
Council meeting 12 April 2012

04.12/C/06

Public business

Review of Scheme of Delegation

Purpose

To consider changes to the Council's Scheme of Delegation.

Recommendation

The Council is asked to approve the revised version of the Scheme of Delegation at appendix 1.

1.0 Background

- 1.1 The Pharmacy Order 2010 imposes statutory functions on the Council of the General Pharmaceutical Council and on its Registrar. In practice, many of these functions will be carried out by the GPhC's employees, within the terms of the legislation and the policies set by the Council. The success of this arrangement depends upon effective delegation and monitoring. The Council's Scheme of Delegation ('the Scheme') is intended to facilitate the efficient and effective functioning of the GPhC. The Scheme is now due for review. The changes proposed are based on experience since the GPhC became operational.
- 1.2 The *Enhancing Confidence in Healthcare Professional Regulators* report¹ (para 2.2) recognised the importance of effective delegation to allow a council to take on the strategic, board-like role envisaged in *Trust, Assurance and Safety*.

¹ Niall Dickson, King's Fund and DH – regulation, workforce (2008). *Implementing the White Paper 'Trust, Assurance and Safety': Enhancing confidence in healthcare professional regulators – final report and DH response to recommendations*, London: Department of Health

'The role of a council should be to set the direction of the organisation in line with its mission and purpose. It should ensure systems are in place to enable it to monitor performance and hold the executive to account. It should also ensure probity. Some regulators already have established schemes of delegation to achieve this, and it is recommended that this should apply to all regulators.'

1.3 The Scheme takes account of other factors relating to the GPhC's functions under the Pharmacy Order 2010:

- making rules is a statutory responsibility of the Council itself and cannot be delegated. Other functions would be expected to be discharged by the Council eg. setting standards;
- some functions are the statutory responsibility of the Registrar. These are not covered in the Scheme but are summarised in Annex A for ease of reference;
- some functions are carried out by statutory committees, while others are delegated to non-statutory committees.

1.4 The Scheme is based on subsidiarity, so as to maximise effectiveness and efficiency, and to allow the GPhC to respond promptly to changes in circumstances. This means that decisions are taken at the lowest level which is competent to take them, enabling the Council to focus on those tasks that only the Council can or should perform, such as determining vision, values and strategy, setting professional standards, making rules, and holding the executive to account through systematic monitoring.

1.5 Other than where functions are delegated to committees or other structures, the Council regards the CE&R as its single point of delegation and holds this position accountable for meeting the Council's expectations for organisational performance. The CE&R may delegate functions further but will be held accountable by the Council for the discharge of all functions delegated to him under the Scheme. This accountability is demonstrated through monitoring reports submitted to the Council, using performance criteria agreed by the Council.

2.0 **Key considerations**

2.1 The draft revised Scheme is at appendix 1. The proposed changes are summarised below.

2.2 *Appointment of the Chief Executive & Registrar*

The current Scheme states that 'appointing or removing the Chief Executive & Registrar' is reserved to the Council. However, it would not be practicable for the Council as a whole to conduct an appointment exercise, and it would be

helpful to agree an appointment process before it is needed. It is proposed that the Council delegates the appointment of the CE&R to an appointments team led by the Chair and including two other Council members (one lay, one registrant) plus an external assessor, advised by the Head of Organisational Development. The membership of the appointment team would be approved by the Council at the outset of the appointment process. An outline of the proposed process to be followed by the appointment team has been developed by the Chair of Council and the Head of Organisational Development, although this would be reviewed by the appointment team at the start of the process. The removal of a CE&R would remain reserved to the Council. – see sub-para 4.3 (xxxiv) & (xxxv).

2.3 *Procedure for organisational complaints*

In April 2010, the Council ratified a number of decisions taken previously by the Council designate. These included a process for handling complaints received about the workings of the GPhC as an organisation, as opposed to complaints about registrants or appeals against fitness to practise or registration decisions. A report covering statistics and handling of such complaints, together with our approach to lessons learnt, is submitted to the Council annually. Information on such complaints also appears in the regular performance monitoring reports. The current Scheme does not mention the procedure for handling organisational complaints but, for the future, it would seem appropriate for the Council to delegate the procedure for dealing with organisational complaints to the CE&R. The Council would continue to receive reports on this topic, as now - see sub-para 5.2 (xxxviii).

2.4 *Expenses guidance for witnesses*

The guidance for witnesses in fitness to practise cases on expenses claimable was carried over from the RPSGB and differs from the general expenses policy for Council members and associates. It is not mentioned in the current Scheme but it would seem appropriate for this to be delegated to the CE&R so that it can be revised when required – see sub-para 5.2 (xxxix).

2.5 *Selecting visitors to visit particular education and training providers*

The current Scheme gives the CE&R delegated authority to select visitors, from the list of existing appointees, to visit particular places, institutions or other providers for purposes relating to education, training, assessments or tests. This is retained in the revised Scheme but the wording has been adjusted to reflect the new arrangements for appointment of visitors, agreed by the Council as part of the governance framework for associates – see sub-para 5.2 (xi).

2.6 *Selecting panel members to hear particular cases*

The current Scheme gives the CE&R delegated authority to appoint, from members appointed by the Appointments Committee, the members of any panel to hear particular appeals or conduct particular fitness to practise proceedings. The wording of this delegation has been adjusted to make clear that the CE&R would exercise this authority in line with any decisions on the composition of panels made by the chair of the Fitness to Practise Committee under the Statutory Committees and their Advisers Rules – see sub-para 5.2 (lix).

2.7 *Appointments Committee*

The wording of the delegation to the Appointments Committee has been adjusted slightly to match the wording of the committee's remit as agreed by the Council in February 2012 but there is no material change – see para 6.3.

2.8 *Transitional provision on education and training for pharmacy technicians*

The current Scheme reserves to the Council the function, under Sch 5, para 7(3) of the Pharmacy Order, of determining criteria to which the Registrar must have regard when deciding whether a course provides a person with a reasonable foundation for employment as a pharmacy technician or whether a person possesses the requisite knowledge, skills and experience for registration as a pharmacy technician. This has been removed from the revised Scheme as it related to the grandparenting arrangements for pharmacy technicians and, as such, no longer applies.

3.0 **Equality and diversity implications**

3.1 The Scheme requires that all powers delegated under it must be exercised in a manner which is consistent with relevant legislation and the Council's policies. This should ensure that decisions and actions taken comply with legislation relating to equality and diversity and with the Council's equality and diversity scheme.

4.0 **Communications implications**

4.1 The Scheme is published on the GPhC's website. This helps to demonstrate the GPhC's commitment to making best use of resources and to being able to act promptly and effectively.

5.0 **Resource implications**

5.1 The Scheme is intended to enhance the organisation's efficiency and help ensure that resources are used effectively.

6.0 Risk implications

- 6.1 The adoption and maintenance of a scheme of delegation should assist in mitigating the risks that might otherwise be associated with ill-defined responsibilities for decision-making and unclear accountabilities.

Recommendation

The Council is asked to approve the revised version of the Scheme of Delegation at appendix 1.

*Christine Gray, Head of Governance
General Pharmaceutical Council
christine.gray@pharmacyregulation.org , tel 020 3365 3503*

28 March 2012

DRAFT

Scheme of Delegation

1. Introduction

1.1 The Scheme sets out:

- Matters reserved to the Council;
- Matters delegated to the CE&R which may also be carried out by persons nominated by the CE&R; and
- Matters delegated to committees or other structures.

2. Withdrawal of delegated power

2.1 The Scheme remains in force unless and until it is amended or revoked by the Council.

3. Exercise of delegated power

3.1 Where power is delegated under the Scheme, the power must be exercised in a manner which is consistent with relevant legislation, including the Pharmacy Order 2010 ('the Order'), the General Pharmaceutical Council (Constitution) Order 2010 ('the Constitution Order') and with the Council's policies. References in the Scheme to powers under legislation are references to the Pharmacy Order 2010 unless otherwise stated.

3.2 In particular, the decision-maker must have regard to art 6(1) of the Order which provides that the GPhC's main objective, in exercising such of its functions as affect the health, safety or well-being of members of the public, is to protect, promote and maintain the health, safety and well-being of members of the public, and in particular of those members of the public who use or need the services of registrants, or those provided at a registered pharmacy, by ensuring that registrants and those persons carrying on a retail pharmacy business at registered pharmacies adhere to such standards as the Council considers necessary for the safe and effective practice of pharmacy.

3.3 The decision-maker must also recognise that lawful exercise of a statutory power requires not only formal compliance with the conditions laid down for its performance but also with the principle that all statutory powers must be exercised in good faith, in a reasonable manner and for their proper purpose.

4. Matters reserved to the Council

4.1 The Council retains responsibility for determining the strategy of the GPhC and setting the GPhC's policy, to a level where the Council can accept any reasonable interpretation of its policy.

4.2 The power to make rules under the Order is reserved to the Council by virtue of arts 4(7) and 18(3) of the Order and cannot be delegated.

4.3 In addition to making rules, the Council retains responsibility for the following functions which, to the extent that it is lawful to do so, may only be delegated by means of a specific resolution of the Council:

- i) Setting the standards to be met in connection with the carrying on of a retail pharmacy business at a registered pharmacy (art 7(1));
- ii) Setting standards of proficiency for the safe and effective practice of pharmacy which it is necessary for a person to achieve in order to be entered in Part 1 or 2 of the register as a pharmacist or, as the case may be, a pharmacy technician (art 42(1)(a));
- iii) Setting standards of education, training & experience that providers must meet to enable a person to achieve the standards of proficiency set under art 42(1)(a) and any requirements to be satisfied for participation in education & training for prospective pharmacists or pharmacy technicians (art 42(1)(b));
- iv) Setting the criteria by reference to which the standards of education, training & experience that providers must meet to enable a person to achieve the standards of proficiency set under art 42(1)(a) are set (art 42(6)(a));
- v) Setting standards of proficiency for the safe and effective practice of pharmacy which it is necessary for a registrant to maintain in order to have an entry in Part 1 or 2 of the register renewed (art 43(1)(a));
- vi) Setting standards relating to the conduct, ethics and performance expected of registrants (art 48(1)(a));
- vii) Setting standards of continuing professional development which it is necessary for a registrant to maintain in order to continue to meet the standards of proficiency set under art 43(1)(a) (art 43(1)(b));
- viii) Setting criteria by reference to which compliance with the standards of continuing professional development (CPD) set under art 43(1)(b) is to be monitored (art 43(3)(a));
- ix) Adopting and maintaining a framework relating to requirements and conditions to be met by registrants in respect of their CPD (arts 43(4)(a) & (5));
- x) Requiring registrants to complete an annual declaration of compliance with the framework and to submit their CPD records to the Registrar for review (art 43(4)(b));
- xi) Approving rules, standards and criteria for the purposes of consultation (arts 5(1), 36(6), 43(3)(a), 66(3));
- xii) Setting the criteria to be taken into account in deciding whether to grant approvals of courses, qualifications, tests, providers or premises under art 42 (art 42(6)(b));
- xiii) Refusing or withdrawing approval of a course, qualification, test, institution or other provider (art 47(2)(b));
- xiv) Determining the programmes, courses, education, training or experience required to obtain an annotation in respect of a specialisation (art 44(1)(a)(i)-(ii));
- xv) Approving qualifications outside Great Britain as attesting to a standard of proficiency that it is necessary to achieve in order to be entered in Part 1 or Part 2 of the register (arts 21(1)(d)(i) and 22(1)(c)(i));

- xvi) Agreeing guidance to registrants, employers or others in respect of the standards for the education, training, supervision and performance of persons who are not registrants but who provide services in connection with those provided by registrants (Sch 1, sub-para(6)(2));
- xvii) Determining threshold criteria stating types of allegations that should not be referred to the Investigating Committee (art 52(2)(a));
- xviii) Determining, in the light of advice from the Appointments Committee, the minimum competencies required for appointment as a chair, deputy chair or other member of a statutory committee (Sch 1, para 5(1) and Statutory Committees and their Advisers Rules, R9);
- xix) Approving the procedure for suspension or removal of a statutory committee member, or the removal of a person on a reserve list, by the Appointments Committee (Sch 1, para 5(1) and Statutory Committees and their Advisers Rules, R14);
- xx) Approving any report, plan or accounts to be submitted to the Privy Council (Sch 1, paras 7(4) & 8(2));
- xxi) Approving the GPhC's equality and diversity scheme (Sch 1, para 3(1));
- xxii) Determining fees to be charged in connection with entry to the pre-registration scheme and registration examination for prospective pharmacists, and the assessment of overseas-qualified pharmacists (art 65(1));
- xxiii) Approving the Council's annual budget and business plan (Sch 1, para 3(1));
- xxiv) Approving the Council's standing financial instructions (Sch 1, para 3(1));
- xxv) Appointing the external and internal auditors, following consideration of any recommendation of the Audit & Risk Committee (Sch 1, para 7(3));
- xxvi) Approving all borrowing of monies by the GPhC, with the exception of any overdraft which is offset against funds in other GPhC accounts (Sch 1, para 3(2)(a));
- xxvii) Acquiring or disposing of any freehold or leasehold interest in land and property or other interest in land (Sch 1, para 3(1));
- xxviii) Determining the remuneration and expenses policies applying to members of the Council (Sch 1, sub-para 3(2)(g)); statutory committees (Sch 1, sub-para 3(2)(h)); non-statutory committees, sub-committees or working groups (Sch 1, sub-para 3(2)(g)); assessors ('examiners') (art 44(1)(c)), visitors (art 45(13)) and advisers (Sch 1, sub-para 3(2)(j));
- xxix) Approving the Council's scheme of delegation (Sch 1, para 3(1));
- xxx) Monitoring strategic risks to the achievement of the Council's objectives (Sch 1, para 3(1));
- xxxi) Approving the Council's standing orders and any other policies regulating the Council's own procedures (Sch 1, sub-para 3(5));

- xxxii) Establishing or abolishing any non-statutory committee, sub-committee or working group of the Council and agreeing its remit, terms of reference and standing orders (art 4(7) and Sch 1, sub-paras 3(2)(d)-(f));
 - xxxiii) Appointing, or agreeing arrangements for the appointment of, members to any non-statutory committee, sub-committee or working group (art 4(7) and Sch 1, sub-paras 3(2)(d)-(f));
 - xxxiv) Appointing an appointment team led by the Chair of Council and including two other Council members (one lay, one registrant), and an external assessor, advised by the Head of Organisational Development, to define and oversee the recruitment and appointment process for the Chief Executive & Registrar and to make this appointment (art 18(1));
 - xxxv) Removing the Chief Executive & Registrar (art 18(1));
 - xxxvi) Suspending a member provisionally under standing orders, pending a decision of the Privy Council on whether or not to suspend that member (GPhC Constitution Order, para 7(4));
- 4.4 The Council is also responsible for making decisions in relation to any matter in which the person who would otherwise have delegated authority to act has an actual or potential interest.

5.0 Matters delegated to the Chief Executive & Registrar (art 18(3))

- 5.1 Unless specifically delegated elsewhere, decisions within the Council's policies are delegated to the CE&R, who is held accountable by the Council for accomplishing any reasonable interpretation of the performance criteria agreed by the Council in relation to its strategy and policies.
- 5.2 The CE&R has responsibility, within the Council's policies, for:
- i. Determining the information to be contained in lists derived from the register (art 19(6));
 - ii. Establishing arrangements for the publication and inspection of lists derived from the register (art 19(7));
 - iii. Notifying all GB providers concerned with the education & training of prospective registrants of the standards and requirements set by the Council under art 42(1)(b) (art 42(3)(a));
 - iv. Taking steps to satisfy the Council that the standards and requirements it has set under art 42(1)(b) are being met (art 42(3)(b));
 - v. Publishing the criteria by reference to which the standards of education, training & experience that providers must meet to enable a person to achieve the standards of proficiency set under art 42(1)(a) are set (art 42(6)(a));
 - vi. Publishing the criteria to be taken into account in deciding whether to grant approvals of courses, qualifications, tests, providers or premises under art 42 (art 42(6)(b));
 - vii. Maintaining and publishing the Council's list of approved courses, qualifications,

- institutions, providers and tutors, and those which were approved but are no longer approved, together with the periods for which approval was given (art 42(7));
- viii. Approving, or arranging with others to approve:
- courses of education or training which would confer the standards of proficiency for the safe and effective practice of pharmacy set by the Council (art 42(4)(a));
 - such other courses of education or training as the Council considers appropriate(art 42(4)(b));
 - qualifications granted following success in an assessment taken as part of an approved course (art 42(4)(c));
 - such tests of competence, or of proficiency in the knowledge and use of English, as the Council may require (art 42(4)(d));
 - institutions or other providers, including tutors, of postgraduate education and training leading to an approved qualification, including determining that such providers are properly organised and equipped for conducting the whole or part of an approved course (art 42(4)(e));
 - premises as suitable for postgraduate education & training leading to an approved qualification (art 42(4)(f));
 - a course of education or training run outside GB which is intended to lead to an approved qualification, or an institution or other provider of such a course of education or training (art 42(5)(a)-(b));
- ix. Imposing probationary or remedial arrangements or conditions on an institution or other provider in relation to a course, qualification or test (art 47(2)(a)), subject to the Registrar notifying the Council of the use of this delegated power;
- x. Establishing, maintaining and publishing lists of premises to be used as training establishments (art 44(2));
- xi. Appointing visitors from those appointed under the governance arrangements for associates to visit any particular place, institution or other provider for the purposes of the Order relating to education, training, assessments or tests (art 45(4) & (6));
- xii. Sending visitors' reports to the institution or other provider concerned and notifying it of the period within which it may comment on the report (art 45(9));
- xiii. Publishing visitors' reports and any responses to such reports, where the respondent has asked for this to be published (art 45(12));
- xiv. Notifying an institution or other provider when the GPhC is considering imposing probationary or remedial arrangements or conditions, or is considering refusing or withdrawing approval of a course, qualification, test, institution or provider, and informing it of the period within which it may make observations on the matters raised (art 47(4));
- xv. Notifying an institution or other provider of a decision to impose probationary or remedial arrangements or conditions, or to refuse or withdraw approval of a course, qualification, test, institution or provider, and of the right of appeal (art 47(6));
- xvi. Using best endeavours, when approval of a course, institution or provider is withdrawn, to secure that any person undertaking that course or studying with that institution or provider at the time is given the opportunity to attend an approved course conducted by an approved institution or provider (art 47(8));

- xvii. Determining the education, training or experience required to address fitness to practise matters (art 44(1)(a)(iii));
- xviii. Issuing confirmation of good standing to registrants (art 19);
- xix. Determining whether an exempt person is 'appropriately qualified' as a pharmacist or as a pharmacy technician under the General Systems Regulations (arts 21(1)(c) and 22(1)(b));
- xx. Determining whether an exempt person is 'appropriately qualified' as a pharmacist where that person does not have a qualification in pharmacy which has been designated by the Privy Council as an approved qualification and who does not fall under the General Systems Regulations (art 21(1)(d)(ii)(aa));
- xxi. Determining whether an exempt or non-exempt person is 'appropriately qualified' as a pharmacist where that person holds a qualification in pharmacy obtained outside Great Britain which has not been approved by the Council as attesting to the standard set by the Council (art 21(1)(d)(ii)(bb));
- xxii. Determining whether an exempt person is 'appropriately qualified' as a pharmacy technician where that person does not fall under the General Systems Regulations (art 22(1)(c)(ii)(aa));
- xxiii. Determining whether an exempt or non-exempt person is 'appropriately qualified' as a pharmacy technician where that person holds a qualification in pharmacy obtained outside Great Britain which has not been approved by the Council as attesting to the standard set by the Council (art 22(1)(c)(ii)(bb));
- xxiv. Determining whether an applicant for registration should meet additional education requirements and determining the nature of those requirements (art 20(1)(a)(iii)), which may include achieving adequate proficiency in the English language (arts 21(6) and 22(4));
- xxv. Determining, during the transitional period specified in the education procedures, whether a prospective pharmacist should be granted a fourth attempt at the registration assessment in exceptional circumstances (Sch 1, para 3(1));
- xxvi. Determining the form and manner of application for registration (including annotation of the register), renewal of registration, voluntary removal from and restoration to the register and the information to be provided (arts 23(1)(a), 27(1)(b), 31(1)(a), 37(3)(a));
- xxvii. Publishing criteria agreed by the Council to which the Registrar is to have regard for the purpose of determining whether a course of education or training provides, or would provide, a person with a reasonable foundation for employment as a pharmacy technician or whether a person possesses the requisite knowledge, skills and experience for bring registered as a pharmacy technician (Sch 5, para 7(3));
- xxviii. Determining the form of notices of registration (art 26(1));
- xxix. Consulting upon rules, standards and criteria approved for consultation by the Council (arts 5(1), 36(6), 43(3)(a), 66(3));

- xxx. Publishing the standards or criteria set and rules made by the Council (arts 36(2), 42(2), 43(2), 43(3)(b), 48(2));
- xxxi. Publishing the CPD framework adopted by the Council (art 43(6));
- xxxii. Conducting and defending all proceedings brought by or against the GPhC in any court, tribunal or arbitration (Sch 1, para 3(1));
- xxxiii. Instituting criminal prosecutions under any enactment (Sch 1, para 2(b));
- xxxiv. Advising the Appointments Commission that a person has ceased to be a member of the Council (Constitution Order, para 6);
- xxxv. Notifying the Privy Council if the Council has suspended a member provisionally under standing orders, pending a decision of the Privy Council on whether or not to suspend that member (Constitution Order, para 7(5));
- xxxvi. Terminating a provisional suspension of a Council member under standing orders if the Privy Council decides not to suspend that member (Constitution Order, para 7(6));
- xxxvii. Maintaining and publishing the register of members' interests, including gifts and hospitality (Sch 1, para 4);
- xxxviii. Approving the procedure for dealing with organisational complaints (Sch 1, para 3(1));
- xxxix. Approving guidance on expenses for witnesses (Sch 1, para 3(1));
 - xl. Arranging any insurance on behalf of the GPhC (Sch 1, para 3(1));
 - xli. Tendering, awarding and varying contracts (Sch 1, para 3(1));
 - xliv. Approving the terms of any other agreements or transaction (Sch 1, para 3(1));
 - xlvi. Approving the Council's bank mandates (Sch 1, para 3(1));
 - xlv. Managing any property owned by the GPhC or in which the GPhC has an interest including the submission of planning and building consent applications (Sch 1, para 3(1));
 - xlv. Determining and administering the GPhC's employment procedures and processes (Sch 1, para 3(2)(c));
 - xlvi. Appointing or removing all other employees of the GPhC (Sch 1, sub-para 3(2)(c)), including inspectors (art 8(1)) and any Deputy Registrar (art 18(4));
 - xlvi. Determining the remuneration packages and terms & conditions for employees of the GPhC, within the overall remuneration framework agreed by the Remuneration Committee (Sch 1, sub-para 3(2)(i));
 - xlvi. Determining the remuneration packages and terms & conditions for non-employees who are not covered by the Remuneration Committee's remit (such as CPD

- reviewers, medical assessors, adjustments panel, pharmacy technician application evaluators, overseas applications panel, question writers) (Sch 1, sub-para 3(2)(i));
- xlix. Keeping the accounts and preparing the annual accounts of the GPhC (Sch 1, sub-para 7(3));
- I. Administering the GPhC's finances including, but not limited to, the day to day control of those finances (Sch 1, para 3(1));
- li. Approving the GPhC's Welsh Language Scheme (Sch 1, para 3(1));
- lii. Approving the annual report to the Welsh Language Board on how we have met our obligations under the Welsh Language Scheme (Sch 1, para 3(1));
- liii. Approving the GPhC's Publication Scheme under the Freedom of Information Act 2000 (Sch 1, para 3(1));
- liv. Approving submissions to the CHRE performance review (Sch 1, para 3(1));
- lv. Approving fees to be charged under art 65(1) of the Pharmacy Order other than charges in connection with entry to the pre-registration scheme and registration examination for prospective pharmacists, and the assessment of overseas-qualified pharmacists (art 65(1));
- lvi. Publishing the GPhC's reports, plans and accounts approved by the Council for submission to the Privy Council (Sch 1, paras 7(4)(a) & 8(1));
- lvii. Publishing or providing information about the regulation of pharmacists, pharmacy technicians and pharmacy premises (Sch 1, para 3(1));
- lviii. Publishing or providing guidance agreed by the Council to registrants, employers or others in respect of the standards for the education, training, supervision and performance of persons who are not registrants but who provide services in connection with those provided by registrants (Sch 1, para(6)(2));
- lix. Appointing, from members appointed by the Appointments Committee, the members of any panel to hear particular appeals or conduct particular fitness to practise proceedings, in line with any decisions on the composition of panels to hear particular cases made by the chair of the Fitness to Practise Committee under the Statutory Committees and their Advisers Rules (Sch 1, para 5);
- lx. Determining the form of documents provided for in rules covering the procedures and rules of evidence of the statutory committees (art 61(6));
- lxi. Making arrangements for the GPhC to be represented at any appeal or fitness to practise proceedings (art 61(2));
- lxii. Publishing the particulars of orders and decisions made by the Investigating, Fitness to Practise and Appeals committees, and the reasons for them (arts 40(11)-(12), 54(5)(c), Sch 1, para 3(1)), ;
- lxiii. Requiring information or documentation from a registrant or a third party to assist the GPhC in carrying out functions under the Order (art 49(1));
- lxiv. Seeking a court order where a person has failed to provide information or

documentation required under art 49(1) from a registrant or a third party to assist the GPhC in carrying out functions under the Order (art 49(4));

- lxv. Disclosing information relating to the fitness to practise of particular registrants, of all registrants or of groups of registrants, in the public interest (art 50(1)-(2));
- lxvi. Seeking an extension by a court of an interim order made by the Fitness to Practise committee (art 56(5));
- lxvii. Determining the means of disposal of proceedings in respect of a fitness to practise allegation which, immediately before the transfer of regulation from the RPSGB to the GPhC, are pending before the RPSGB or any of its committees or have begun but in respect of which the RPSGB or the committee dealing with the case has not communicated its decision to the person who is the subject of the proceedings (Sch 5, para 12);

6.0 Matters delegated to non-statutory committees or structures

6.1 *Audit & Risk Committee*

The Audit & Risk Committee has responsibility, within the Council's policies, for (art 4(7) and Sch 1, para 3(1)):

- monitoring the Council's risk management arrangements;
- approving the internal audit programme; and
- advising the Council on the comprehensiveness and reliability of assurances and internal controls, including internal and external audit arrangements, and on the implications of assurances provided in respect of risk and control.

6.2 *Remuneration Committee*

The Remuneration Committee has responsibility, within the Council's policies, for (art 4(7) and Sch 1, para 3(1)(g)-(j)):

- approving or rejecting the remuneration packages, including the basis on which performance would be assessed and any bonuses awarded, for the Chief Executive & Registrar and those directors who report directly to the Chief Executive & Registrar;
- approving or rejecting the overall remuneration framework for the remainder of the GPhC's employees;
- advising the Council on remuneration policy for Council members, non-statutory committee members, and those associate groups established under legislation (statutory committee members, legal and clinical advisers to statutory committees, assessors and visitors), including advising on appropriate remuneration for any recipients of honoraria;
- advising the Council on the single expenses policy for the GPhC.

6.3 **Appointments Committee**

The Appointments Committee has responsibility, within the Council's policies, for (art 4(7) and Statutory Committees and their Advisers Rules, R6, 9 & 14):

- selecting and appointing appropriate persons to serve as members of the statutory committees, including as chairs and deputy chairs;
- maintaining a reserve list of appropriate persons eligible to serve on each of the statutory committees;
- submitting, for the Council's approval, the procedure for suspension or removal of a member of a statutory committee, or a person on a reserve list;
- where appropriate, suspending or removing from office members, including chairs and deputy chairs, of the statutory committees or removing persons from a reserve list;
- overseeing procedures for the training, development, performance review and appraisal of members, including chairs and deputy chairs, of the statutory committees and, as appropriate, training for persons on reserve lists; and
- advising the Council on the minimum competencies required for appointment as a chair, deputy chair or other member of a statutory committee, having regard to best practice on competencies required for membership of quasi-judicial committees, as disseminated by the Judicial Studies Board or the CHRE or any successor bodies.

6.4 **Board of Assessors**

The Board of Assessors has responsibility, within the Council's policies, for:

- Developing and holding or causing to be held registration assessments (art 44(1)(b));
- Determining the arrangements under which assessments under art 44(1)(b) will be held including: dealing with disciplinary matters relating to candidates or prospective candidates; agreeing adjustments for candidates with specific needs related to disability or health; considering candidate appeals and awarding results (art 44(1)(b)).

Annex A

Statutory duties and powers of the Registrar under the Pharmacy Order 2010

The duties and powers of the Registrar under the Pharmacy Order 2010 are summarised below. They are not included in the Scheme of Delegation as they are statutory functions of the Registrar but are shown here for ease of reference. The Registrar will also have statutory functions under rules and other legislation such as the Medicines Act 1968.

Non-compliance with improvement notices

On being notified that an inspector is reasonably satisfied that a person carrying on a retail pharmacy business has failed to comply with an improvement notice issued under art 13 of the Order, the Registrar may:

- a) remove the entry of the pharmacy from the Register; or
- b) suspend the entry pending compliance by the person with such requirements or conditions as the Registrar considers necessary to impose.

Where the Registrar removes or suspends a pharmacy's entry, he must send the person concerned a notice stating the reasons for the suspension or removal and the right of appeal to the Appeals Committee (arts 14(2)-(3)).

Establishment, maintenance of and access to the Register

The Registrar must:

- establish and maintain the Register of pharmacist, pharmacy technicians and pharmacy premises (art 19(1))
- in such manner as the Registrar sees fit, compile lists comprising information in or derived from entries in the Register (art 19(5)).

Entitlement to entry in Part 1 or Part 2 of the Register

The Registrar is to determine whether applicants are entitled to be entered in Part 1 or, as the case may be, Part 2 of the Register (art 20(1)) and to determine whether such entries may be renewed (art 20(2)).

The Registrar may, in certain circumstances, require an applicant for registration to undertake additional education, training or experience (art 20(1)(a)(iii)).

Pre-entry requirements in respect of qualifications and additional education, training or experience: pharmacists

The Registrar may require:

- certain applicants for registration holding overseas qualifications to undertake additional education, training or experience (art 21(1)(d)(ii)(bb));
- certain exempt applicants for restoration to the Register to undertake additional education, training or experience but only where this is consistent with the EU Treaties and Directive 2005/36/EC (art 21(4));
- certain non-exempt applicants for registration to meet requirements as to additional education which comprise or include reaching an adequate standard of proficiency in the knowledge and use of English (art 21(6)).

Pre-entry requirements in respect of qualifications and additional education, training or experience: pharmacy technicians

The Registrar may require:

- certain applicants for registration holding overseas qualifications to undertake additional education, training or experience (art 22(1)(c)(ii)(bb));

- certain exempt applicants for restoration to the Register to undertake additional education, training or experience but only where this is consistent with the EU Treaties and Directive 2005/36/EC (art 22(2));
- certain non-exempt applicants for registration to meet requirements as to additional education which comprise or include reaching an adequate standard of proficiency in the knowledge and use of English (art 22(4)).

Form, manner and content of applications for entry or for renewal of an entry in the Register: pharmacists and pharmacy technicians

The Registrar may refuse to enter an applicant in the Register or refuse to renew the entry of an applicant in the Register, if the applicant fails to comply with, or if in respect of the applicant there is a failure to comply with registration rules (art 23(2)).

If a registrant fails to comply with registration rules relating to a renewal application, the failure may be treated as misconduct and the Registrar must consider whether or not to refer the matter to the Investigating Committee or the Fitness to Practise Committee (art 23(3)).

Notification by the Registrar: entry & renewal

The Registrar must, within one month, acknowledge an application for registration in Part 1 or Part 2 of the Register and inform the applicant of any missing document required.

The Registrar must, within three or four months (depending on the basis of the application) of receiving all the documents required for a registration application, notify the applicant of the result of the application.

The Registrar must, within one month, acknowledge an application for renewal of registration in Part 1 or Part 2 of the Register and inform the applicant of any missing document required.

The Registrar must, within one month of receiving all the documents required for a renewal application, notify the applicant of the result of the application.

Duration of entry

The Registrar must remove entries from Parts 1 & 2 of the Register when they cease to be valid (art 25(3)) and must send the person concerned a statement of the reasons for the removal (art 25(4)).

Notice of entry in the Register

The Registrar must send registrants written notice of their entries in the Register (arts 26(1)-(3)).

Specialisations: registrants and registered pharmacies

Where the Registrar decides not to enter, renew or restore an annotation in respect of a specialisation of an entry in the Register of a registrant or a registered pharmacy, or to remove such an annotation from the Register, the Registrar must send a notice to the person concerned stating the reasons for the decision and the right of appeal to the Appeals Committee (arts 27(2)-(3)).

Registrants' duties with regard to their entries

If the Registrar sends two notices to a registrant in Part 1 or Part 2 of the Register and, in each case, receives no reply within a specified time, the Registrar may remove the registrant from the Register (art 28(2)).

If a registrant in Part 1 or Part 2 of the Register fails to comply with rules about information to be provided by registrants, the Registrar may remove the registrant from the Register (art 28(3)).

The Registrar must send a notice to any person removed from the Register under art 28(2)-(3) stating the reasons for the removal and the right of appeal to the Appeals Committee (art 28(4)).

Corrections to the Register

The Registrar must keep the Register correct and up to date (art 29(1)).

If the Registrar determines that an entry of a registrant or pharmacy in the Register has been fraudulently procured or incorrectly made, the Registrar may, subject to any provisions in rules, remove the registrant or registered pharmacy from that part of the Register (art 29(3)). The Registrar must then send a notice to the person concerned stating the reasons for the removal and the right of appeal to the Appeals Committee (arts 29(5)-(6)).

Fitness to practise matters before entry or renewal of an entry

The Registrar may, subject to any provisions in rules, remove a registrant from Part 1 or 2 of the Register if the Registrar is satisfied that:

- (a) the registrant's fitness to practise was impaired as a result of prescribed circumstances or because of a health problem at the time of the registrant's entry in the Register or at the time of a renewal application; and
- (b) the registrant had not informed the Registrar of those circumstances or that problem in advance (arts 30(1)-(2)).

If a registrant in Part 1 or Part 2 of the Register fails to comply with rules about fitness to practise matters before entry or renewal of an entry, the Registrar may remove the registrant from the Register (art 30(3)).

The Registrar must send a notice to the person concerned stating the reasons for the removal and the right of appeal to the Appeals Committee (art 30(5)).

Voluntary removal from the Register

Where the Registrar refuses an application for voluntary removal from the Register, the Registrar must send the applicant a statement giving notice of the refusal and the reasons for it (art 31(2)).

Indemnity arrangements

The Registrar may, subject to any provisions in rules, refuse to enter a person in, or to restore a person's entry in, the Register where that person has failed to comply with rules concerning information to be provided to the Registrar on indemnity arrangements (art 32(7)).

The Registrar may remove a registrant from the Register where that person is in breach of requirements in rules or the Order relating to adequate and appropriate indemnity arrangements, or may refer the matter as an allegation of misconduct (art 32(8)).

Where the Registrar refuses to enter a person in, or restore a person to, the Register, or removes a person from the Register, the Registrar must send a notice to the person concerned stating the reasons for the decision and the right of appeal to the Appeals Committee (art 32(9)).

Temporary entry with regard to emergencies involving loss of human life or human illness etc.

If the Secretary of State advises the Registrar of a state of emergency, the Registrar may:

- enter appropriate persons in Part 1 or Part 2 of the Register during the emergency and may make such entries subject to conditions (arts 34(1)-(4))
- remove a person registered under this article from the Register if the Registrar has grounds for suspecting that the person's fitness to practise is impaired, and must remove such

persons from the Register when the Secretary of State advises that the emergency no longer exists (art 34(5))

- make available information to assist with the identification of persons entered in the Register under this article in such manner as the Registrar sees fit (art 34(9)).

Temporary annotations with regard to emergencies involving loss of human life or human illness etc.

If the Secretary of State advises the Registrar of a state of emergency, the Registrar may:

- annotate entries in Part 1 or Part 2 of the Register to allow such persons to order drugs, medicines & appliances during the emergency (art 35(1))
- remove such an annotation if the Registrar has grounds for suspecting that the person's fitness to order drugs, medicines & appliances is impaired, and must remove such annotations when the Secretary of State advises that the emergency no longer exists (art 35(3)).

Restoration to the Register of persons or premises removed from the Register

The Registrar may restore a person or a registered pharmacy to the Register in accordance with rules (arts 37(1)-(2)).

Where restoration of a person is granted subject to compliance with an undertaking with regard to CPD and the person breaches that undertaking, that breach may be treated as misconduct and the Registrar must consider whether or not to refer the matter to the Investigating Committee or the Fitness to Practise Committee (art 37(4)).

Where the Registrar refuses an application for restoration to Part 1, 2, 4 or 5 of the Register, the Registrar must send the applicant a notice stating the reasons for the refusal and the right of appeal to the Appeals Committee (art 37(5)).

Where the Registrar refuses an application for restoration to Part 3 of the Register, the Registrar must send the person concerned a notice stating the reasons for the refusal and the right of appeal to the Appeals Committee (art 37(6)).

Appeals to the Appeals Committee

The Registrar may extend the deadline for giving notice of an appeal where he is satisfied that the person did not receive the statement of the reasons for the appealable decision within 14 days of it being sent (art 40(4)).

Continuing Professional Development

The Registrar may, in accordance with rules, remove a registrant from the Register or impose other remedial measures where the registrant has failed to comply with the CPD framework or made a false declaration about his compliance (art 43(8)(a)).

Where the Registrar removes a registrant from the Register as above, he must send the person concerned a notice stating the reasons for the decision and the right of appeal to the Appeals Committee (art 43(8)(c)).

Impairment of fitness to practise

If a registrant fails to comply with rules about information to be provided to the Registrar on fitness to practise matters that arise while registered, the failure may be treated as misconduct and the Registrar must consider whether or not to refer the matter to the Investigating Committee or the Fitness to Practise Committee (art 51(6)).

Initial action in respect of allegations

Except in such cases as are provided for in rules, the Registrar must refer all fitness to practise allegations to the Investigating Committee or, as appropriate, the Fitness to Practise Committee and must inform the registrant concerned and the person, if any, who made the allegation accordingly (art 52(1)-(4)).

Once a decision has been taken to refer the allegation to the Investigating Committee or the Fitness to Practise Committee, the Registrar must:

- require from the registrant concerned details of any person by whom the registrant is employed or engaged to provide services relating to pharmacy, or with whom the registrant has arrangements to provide such services;
- notify any such persons of the investigation;
- notify the Secretary of State, Scottish Ministers and Welsh Ministers of the investigation; and
- notify the Department of Health, Social Services and Public Safety in Northern Ireland of the investigation where the registrant is also registered in Northern Ireland (art 52(5)).

Where a registrant fails to provide details as above, the failure may be treated as misconduct and the Registrar may refer the matter to the Committee that is considering the allegation, the Registrar may seek an order of the relevant court requiring the requested details to be supplied (art 52(6)).

Consideration by the Investigating Committee

If the Investigating Committee closes a case without referring it to the Fitness to Practise Committee, the Registrar must inform the person concerned and the person who made the allegation, if any, of the Investigating Committee's decision and any action it is taking (art 53(2)).

If the Investigating Committee refers an allegation to the Fitness to Practise Committee, the Registrar must inform the person concerned and the person who made the allegation, if any, of the referral and, where relevant, of the Investigating Committee's opinion that the Fitness to Practise Committee should consider making an interim order (art 53(3)).

Consideration by the Fitness to Practise Committee

If the Fitness to Practise Committee determines that the fitness to practise of the person concerned is not impaired, the Registrar must inform the person concerned and the person who made the allegation, if any, of the Committee's decision and any warning or advice given by the Committee (art 54(5)).

If the Fitness to Practise Committee gives a warning or a direction, the Registrar must send the person concerned a notice of the reasons for the warning or direction and of any right of appeal (art 54(8)).

Professional performance assessments

If the Registrar has, in accordance with rules, ordered an assessment of a registrant's professional performance (art 55(1)) and the registrant fails to produce any records required by an individual assessor or an assessment team, the Registrar may seek a court order requiring the records to be produced (art 55(7)).

Interim orders

If an interim order is made, revoked or varied, the Registrar must send the person concerned a notice of the order, revocation or variation (art 56(4)).

Restoration of names to the Register: fitness to practise

If a person who has been removed from the Register by the Fitness to Practise Committee applies for restoration, the Registrar must refer the application to the Fitness to Practise Committee (art 57(1)).

The Registrar may, if the rules so provide, determine whether any, and if so what, additional education, training or CPD is required before an applicant may be restored to the Register (art 57(3)(c)).

Where the Fitness to Practise Committee refuses an application for restoration, the Registrar must send the applicant a notice stating the reasons for the refusal (art 57(5)).

If the Fitness to Practise Committee directs that an applicant's restoration to the Register shall be conditional on them complying with specified requirements, or directs that a person may make no further applications for restoration, the Registrar must send that person a notice stating the reasons for the decision and, in the case of a direction that a person may make no further applications for restoration, their right of appeal (art 57(10)).

Interim measures pending a direction taking effect

If the Fitness to Practise Committee makes an order to suspend a registrant's registration forthwith or to impose conditions on their registration forthwith, pending the coming into force of a direction, the Registrar must send that person a notice stating the content of the order and their right of appeal (art 60(6)).

Rules in respect of proceedings

The Registrar may, if the rules so provide, request a review of a direction for suspension or conditional entry in the Register (art 61(2)(e)(iii)(aa)).

Registration in respect of provision of occasional pharmacy services (pharmacists)

Where a visiting practitioner is entitled to be entered in Part 4 of the Register, the Registrar must give effect to that entitlement (Sch 2, Pt 1, sub-para 2(1)).

The Registrar may refuse to enter a visiting practitioner in Part 4 of the Register if, in the Registrar's opinion, that person is not so entitled. If the Registrar refuses to enter a visiting practitioner in Part 4 of the Register, the Registrar must send the practitioner a notice stating the reasons for the decision and the right of appeal (Sch 2, Pt 1, sub-paras 2(3)-(4)).

If a person ceases to be entitled to provide occasional pharmacy services, the Registrar may remove them from Part 4 of the Register (Sch 2, Pt 1, sub-paras 2(5)-(6)).

Entitlement to provide occasional pharmacy services after the first year: renewals (pharmacists)

If a visiting practitioner has been removed from Part 4 of the Register for reasons other than the cessation of his entitlement, and that person applies to have his entitlement renewed, the renewal will only be granted if the Registrar decides, after having regard to the fact of the removal and the reasons for it, that the entitlement should be renewed (Sch 2, Pt 1, sub-para 6(4)).

If the Registrar refuses to renew the entry of a visiting practitioner in the Register, the Registrar must send the practitioner a notice stating the reasons for the refusal and the right of appeal (Sch 2, Pt 1, sub-para 6(9)).

Registration in respect of provision of occasional pharmacy services (pharmacy technicians)

Where a visiting practitioner is entitled to be entered in Part 5 of the Register, the Registrar must give effect to that entitlement (Sch 2, Pt 2, sub-para 10(1)).

The Registrar may refuse to enter a visiting practitioner in Part 5 of the Register if, in the Registrar's opinion, that person is not so entitled. If the Registrar refuses to enter a visiting practitioner in Part 5 of the Register, the Registrar must send the practitioner a notice stating the reasons for the decision and the right of appeal (Sch 2, Pt 2, sub-para 10(3)-(4)).

If a person ceases to be entitled to provide occasional pharmacy services, the Registrar may remove them from Part 5 of the Register (Sch 2, Pt 2, sub-para 10(5)-(6)).

Entitlement to provide occasional pharmacy services after the first year: renewals (pharmacy technicians)

If a visiting practitioner has been removed from Part 5 of the Register for reasons other than the cessation of his entitlement, and that person applies to have his entitlement renewed, the renewal will only be granted if the Registrar decides, after having regard to the fact of the removal and the reasons for it, that the entitlement should be renewed (Sch 2, Pt 2, sub-para 14(4)).

If the Registrar refuses to renew the entry of a visiting practitioner in the Register, the Registrar must send the practitioner a notice stating the reasons for the refusal and the right of appeal (Sch 2, Pt 2, sub-para 14(9)).

Transfer of information to the Register

If, immediately before the day appointed for art 19 of the Order to come into force, a person's name is included in the 2007 registers, or premises are included in the premises register, the Registrar must enter that name or premises in the appropriate part of the Register, with effect from the day appointed for art 19 to come into force (Sch 5, sub-para 3(3)-(4)).

Transitional arrangements: pharmacy technicians

The Registrar may enter a person in Part 2 of the Register where they are not appropriately qualified within the meaning of art 22 but apply for registration no later than 30 June 2011, provided that the Registrar:

- acts in a manner consistent with the Directive and General Systems Regulations
- has regard to criteria established by the Council
- is satisfied that the person has undergone education & training which provides a reasonable foundation for future employment as a pharmacy technician; and
- is satisfied that the person possesses the requisite knowledge, skills & experience to be registered as a pharmacy technician (Sch 5, sub-para 7(1)-(2)).

Where the Registrar refuses to enter such a person in the Register, the Registrar must send the person a notice stating the reasons for the refusal and the right of appeal (Sch 5, sub-para 7(5)).