level of authority consistent with this accountability. (7.5)

Chair's and Council members' job descriptions

26. The GGWG has provided a draft combined job description to Government officials. (8.1) The qualities sought should include the right motivations, the right levels of competence and the ability to operate at a strategic level. Lay members of council should not be regarded as a substitute for patient and public involvement. (8.2)

Induction, training and development

27. The initial GPhC induction programme should include the following elements:
 - Induction should begin with a two or three day induction event, and continue through the shadow period, with another event just before the new council goes live
 - The underlying principle that should run through the induction process should be the council's role in public protection, and the council members' corporate responsibility in this respect
 - The first day should begin with a session or sessions emphasising the role of the GPhC in promoting the wellbeing of the public and protecting patients through the maintenance of high standards in professional practice, and go on to explore the implications of this in terms of the members' role, responsibilities, conduct, and behaviour. This should be followed by a session outlining the background to the GPhC's establishment, the drivers for reform and the wider regulatory, social, economic, and political framework within which the GPhC will operate
 - Opportunity for informal networking/teambuilding
 - The second day should include taster sessions on:
 - areas of the GPhC's work;
 - pharmacy practice presentations;
 - the role of the new professional body and other stakeholder bodies;
 - legislation;

- rules & transitional arrangements; and
 - the future work programme in the shadow period to establish the council
- The third day, which should be held later on in the induction period, should include sessions on:
 - overall funding and financial matters
 - equality and diversity
 - reflection of devolution in the council's/organisation's work
 - management of interests
 - pharmacy practice (to complement sessions in first phase; members are likely to have more questions at this point) (9.3)
28. In addition, externally-delivered Policy Governance training, and facilitation of policy-setting, will be needed if this model is adopted by the council. (9.5)
29. Shortly before going live, the council should have a workshop that provides an opportunity for members to reflect together on their development to date and their experiences during the shadow period, and to discuss any issues that have emerged. (9.6)
30. All members should have the opportunity to carry out visits (e.g. for lay members to go to pharmacies, or for registrant members to experience other sectors of practice) to enhance their knowledge and experience. (9.7)

Remuneration and expenses

31. The remuneration policy should be the same for both lay and registrant members of the GPhC council. (10.2)
32. GPhC members should receive an annual remuneration, rather than a daily attendance fee. (10.3)
33. The annual remuneration should be:
- £12,000 for a council member, and
 - £48,000 for the Chair, to reflect the significant extra time commitment and responsibility that the role will demand. (10.4)
34. At the discretion of the Remuneration Committee, an exceptional additional provision, no greater than £2,500 p.a., should be payable to council members taking on significant extra responsibility as part of their role. (10.5)

Management of interests, gifts and hospitality

35. Members of the GPhC council and the Chief Executive & Registrar should be required to register relevant interests (*the Group has drafted a register template for the GPhC council's consideration*) and to declare such interests when appropriate so that those conducting business are aware of them. (11.2)
36. The Cabinet Office principles on the declaration of interests within meetings should be reflected in the council's standing orders and other governance guidance as appropriate. (11.3)

37. There should be no absolute proscription of any category of applicant; the Appointments Commission should rather judge applicants for GPhC council membership on a case-by-case basis. However, the literature should also make clear that certain categories of applicant, such as, for example, those who are members or employees of relevant representative organisations, would normally be considered to face an irreconcilable conflict of interest and so be ineligible, and the onus would be on such applicants to demonstrate how they could maintain the requisite independence and maintain public confidence in their work for the council despite this. (11.4)
38. Those appointing members of the GPhC council to undertake specific roles should bear in mind the need to minimise conflicts of interest. (11.5)
39. Management and declaration of interests should be covered in the council induction. (11.6)
40. Members of the GPhC council should be required to register for publication any gifts, hospitality or benefits received, in line with the agreed guidance, and the committees and the staff should work to policies that are no less transparent and rigorous. (11.7)
41. The following information should be provided to all GPhC council members and candidates for appointment:

“Gifts and hospitality

Members of council should not place themselves under any obligation to outside individuals or organisations that might influence them in the performance of their official duties or, just as importantly, that might give rise to a perception that they might be so influenced. Members should avoid accepting hospitality or gifts that might call into question their independence or impartiality.

Members of council should disclose for publication any gift, hospitality or benefit received. It is not necessary to record gifts with a value of less than £20 or hospitality such as a light lunch as part of a working event, but a declaration should be made every time the benefit provided is significant and could therefore be perceived as having an actual or potential influence on the conduct of a member of council. Members should err on the side of declaration if they are unsure whether or not to disclose”.

(11.7)

Code of Conduct

42. The GGWG has approved a briefing paper on council member codes of conduct, to inform the GPhC council's policy-setting in this area. (12.1)
43. If the GPhC council decides to adopt Policy Governance model then the code itself should be built on Policy Governance principles. (12.2)
44. The Code should begin with a statement to the effect that the core duty of a regulator is to protect the public, and that this duty should permeate every aspect of the council's work and should inform the rest of the Code. (12.2)

45. It should be clear that provisions around collective responsibility and the clear distinction of personal views from those of the council are non-negotiable and the GPhC Code will have to include these as a minimum. (12.2)

Suspension and removal of Council members

46. The GPhC Constitution Order should contain either an explicit provision that any registrant member who ceases to fulfil the criteria for registrant membership will cease to be a member, or a general provision along the lines of a person ceasing to be a member if s/he ceases to satisfy any criterion which s/he had to satisfy in order to be appointed. (13.2(i))
47. The GPhC Constitution Order should provide that a member of the GPhC council should cease to hold office if it is decided that he or she is no longer normally resident in the geographical area regulated by the GPhC. (13.2(ii))
48. Removal from the council should be automatic and immediate in those cases where it is not discretionary. This should be reflected by the Constitution Order saying in these cases, not that the member should be removed from office by the Privy Council, but simply that they should cease to be a member. (13.2(iii))
49. The GPhC council should draft its standing orders in such a way as to allow it to carry out preliminary investigation in cases where it is not clear whether or not there is any case for the Privy Council to consider, and by extension to permit itself to provisionally suspend members on one of the grounds that could potentially lead to formal suspension by the Privy Council, as a neutral interim measure before referring to the Privy Council. (13.3)

Raising concerns

50. The Group has approved a set of flowcharts for submission to the GPhC council that show how concerns involving council members (either as subject or complainant) might be routed. (14.1)

Council performance evaluation

51. The GPhC council should adopt a performance evaluation process based on brief self-evaluation at every meeting against the pre-established criteria set out in the GPhC council's policies, as prescribed in the Policy Governance model, together with an occasional wider review of the council's performance as a whole against the Underpinning Principles. (15.1)

Council member appraisal scheme

52. All GPhC council members should be required to participate in an appraisal process as a condition of their appointment. (16.1)
53. While the detail of the process will be a matter for the GPhC chair and council, it should at the minimum include:
- clear corporate and individual objectives
 - self-assessment against these objectives

- a review with the Chair, at which comments on performance would be recorded and any development needs identified
- an all-Council review of performance and behaviour towards the end of the year. (16.2)

Monitoring performance

54. The Group has produced proposals for how the GPhC council might monitor and evaluate the performance of the organisation in line with the Policy Governance model, for submission to the GPhC shadow council. (17.1)

Non-statutory committees

55. Non-statutory committees should be kept to a minimum. Task & finish groups to advise on specific issues should be preferred to standing structures. (18.1)
56. The GPhC should create three non-statutory committees: Audit, Remuneration and Appointments. The Group has produced draft proposals for each of these committees, for consideration by the GPhC council. (18.2)
57. The Appointments Commission should be asked to ensure that the council includes at least one member with the competency to chair each of the Audit and Remuneration committees. If this is not the case for either committee at any time, the council should give serious consideration to the appointment of an independent chair. The chair of the Audit Committee need not be an auditor but should be someone with relevant understanding. (18.3)
58. The Remuneration Committee should advise the council on the remuneration of council and committee members and the council should always seek the Committee's advice before deciding on these matters. (18.4)
59. An Education Committee should not be necessary and the GPhC should think seriously before creating any such committee. (18.5)
60. The RPSGB's Board of Examiners should be carried forward to the GPhC as an arm's length body so as to provide a robust quality assurance mechanism. (18.5)
61. The Appointments Committee should select, appoint and, where appropriate, terminate the appointments of: the statutory committees; The Board of Examiners, and non-council members of standing non-statutory committees. (18.6)

Devolution

62. An understanding of and appropriate response to the requirements of devolution must permeate and inform the eventual realisation of the Group's recommendations in the governance framework of the GPhC. (19.1)
63. The GPhC will need to demonstrate that it can be an effective regulator in all the countries within its remit, and must take due regard of the environment in each. If it is to gain the confidence of stakeholders it will need to field a

credible presence in each country, and to avoid any appearance of anglocentricity or tokenism. (19.2)

64. The GPhC must also be set up in such a manner that it could support a future decision either to extend its remit to Northern Ireland, or to leave Northern Ireland as a separate jurisdiction. (19.4)
65. The following principles should be taken into account when designing the devolved structures:
- It would seem essential to have a meaningful presence in each of the countries within the GPhC's remit
 - It would seem advisable to have a hub-and-spoke communications function which includes central oversight of communications in all the countries within the GPhC's remit (as well as management of EU matters from a GB perspective). (19.5)

Scheme of Delegation

66. The Group has approved a draft Scheme of Delegation for consideration by the GPhC council, based on the delegation framework within the Policy Governance model and taking account of the provisions within the consultation draft of the Pharmacy Order. (20.1)

Equality and Diversity

67. The Group has approved a draft Equality and Diversity Scheme for consideration by the GPhC council. Once finalised, this should be endorsed by the council and signed by the Chair and Chief Executive & Registrar, to demonstrate commitment at the highest level within the GPhC. (21.2)

Handling complaints

68. The Group has proposed a procedure for GPhC complaint handling. However, this on its own is not enough; it is vital that the GPhC should have a process in place to help it learn from complaints, as opposed to simply providing individual remedies as they arise. An organisation that is committed to providing good customer service will also seek to take general preventive measures to reduce the incidence of complaints. (22.1)
69. In addition to adopting the proposed complaints process, the GPhC should:
- submit regular summaries of complaints received, showing how these have been handled and highlighting those where the organisation's standards of response have not been adhered to, to senior management;
 - monitor that learning points have been picked up and implemented;
 - adopt a workshop-based process for learning from recurrent complaints
 - adopt e.g. customer care training as part of its overall customer care strategy; and
 - provide summary information on complaints received and their handling in its Annual Report. (22.2)

Membership of the Working Group

Rosie Varley OBE (Chair)	Acting Chair Chair Chair	CHRE (to Nov 2008) General Optical Council (to Nov 2008) General Social Care Council (from Nov 2008)
Sarah Bedwell	Director of Governance	Nursing and Midwifery Council
Douglas Bilton	Project Manager	Council for Healthcare Regulatory Excellence
Felicity Cox	Chair of Pharmacy Contract Negotiations	NHS Employers
Gareth Hadley	Commissioner	Appointments Commission
Ken Jarrold CBE	Chair	PRLOG
Mark Paulson	Head of Constitutional Affairs	Law Society
Mike Pollard	Devolved Administrations nominee	
Duncan Rudkin	Chief Executive & Registrar	General Dental Council
Elizabeth Dimond (in attendance)	MPI Pharmacy Regulation	Department of Health
Wendy Harris (in attendance)	Deputy Registrar and Director of Regulation	RPSGB
Bernard Kelly (in attendance)	Director of Finance & Resources	RPSGB
Christine Gray (secretariat)	Head of Corporate Governance	RPSGB (commissioned by DH)
Elaine Mulingani (secretariat)	Governance Coordinator	RPSGB (commissioned by DH)

The Policy Governance Model¹

Boards tend to be incompetent groups of competent individuals. The vast majority of board members arrive at the table with ideals and values, and are determined to be leaders and make a difference. However, it is all too easy for them to end up expending their energies at the board table on operational detail and procedural digression, where they focus on activities rather than the intended results – often with a nagging awareness that something is not quite right. They can seem to exist to (e.g.) lend their prestige to organisations, to rubber stamp management desires or to micromanage.

John Carver's Policy Governance model seeks to rectify this by getting boards to understand governance differently, and then to change what they do. Its central tenet is that the board exists (usually on someone else's behalf) to be accountable that its organisation works. On behalf of the ownership, the board has total authority over, and total accountability for, the organisation. That accountability is to the organisation's owners, either legal or moral -- for a health care regulator, this would mean accountability to the public via Parliament/s. Carver recommends that the board use the CEO as the single point of delegation and hold this position accountable for meeting all the board's expectations for organisational performance.

Being accountable in leadership of the organisation requires the board (1) to be definite about its performance expectations, (2) to assign these expectations clearly, and then (3) to check to see that the expectations are being met.

Using the Ends/Means distinction

The Policy Governance model posits that all decisions taken within an organisation can be classified as those that define organisational purpose (which is narrowly and carefully defined), and those that don't.

Decisions that describe:

- the **intended consumer results** of the organisation, e.g. shelter from the elements
- the **intended recipients of such results**, e.g. low income families
- the **worth of the intended results**, e.g. in monetary cost or priority against other results

are called "ends". Ends are always about the changes for persons to be made outside the organisation, along with their cost or priority. Ends never describe the organisation itself or its activities. In a school, for example, which students should acquire what knowledge at what cost are ends issues.

Any decision that is not an ends decision is a "means" decision. In a school, the choice of curriculum, teachers' credentials, and classroom layout are means issues.

The board is accountable for and must exercise control over both ends and means, so having the ends/means distinction does not in itself relieve boards from any responsibility. Some means can be unacceptable (imprudent or unethical) even if they do work, such as improper treatment of people or assets. Therefore, it is the board's job to examine its values to determine those means which it does not want in its organisation, then to name them. The board can then tell its CEO that as long as

the ends are accomplished and the unacceptable means do not occur, the CEO can make all further decisions in the organisation that he or she deems wise.

The board controls the organisation's ends and means in different ways (using stakeholder, staff and other expert input) as follows:

- a. the board makes Ends decisions in a proactive, positive, prescriptive way -- the resulting documents are called "Ends policies."
- b. the board makes means decisions about its own job in a proactive, positive, prescriptive way – the resulting documents are called "Governance Process policies" (about the board's own job) and "Board-Staff Linkage policies" (about the relationship between governance and management). Both of these categories are means, but they concern means of the board, not the staff.
- c. the board makes decisions about the staff's means in a proactive, but proscriptive and boundary-setting way. Because these policies set forth the limits of acceptable staff behaviour, that is, the unacceptable means, the board documents thus produced are called "Executive Limitations policies."

These categories of board policies are exhaustive. Thus, when Carver says a board is responsible for ensuring that its organisation works, he simply means that the organisation:

- (1) accomplishes the intended results for the intended people at the intended cost or priority—expressed in the board's Ends policies; and that it
- (2) avoids unacceptable methods, conduct, activities, and circumstances—unacceptable means expressed in the board's Executive Limitations policies.

Expressing expectations in nested sets

One Ends statement of a board might be that persons without shelter should have adequate housing. Another might be that families with school age children should have housing that allows children of different genders to sleep in separate rooms. The second example is more detailed, or "narrower," than the first. These two statements can be pictured as a set of nested bowls, in that the first is a broader value that includes the second one within it. Even more detailed choices exist within the second level, and so on to third, fourth, until the specificity reaches a level where Mr. Smith rather than Mr. Jones gets a particular amount of shelter next week.

In the Policy Governance model, a board begins its policy making in all four categories by making the broadest, most inclusive statement first. The board then considers the range of interpretation that such a statement allows, and determines whether it is comfortable with the statement being given *any* interpretation that is reasonable. If the board would be uncomfortable delegating such a range, that is a signal that the board must define its words more narrowly, moving into more detail one level at a time. At some point, the board will have narrowed its words to the point that it can accept any reasonable interpretation of those words, and can delegate.

Ends and Executive Limitations are delegated to the CEO, who is held accountable by the board for accomplishing any reasonable interpretation of the board's expectations in these areas. Governance Process and Board-Staff Linkage policies are delegated to the board Chair, who is given authority to ensure that the board governs in accordance with its own expectations of itself.

Monitoring, evaluation and review

Once the board has created its policies, its job is to monitor, evaluate and review them, to ensure that the ends are being fulfilled. For each Ends and each Executive Limitations policy, the board will have set a frequency and a method of monitoring, after which the process runs automatically. This usually takes the form of a report given at the board meeting by the CEO on a particular policy, in which the CEO will explain how he or she has chosen to interpret what compliance with the policy might look like, and provide the evidence to show whether or not the organisation is complying or not. For example, a policy about diagnosis for a hospital trust board might state that *“People presenting to us have their conditions diagnosed accurately, speedily and safely.”* The CEO’s report would start by explaining how he would break down and interpret *“accurately, speedily and safely”* in this context, (to give a very brief example, you might define “speedily” by saying something like *“No patient should wait longer than 4 weeks for a diagnostic test by March 2009”*). He or she would then go on to provide data to show how the organisation had or had not complied with these expectations.

Summary

Boards have a critical job to do. Describing purpose and ethics/prudence boundaries, and forming those values into clear policies, is far harder than telling the staff how to do its job, which can never substitute for the board getting its own job done. Speaking proactively for the ownership requires boards to make a commitment not to take reactive refuge in rituals, reports, and approvals.

¹ This document is based on Carver’s Policy Governance Model in Nonprofit Organisations (www.policygovernance.com), and was also informed by Boards that Make a Difference (Carver 2006)

Responsibilities and domains of the Council, Chair and Chief Executive & Registrar

