Minutes of the Council Meeting held on 15 September 2011 at 129 Lambeth Road, London SE1 7BT at 10.15 am

Present

Bob Nicholls - Chair
Cathryn Brown
Sarah Brown
Celia Davies
Soraya Dhillon
Gordon Dykes
Tina Funnell
Ray Jobling
Liz Kay
Lesley Morgan
Keith Wilson
Peter Wilson
Judy Worthington

In attendance

Duncan Rudkin (Chief Executive & Registrar)
Christine Gray (Head of Governance)
Alison Readman (Council Secretary)
Hugh Simpson (Director of Policy and Communications)
Hilary Lloyd (Director of Regulatory Services)
Bernard Kelly (Director of Resources and Corporate Development)
Elaine Mulingani (Head of Private Office)
Jane Robinson (Head of Communications)
Aidan Vaughan (Interim Head of Communications)
Jacob Lonsdale (Corporate Communications Manager) minute 474 to 484
Priya Sejpal (Head of Standards and Fitness to Practise Policy) minute 481 to 484
Gerard McEvilly (Head of Legal Advice and Hearings Management) minute 485 to 494
Joanne Martin (Quality Assurance Manager (including accreditation)) minute 487 to 488
Imogen Kelly (HR Assistant OD and Associates) minute 489 to 494
Maxine Pryce (Governance and Assurance Officer) minute 495 to 496

ATTENDANCE AND CHAIR’S INTRODUCTORY REMARKS

474 The Chair welcomed everyone to the meeting, including Gordon Dykes who had joined the Council on 1 September 2011. He also welcomed Jane Robinson who had recently joined the GPhC as Head of Communications and Jacob Lonsdale who had joined as Corporate Communications Manager. He noted apologies had been received from John Flook.
DEclarations of intErEst

475 No interests were declared in respect of the items on the agenda.

MINUTES OF THE LAST MEETING

476 The minutes of the meeting held on 9 June 2011 were agreed as a true record of the meeting.

MATTERS ARISING AND OUTSTANDING ACTION POINTS

476.1 With regard to minute 464, Duncan Rudkin (DR) and Hugh Simpson (HS) gave an update on the premises standards project. DR confirmed that the project plan was being revised following the July 2011 workshop. HS added that work was being done on issues such as registration criteria and enforcement powers and on the best consultation process to use on this occasion. With regard to the extemporaneous preparation of methadone mixture, HS confirmed evidence had been sought but few responses had been received and the level of risk was not clear. DR said that information on the timetable and revised project plan would be provided by email and an update provided at the November Council meeting.

476.2 In relation to minute 453 and the agenda item on education strategy, DR confirmed that the timescale for looking further at these issues, which the July 2011 workshop had determined would be developed by focusing on some key priorities, would be included in the schedule of future business.

477 The outstanding actions log was discussed. The review of the method of appraisal of statutory committee members had been scheduled for April 2013, in line with the proposals of the recent task and finish group.

478 The Council noted the outstanding actions log.

STRATEGIC PLAN

479 DR introduced paper 09.11/C/01 seeking approval for the strategic plan 2012-2015. He reported that he had sought feedback on the draft plan from certain external stakeholders as well as taking members’ comments into account; for example he had changed the order of the key priorities to reflect external views on their importance. After the plan was approved by Council, it would be produced in the GPhC house style before it was laid in the UK and Scottish parliaments in October 2011.
479.1 The Council members gave comments on the strategic plan, focussing on the five key priorities. Views were expressed that priority 3c could be worded more clearly and that who was included in ‘others’ should be specified. DR responded that this priority had been included to deal with the concern expressed by National Voices that patients and the public saw themselves as people with conditions not people ‘accessing pharmacy’ and that it should be as easy as possible for them to raise concerns about health professionals. He noted the points made and agreed to re-draft this priority. Views were also expressed that key priority 1 should be amended to include development of core regulatory services and keeping regulatory policy under review. This was also accepted.

479.2 The GPhC strapline ‘Upholding standards and public trust in pharmacy’ was briefly discussed and the Council believed it was still fit for purpose as a communications tool.

479.3 The Chair thanked the team for their work on the strategic plan.

480 The Council approved the strategic plan 2012-2015 at Appendix 1 of paper 09.11/C/01, subject to the minor amendments proposed at 479.1 above, and delegated approval of these minor amendments to the Chair.

**REVIEW OF STANDARD 3.4 – RELIGIOUS OR MORAL BELIEFS**

481 HS introduced paper 09.11/C/02 on standard 3.4, relating to matters of religious or moral belief. He reminded the Council that it had previously debated this issue and had requested that it be brought back to Council after a year. In setting out the content of the paper, HS asked for feedback on the level of assurance around the process for reviewing the standard and set out a number of possible options. It was acknowledged that the Council would not normally consider questions of process. However, given that this was the first review of conduct, ethics and performance by the GPhC and the standard had a high profile and often attracted polarised views it was felt appropriate that the Council should have the opportunity to express a view on the process on this occasion.

481.1 The Council considered the options presented in the paper. Whilst there was a recognition that it might be appropriate to have a wider engagement processes as set out in option 3, it was felt that carrying out an internal review of both the legal position as well as the operation of the current standard would be an important preliminary step. No support was expressed for a Council task and finish group.

481.2 The Council also considered that the review should take into account the position of the other health professional regulators as well as any work CHRE
had undertaken and any support they could give.

482 The Council agreed that preliminary activities should be carried out consistent with option 1 of paper 09.11/C/02 as a first step to inform any further work required as part of a review of standard 3.4.

REGULATORY STANDARDS GUIDANCE

483 HS introduced the background to paper 09.11/C/03, the content of which was presented by Priya Sejpal. PS explained that the executive would welcome the Council confirming the process of approval for guidance on regulatory standards, since a number of pieces of guidance were being produced and the process had not previously been formally discussed by Council.

483.1 A brief discussion took place on ensuring that:

- registrants and other stakeholders were involved in the production of guidance;
- guidance produced by other pharmacy bodies was taken into consideration;
- the GPhC took an appropriate stance in relation to information about medicines legislation; and
- guidance issued did not conflict with the GPhC’s standards.

It was noted that sharing information with other regulators could be useful to inform some of the guidance currently under development.

483.2 The Council was of the view that the approach suggested in paragraph 1.5 of the paper ie for Council members to comment informally on draft guidance and for the production and finalisation of guidance to rest with the executive was the appropriate approach to take, especially if it was backed by a protocol developed by the executive taking into account the points mentioned above so that a consistent approach was taken.

484 The Council confirmed the process and authority for the production of guidance as set out in paragraph 1.5 of paper 09.11/C/03.

GPhC PROSECUTION POLICY (ENGLAND AND WALES)

485 DR presented paper 09.11/C/04 proposing a policy for criminal prosecutions in England and Wales. He clarified that there were two main types of offences in respect of which prosecution might be considered, the first being offences under the Pharmacy Order 2010 concerned with the integrity of the register and the second being offences under the Medicines Act and related secondary
legislation. Although the RPSGB had conducted few, if any, prosecutions in recent years the GPhC could be likely to prosecute more frequently because failure to comply with the renewal deadline would bring about removal from the register. This would potentially lead to an increase in instances when a person was practising without being registered. The policy should nevertheless be viewed in the context of the GPhC’s aim of being a proportionate regulator.

485.1 Hilary Lloyd (HL) and Gerard Mc Evilly (GMcE) confirmed that the intention was not to prosecute when fitness to practise proceedings were more appropriate, which they almost invariably would be if the person concerned was still a registrant. The Council felt that, whilst the underlying principles were sound, the document could be improved as a communication tool. For example a statement distinguishing the different roles that prosecution and fitness to practise played in the regulation of pharmacy professionals would be beneficial. An explanation of the different types of offences would also be helpful. It would further be helpful to confirm that the same principles would be applied in Scotland in deciding whether to recommend to the procurator fiscal that a prosecution be undertaken.

485.2 DR confirmed it was possible for the GPhC to continue using its current practices ie using the Crown Prosecutors’ Code while further work was done to take account of the points made by Council members.

486 The Council agreed that the GPhC would follow its current practice of using the Code for Crown Prosecutors in England and Wales while further work was done on the prosecution policy before it was brought back to Council for approval.

PHARMACY ASSISTANT TRAINING POLICY

487 DR presented paper 09.11/C/05 relating to the policy on minimum training requirements for dispensing / pharmacy assistants and medicines counter assistants. He explained the rationale for updating the qualifications that were regarded as conferring exemption from the minimum training requirements. In short this was to enable those who had been entitled to work as pharmacy technicians prior to 30 June 2011 to continue working as dispensing / pharmacy assistants and medicines counter assistants if they had chosen not to exercise their grandparenting rights.

487.1 The Council noted that the policy needed further amendment at 3.3 to reflect the fact that

- further training might be required if certain assistants changed employer
- part of this section of the policy read like guidance so it would be
appropriate to refer to the relevant standard.

Subject to the points at 487.1 above, the Council confirmed that individuals who had been eligible for pharmacy technician registration before the end of June 2011 but who had not applied for registration should be eligible to work as dispensing / pharmacy assistants and medicines counter assistants; in order to achieve this, the additional qualifications listed at Annex 1 of the policy should be added to the exemptions in the policy on minimum training requirements for dispensing / pharmacy assistants and medicines counter assistants.

**Governance Arrangements for GPhC Associates**

Christine Gray (CG) introduced paper 09.11/C/06 on the governance arrangements for GPhC associates. She referred to the context in which the proposed arrangements had been developed, namely that the GPhC had a number of non-employee groups mainly inherited from the RPSGB and the Audit and Risk Committee had identified earlier in 2011 that it would be useful to review the governance arrangements relating to them.

The Council considered the proposed arrangements. CG confirmed that there was a potential opportunity to amend the Statutory Committees & their Advisers Rules to make the provisions for setting the Investigating Committee’s referral criteria and the Fitness to Practise Committee’s indicative sanctions guidance in line with those of other regulators.

One member commented that since the competencies for a role were proposed to be set by the panel making the appointment there was a risk of inconsistency. It was confirmed that the competencies would be set by a panel responsible for appointments of that type in order to avoid inconsistency. The description of the role of visitors would be expanded to ensure that the scope of their work was covered.

HL confirmed that the terms of appointment had been reviewed for legal advisers, clinical assessors and medical assessors to set out clear expectations in relation to quality and timeliness of work. It was recognised that individuals within these groups of associates should be informed if it was not proposed to use them again and reasons given.

The Council thanked the team for their work on the subject.

The Council agreed the governance arrangements for GPhC associates at Appendix 2 of paper 09.11/C/06, taking account of the points made at 489.1-3.
SUSPENSION AND REMOVAL PROCEDURE FOR STATUTORY COMMITTEE MEMBERS

492 HL introduced paper 09.11/C/07 relating to a new procedure for the suspension and removal of statutory committee members, which Imogen Kelly and GMcE had done work on. A typographical error at 3.2 of the policy was noted, in that the last paragraph should read ‘the Appointments Committee must also remove from the reserve list’.

493 The Council considered the procedure and noted the provisions relating to persons against whom fitness to practise allegations had been made. It also noted there was no appeal against a decision to suspend or remove, although reasons would be given; this had been considered in the development of the procedure.

494 The Council approved the procedure for the suspension and/or removal of statutory committee members or persons on the reserve list at Appendix 1, subject to the correction of the typographical error referred to above.

STRATEGIC REVIEW OF RISKS

495 DR presented the paper 09.11/C/08, the purpose of which was to enable the Council to conduct a strategic review of the risks facing the GPhC. He reminded the Council that the risks considered by the Council were the red risks on the corporate risk register and the amber risks where the risk score was not reducing. He regretted that he was not able to present an up to date assurance from the Audit and Risk Committee on these risks since the Committee’s latest meeting had been in May 2011.

495.1 The Council reviewed the risks summarised in the paper. It considered whether a new risk should be added relating to potential damage to the GPhC’s reputation through its profile in the media. DR said that he was of the view that this would not meet the criteria for inclusion in the review in itself, especially now that we were enhancing our regular communications with registrants. However he would welcome views on this outside the meeting.

495.2 A discussion took place about the presentation of the risk review (appendix 1) at Council meetings. DR would give consideration to the best way to present the risks in future such as in a narrative style; however if the tabular format was kept the risk score only would be coloured in order to make the report more legible.

495.3 Concern was expressed that some of the risks were not reducing quickly enough eg amber risk 12 (failure to deliver proportionate and risk-based regulation) and risk 19 (registration exam problems). In a number of cases, the
mitigation related to filling vacant posts. DR updated the Council on plans to address these vacancies, including the post of director for Wales.

496 The Council noted the risk review summarised in paper 09.11/C/08.

PERFORMANCE MONITORING

497 DR presented the performance monitoring report (paper 09.11/C/09). He mentioned that the form of the report was still evolving towards a balanced scorecard in order to reflect the fact that the quality of outcome and other factors were as important as timeliness.

497.1 The Council discussed the report and in particular the registration exam. HL confirmed that the executive deeply regretted the difficulties experienced by candidates. Efforts were focussing on avoiding similar problems at future exam sessions, such as increasing the number of London venues, conducting a time and motion study and considering alternative ways of registering candidates. She added that the candidates whose appeals had resulted in nullification had been offered the opportunity to resit in September 2011 if they felt ready. The Council noted the measures being taken to ensure that in future registration of candidates would take less time. It also noted that the integrity of the exam sessions in question had not been affected overall, with no significant difference in the 2011 pass rate compared to previous years.

497.2 Other issues discussed included the use of the phrase ‘Customer Services Team’. The executive and some Council members were of the view that this was an appropriate phrase given that we dealt with a variety of customers besides registrants: it was important that all our customers were at the heart of what we did. CPD was also discussed and HL reminded Council that the call and review system had been halted temporarily to divert resources to registration. This was an example of the executive deploying resources flexibly to meet operational demands. The Council heard that, on average, slightly more fitness to practise cases were closed each month than were received. The Council welcomed the higher than anticipated number of applicants for registration as pharmacy technicians. The Council discussed the financial information. Among other points, BK confirmed that the accuracy of financial forecasting should improve in time as the GPhC generated data based on its own processes and costs.

497.3 The Council considered that the reporting was at about the right level of detail and would enable a move to reporting against targets in due course.

498 The Council noted the report including performance across the registration and fitness to practise functions and financial performance.
APPLICATION OF THE JUST DISPOSAL POLICY

499 The Chair introduced paper 09.11/C/10, which comprised the final separate report on the Just Disposal policy before the remaining legacy cases were brought into the performance monitoring report. 89 cases had been dealt with using the policy, which was an achievement but still left the rest of the legacy cases to be handled. DR confirmed that the executive was considering how best to make use of the knowledge gained, including sharing the learning with other regulators when appropriate. The Council congratulated HL and her team on the outcome.

500 The Council noted the report.

CHIEF EXECUTIVE AND REGISTRAR’S REPORT

501 DR presented paper 09.11/C/11, which contained his report as Chief Executive and Registrar. He confirmed there had been much activity in the three months since the last meeting. A number of matters in the report were briefly discussed including the Commission on effectiveness and efficiency, in respect of which DR reported that CHRE had received approval to engage consultants. The Welsh Language Scheme and collaborating with other regulators on issues such as consultation timetables were also discussed.

502 The Council noted the paper.

COUNCIL BUSINESS CYCLE AND 2012 MEETING DATES

503 The Chair presented paper 09.11/C/12 proposing the Council business cycle and the Council, Audit and Risk Committee and Remuneration Committee meeting dates for 2012. He noted that the dates had been widely canvassed with members before the meeting. He mentioned that a Council workshop was being organised for December 2011. One member requested that workshop time be allocated in the near future for a discussion on modernising fitness to practise procedures. The Chair informed the meeting that Judy Worthington, HL and GMcE would be attending the morning session of the Law Commission event on 20 October.

504 The Council agreed the Council business cycle and the schedule of 2012 Council, Audit and Risk Committee and Remuneration Committee meeting dates at Appendix 1 of paper 09.11/C/12.

ANY OTHER NOTIFIED BUSINESS

505 The Chair confirmed that the reason for going into confidential session was that
the meeting would discuss a matter that was commercial in confidence.

506 There being no further public business, the meeting closed at 3.15 pm.

Date of next meeting – 10 November 2011 - London