Meeting of Council
Thursday, 07 July 2016
10am to 10.30am
Council Room 1, 25 Canada Square, London E14 5LQ

Agenda

Public business
1. Attendance and introductory remarks
   - Nigel Clarke
2. Declarations of interest
   - All
3. Minutes of last meeting
   - Nigel Clarke
4. Actions and matters arising
   - Nigel Clarke
5. Review of the Appointments Committee remit
   - 16.07.C.01
   - Elaine Mulingani
6. Any other public business
   - Nigel Clarke

Confidential business
7. Declarations of interest
   - All
8. Minutes of last meeting
   - Nigel Clarke
9. Actions and matters arising
   - Nigel Clarke
10. Any other confidential business
    - Nigel Clarke

Date of next meeting
Thursday, 08 September 2016
Minutes of the Council meeting held on Thursday, 09 June 2016 at 25 Canada Square, London at 2pm TO BE CONFIRMED 7 JULY 2016

Minutes of the public session

Present
Nigel Clarke (Chair)  Alan Kershaw
Sarah Brown  Evelyn McPhail
Mary Elford  Arun Midha
Mark Hammond  Berwyn Owen
Mohammed Hussain  David Prince
Joanne Kember

Apologies
Digby Emson
Liz Kay
Samantha Quaye

In attendance
Duncan Rudkin (Chief Executive and Registrar)
Claire Bryce-Smith (Director of Inspection and Fitness to Practise)
Matthew Hayday (Head of Governance)
Vivienne Murch (Director of Organisational Development and Equality, Diversity and Inclusion)
Andrew Rogers (Interim Director of Service Transformation)
Hugh Simpson (Director of Strategy)
Lyn Wibberley (Chief of Staff)
Christopher Alder (Head of Professionals Regulation) – item 5
Suzannah Nobbs (Corporate Communications Manager) – item 9
Terry Orford (Head of Customer Services) – item 5
Mark Voce (Head of Inspection Team) – item 5
Sue Reed (Council Secretary)

24. ATTENDANCE AND INTRODUCTORY REMARKS

24.1. The chair welcomed members and staff to the meeting.

24.2. Arun Midha, a new Council member who took up post on 1 April 2016, was welcomed to his first Council meeting.
25. **declarations of interest**

25.1. No declarations of interest were made.

26. **minutes of the public session of the previous meeting**

26.1. The minutes of the public session of the meeting held on 14 April 2016 were agreed as a true record.

27. **actions and matters arising**

27.1. Reference minute 81.3 of 10 December 2015 meeting: Council noted that the visual representation of the Investigating Committee’s decision-making process was work in progress and would be circulated to Council members for information in due course.

27.2. Reference minute 10.4 of 14 April 2016 meeting: Council noted that an internal review of the GPhC’s current position had been undertaken and reasonable assurance had been received that there was no significant risk. Further advice would be sought in relation to the Standards for pharmacy professionals review to ensure the GPhC’s position going forward was sound.

28. **performance monitoring report and corporate plan end of year report**

28.1. Duncan Rudkin (DR) presented 16.06.C.01(a) *Performance monitoring report* which reported to Council on operational and financial performance to 31 March 2016.

28.2. In the ensuing discussion, the following points were made:

**fitness to practise (FtP)**

- All cases in which an Interim Order had been made were monitored and the risk analysis kept under review
- It was important to differentiate clearly between the date on which a concern arose initially and the date on which information became available which prompted consideration of an Interim Order application. The latter could be a later date; our responsiveness to the possibility of a need for an Interim Order and the speed of organising a hearing were important measures

**Inspections**

- It was noted that potential vulnerabilities were identified through various means and concerns were logged, assessed and actioned systematically. The GPhC had developed a Memorandum of Understanding with the Medicines and Healthcare products Regulatory Agency and the Care
Quality Commission, and both advised the GPhC regularly where action was being taken in relation to pharmacy issues

- in relation to the 11% of premises not inspected for 48 months or more, modelling was in progress to establish whether these figures represented a peak. Details of the analysis would be presented to Council for discussion at its July workshop

- DR assured Council that the inspection team was working towards being as productive as it could be given its resources. The discussions to be held at the July workshop would offer Council and the Senior Leadership Group (SLG) an opportunity for further detailed discussion in this regard

**CPD**

- it was too early to confirm whether the 2.5% sample used in the pilot study was an issue in terms of the drop in the percentage of CPD records submitted by the deadline. Further analysis would be presented to Council at its July workshop

**Management accounts**

- a member asked: if the number of premises on the register was reported as being 86 behind forecast but £117k above budget yet the number of registered pharmacies was reported as 16 below budget, how revenue could be so much above budget if the numbers were below budget. Council noted that this was due to a timing difference. While the total number of pharmacies on the register was below forecast and budget at the year-end date, this was a snapshot at that date and had not been the case throughout the year. In previous months premises fee income had been above budget. In addition GPhC had become more robust in removal for non-renewal and consequently there had been an increase in restoration fees

**Human Resources**

- short-term sickness rates were benchmarked against other health regulators and GPhC rates were positive in comparison. Against similar sized organisations nationally GPhC’s rates were relatively low. Managers were supported by HR in handling returns to work. The new HR structure placed a greater emphasis on managers providing return to work information to HR in a proactive way

- the GPhC did not currently have a specific absence target although work was being undertaken to establish benchmark figures which would relate to KPIs. A paper would be presented to SLG in due course
28.3. DR presented **16.06.C.01(b) Corporate Plan end of year report** which reported to Council on progress against the Corporate Plan 2015/16 at the end of Q4.

28.4. In the ensuing discussion, the following points were made:

- Interdependencies between the GPhC and related organisations accounted for the slippages in the timetable. This point would be addressed in the next Corporate Plan.
- The commentary should make clear where revisions to milestones or the timetable had been made.
- The milestone dates on page 54 were incorrect and would be amended accordingly.

**ACTION: MH**

- DR explained that the work on standards had taken longer than expected but spending more time on this work had led to an improved product and very successful engagement and consultation.
- It would be important to establish how the Corporate Plan would link with the newly drafted Strategic Plan.

29. **Chief Executive and Registrar’s report**

29.1. DR presented **16.06.C.02** which reported on significant developments and meetings since the last Chief Executive and Registrar’s (CE&R) report to Council on 14 April 2016.

29.2. Council noted that the GPhC continued its close and constructive engagement with other regulatory body colleagues and officials from the Department of Health and the devolved administrations.

29.3. Council also noted that report on engagements with key stakeholders would be submitted to Council on a quarterly basis from September 2016.

29.4. A member commended the GPhC on its successful stakeholder event in Manchester in relation to the *Standards for Pharmacy Professionals* consultation. The chair thanked those Council members who had attended and thanked staff for the quality and professionalism of the events.

29.5. **Council noted the Chief Executive and Registrar’s report.**

30. **Remuneration Committee Minutes of Last Meeting and Annual Report to Council**

30.1. Sarah Brown presented **16.06.C.03(a) and (b)** in the absence of the Remuneration Committee (RemCom) chair Liz Kay.

30.2. **Council noted the:**
(i) unconfirmed minutes of the RemCom meeting held on 28 April 2016
(ii) RemCom annual report to Council

31. **AUDIT AND RISK COMMITTEE MINUTES OF LAST MEETING AND ANNUAL REPORT TO COUNCIL**

31.1. David Prince (DP), Audit and Risk Committee (A&RC) Chair, presented 16.06.C.04(a) and (b).

31.2. With a view to enhancing the visibility and assurance of the work of the A&RC, DP encouraged Council members to attend an A&RC meeting in the capacity of an observer.

**ACTION: SR TO CIRCULATE A&RC DATES TO COUNCIL**

31.3. Council noted that the term of office of the A&RC independent member, Hilary Daniels (HD), would end on 31 March 2017. HD was thanked by DP, DR and the chair for all her good work.

31.4. **Council noted the:**

(i) unconfirmed minutes of the A&RC meeting held on 25 May 2016
(ii) A&RC annual report to Council

32. **ANNUAL REPORT AND ACCOUNTS 2015/16**

32.1. The chair reported that:

- the annual report had been developed with input from across the organisation and with internal and external assurance
- the governance section had been developed by the Head of Governance, Matthew Hayday, and the accounts had been developed by the Head of Finance and Procurement, Ruth McGregor
- the report had been proofread and edited for ‘plain English’
- following consideration of the draft report at its 25 May 2016 meeting, the A&RC had recommended the report and accounts to Council for approval as a true and fair reflection of 2015/16
- Council members’ comments on the draft report had been noted/included
- printed copies would be laid in both the UK and Scottish Parliaments and a Welsh language version would be published

32.2. DR presented 16.06.C.05 and drew Council’s attention to the CE&R’s assurance statement. He explained that the A&RC would look at the structure and approach of this type of statement as the GPhC continued to develop its annual report but he was nevertheless satisfied that this year’s statement was appropriate and accurate.
32.3. In the ensuing discussion, the following points were made in relation to future annual reports:

- reference the equality, diversity and inclusion (EDI) section: as the GPhC’s approach to EDI went beyond simply meeting its legal requirements, this should be reported accordingly; clearer differentiation between equality, diversity and inclusion as three different albeit in some ways inter-related issues, was agreed as an issue for future consideration
- reference the concerns section: it would be helpful to expand on what the GPhC had done with the concerns data it received

32.4. Council:

(i) approved the combined annual report, annual accounts and fitness to practise report for 2015/16

(ii) authorised the Chair of Council to sign the letter of representation, as required by the auditors

33. APPOINTMENT OF EXTERNAL AUDITORS

33.1. DP presented 16.06.C.06 which asked Council to appoint Grant Thornton as the GPhC’s external auditors for 2016/17.

33.2. Council noted that the appointment was an additional year beyond the original contract award. The A&RC had run a tender process for external audit service in 2015 but had received no expressions of interest. The A&RC understood that the framework and rates for the contract had been unattractive to potential tenderers in terms of profitability. Extending the contract of an existing provider in this way was not unprecedented. A tender for services from 2017/18 onwards would be run later in 2016.

33.3. Council appointed Grant Thornton as the GPhC’s external auditors for 2016/17.

34. ANY OTHER BUSINESS

34.1. There being no further business, the meeting closed at 2.50pm.

DATE OF NEXT MEETING

Thursday, 07 July 2016
## Council actions log

<table>
<thead>
<tr>
<th>Meeting date</th>
<th>Ref.</th>
<th>Action</th>
<th>Owner</th>
<th>Due date</th>
<th>Status</th>
<th>Comments/update</th>
</tr>
</thead>
<tbody>
<tr>
<td>10 Dec 15</td>
<td>81.3</td>
<td>Investigating Committee guidance: visual representation of the committee’s decision making process</td>
<td>Priya Warner</td>
<td>Open</td>
<td></td>
<td>Work in progress.</td>
</tr>
<tr>
<td>14 Apr 16</td>
<td>10.4</td>
<td>Standards for Pharmacy professionals: position on issues of conscience unclear</td>
<td>Priya Warner</td>
<td>Jul 16</td>
<td>Closed</td>
<td>Council noted that an internal review of the GPhC’s current position had been undertaken and reasonable assurance had been received that there was no significant risk. Further advice would be sought in relation to the Standards for pharmacy professionals review to ensure the GPhC’s position going forward was sound.</td>
</tr>
<tr>
<td>9 Jun 16</td>
<td>28.2</td>
<td>Performance monitoring report: inspections and CPD</td>
<td>Claire Bryce-Smith</td>
<td>Jul 16</td>
<td>Open</td>
<td>To be covered in 7 July 2016 workshop.</td>
</tr>
<tr>
<td></td>
<td>28.4</td>
<td>Corporate Plan end of year report: milestone dates on page 54 were incorrect and would be amended accordingly</td>
<td>Matthew Hayday</td>
<td>Jun 16</td>
<td>Closed</td>
<td>Amended.</td>
</tr>
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</table>
Public business

Review of Appointments Committee remit

Purpose
To review the role and remit of the Appointments Committee, including that of its Chair.

Proposed actions
Council is asked to consider:

(i) and, if appropriate, approve the minor clarificatory modifications to the role and remit of the Appointments Committee (AC) and committee chair suggested in section 3 below

(ii) whether, after the current AC chair retires in July 2017, it is minded to make any changes to the current distribution of work between staff and committee members/the chair, as outlined at section 4 below
If so, we will consult with the AC Chair and members as appropriate and bring back an amended draft role and remit to 8 September 2016 Council meeting.

1. Introduction

1.1 The remit of the AC is due for review. In addition the current AC Chair, Elizabeth Filkin CBE, is due to retire from the committee in July 2017. We will need to start the recruitment process early in 2017. Before we do this however we must first have the remit confirmed by Council, and then the chair and members’ remuneration must be considered and approved by the Remuneration Committee in September.

2. Current role

2.1 The role of AC Chair is not described in the current AC remit in the Policy and Procedures Library (see Appendix 1) but is described in the current postholder’s contract, as follows:
“Role of Appointments Committee Chair
The role of the Chair of the Appointments Committee has the following key elements:

- **To provide guidance and assistance to the Appointments Committee, ensuring the recruitment and selection process is conducted fairly, transparently and independently;**

- **With other members of the Appointments Committee, and according to determined procedures; to fairly, objectively and transparently:**
  - Agree a shortlist of potential candidates;
  - Interview shortlisted candidates;
  - Appoint committee members and report appointed members to the GPhC Council;

- **Lead the performance management review process for both the Appointments Committee and Statutory Committee Members. This will involve:**
  - Undertaking annual appraisals of the Chairs and Deputy Chairs of the Statutory Committees; and the Appointments Committee and Statutory Committee;
  - Following up on performance matters arising from both hearings and the Outcome Review Group meetings as and when they occur and are passed on by the Associates & Partners team.

- **Submit an annual report to the GPhC Council on the activity of the Appointments Committee.**

3. **Suggested minor modifications/clarifications**

3.1 The above wording suggests that the AC chair appraises members as well as chairs and deputies of the statutory committees. She does not, and it would be impracticable for her to do so. Currently, she appraises the chairs and deputies, and the chairs and deputies in turn appraise the members (all receive appraisal training). So the above wording could be amended, thus: “Undertaking annual appraisals of the chairs and deputy chairs of the statutory committees; and of the Appointments Committee members and Statutory Committee”.

3.2 The role description should also reflect the chair’s role in inducting new statutory and appointments committee members, and reflect the coaching aspect of her role in performance management and review.

3.3 The role description should reflect the role of the committee as a whole, and the chair in particular, in the more formal aspects of performance
management, as set out in the Suspension and Removal Procedure for Statutory Committee Members.

3.4 It should also take account of the regular meetings with the directors of Organisational Development and Equality Diversity and Inclusion and Inspections and Fitness to Practise to discuss any issues or themes around committee performance that may arise.

3.5 Finally, the role description should clarify that the chair is appraised by the Chair of Council, thus complementing point 5 of the AC role and remit (“the Committee is accountable to the Council. The Committee reports to the Council annually”).

4. Policy approval or hands-on?

4.1 Beyond those minor suggested corrections to the chair’s contract to reflect current practice, a look at the practice of our peer regulators does highlight one way in which we differ quite significantly from some of the others, and that is the degree to which our Appointments Committee does the hands-on work of recruitment and performance management, as opposed to just approving the policy.

4.2 The Medical Practitioners Tribunal Service (MPTS) has an equivalent of our AC but it approves high-level policy only – the staff do the actual work of interviewing, appraising and performance managing. The General Dental Council has recently moved from an arrangement like ours to a model closer to that of the MPTS – their appointments committee does still appraise but this will be reviewed soon. The Health and Care Professions Council does not have an appointments committee; its council approves the policy and staff do the interviewing/performance management. The General Optical Council’s model is more like ours, in that their Nominations Committee does the same jobs as our AC, but it is made up mostly of council members, with one external member.

4.3 We have considered the pros and cons of carrying out the three main AC functions (appointment, appraisal and performance management). The main argument for moving to a model where staff do the bulk of the work might seem to be one of cost (though this subject is more complex than it might first appear given the extra burden on staff should the committee’s work be decreased, and also the potential for review of our current remuneration models in future\(^1\)). The major argument in favour of our current model would be the maintenance of appropriate independence and separation (perceived and actual) between the adjudicatory and prosecutorial functions.

\(^1\) To be discussed and decided at Remuneration Committee on 29 September 2016, as part of the scheduled associate and partner remuneration review)
### Function

*(our current division of labour in italics)*

<table>
<thead>
<tr>
<th>Committee oversight, staff action</th>
<th>Committee oversight and action</th>
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| **Appointment (shortlisting, interviewing)** staff sift; AC shortlists and interviews | **Pros**: save on cost of AC chair and members’ time  
**Cons**: perception of conflict if FtP staff involved; pressure on A&P/other staff once every two years (huge exercise); need for extra checking/QA if no external involvement | **Pros**: no possibility of ‘prosecution arm’ unduly influencing choice of chairs/members; AC members have specialist expertise and experience in recruitment, and are regularly trained to update/enhance their skills  
**Cons**: AC has a short burst of intense recruitment work once every two years, not much otherwise |
| **Appraisal of IC/FtPC/RAC chairs**  
*Panel members are appraised by FtPC/IC chairs; AC chair appraises panel chairs and deputy chairs* | **Pros**: cost saving on AC chair’s time; FtP staff are closer to the day-to-day work of the chairs  
**Cons**: potential for perceived conflict/inappropriateness; increased resource pressure on staff with appropriate seniority | **Pros**: AC chair’s perceived authority and independence helps ensure panel chairs’ trust and candour  
**Cons**: AC chair not so involved in panel chairs’ day-to-day work (but AC chair receives feedback on chairs from participants at every hearing/meeting they sit on, and herself observes them at a hearing/meeting before appraising them) |
| **Performance management (including, where necessary, suspension and removal)**  
*Staff pass all but minor procedural issues to AC chair for assessment/ action. AC leads on suspension/ removal* | **Pros**: cost saving of AC chair’s time  
**Cons**: erosion of principle of independence | **Pros**: principle of independence upheld, no possibility of influence by prosecution, also authority/stature/independence of AC chair commands respect/acceptance/trust (e.g. when raising concerns)  
**Cons**: potential for delayed action? (but has never been the case with current chair) |
4.4 The office would not recommend any change to the current division of labour in any of the above areas. The interview process in particular works well and would be difficult to replicate in-house with the current staff structure, quite apart from considerations of independence. If this is left out of consideration, any changes would affect the role of the chair rather than the rest of the AC members. Should Council wish to move away from the current model in any way, we would suggest that any changes of this nature be made after the retirement of the current chair (in July 2017) not before.

5. Equality and diversity implications
5.1 This paper contains no proposals with specific EDI implications. The independence of the current arrangements, together with the committee’s accountability to Council and annual reporting, provides Council and stakeholders with assurance that the statutory committees’ work is meeting Council’s expectations as to respect, fairness and public confidence.

6. Communications
6.1 Any material changes will be consulted on with the AC chair and members and with the statutory committees before being brought back to Council on 8 September 2016.

7. Resource implications
7.1 The proposals within this paper have no resource implications. The remuneration of the AC chair and members will be considered by Remuneration Committee on 29 September 2016.

8. Risk implications
8.1 Statutory committees work independently from Council, to ensure separation of the prosecution and adjudication functions, but Council is accountable to the public via Parliaments for what the statutory committees do. This being the case, the AC plays a crucial role in Council’s assurance framework, in providing independent assurance to Council that the statutory committees are not just operating well procedurally but are also meeting Council’s expectations as to respect, fairness and public confidence. Any proposals for change must ensure that Council will continue to receive an equivalent level of assurance.

9. Monitoring and review
9.1 The AC reports to Council annually. The role and remit of the AC policy is next due for review in 2018.
Proposed actions

Council is asked to consider:

(i) and, if appropriate, approve the minor clarificatory modifications to the role and remit of the Appointments Committee (AC) and committee chair suggested in section 3

(ii) whether, after the current AC chair retires in July 2017, it is minded to make any changes to the current distribution of work between staff and committee members/the chair, as outlined at section 4

If so, we will consult with the AC Chair and members as appropriate and bring back an amended draft role and remit to 8 September 2016 Council meeting.

Elaine Mulingani
Associates & Partners Manager
General Pharmaceutical Council
elaine.mulingani@pharmacyregulation.org
020 3713 7817
17 June 2016
Appendix 1

Current remit of the Appointments Committee

The Council has established an Appointments Committee with the remit set out below:

1. Under delegated powers from the Council and in accordance with the GPhC (Statutory Committees and their Advisers) Rules 2010:
   - To select and appoint appropriate persons to serve as members of the statutory committees including as chairs and deputy chairs;
   - To draft and submit to Council for approval the procedure for the suspension and removal of a member of a statutory committee, or any person on the reserve list;
   - To, where appropriate, suspend or remove from office members, including chairs and deputy chairs, of the statutory committees; and
   - To oversee 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 a reserve list.

2. To advise the Council on:
   - The minimum competencies it considers are required for appointment as a chair, deputy chair or other member of a statutory committee, whilst 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;

3. The Appointments Committee must maintain a reserve list of appropriate persons who are eligible to serve as members of each of the statutory committees.

4. Other than as specified above, the Committee has no executive responsibilities or powers.

Accountability and reporting

5. The Committee is accountable to the Council. The Committee reports to the Council annually.

Authority

6. The Committee has delegated authority from the Council as detailed in the remit above and the GPhC (Statutory Committees and their Advisers) Rules 2010.
Composition
7. The Committee, including its Chair, is appointed through arrangements agreed by the Council. The Committee has five members comprising:
   - A lay member who is Chair;
   - A lay member who is Deputy Chair; and
   - Three registrant members, at least one of whom is a pharmacy technician.

8. The following members have been appointed to the Appointments Committee:
   - Elizabeth Filkin (Chair)
   - Geoff Pears (deputy chair)
   - Mohamed Hassam (registrant member)
   - Neelam Sharma (registrant member)
   - Jonathan Harris (registrant member).

Terms of office
9. Each committee member is appointed for up to four years and may serve a maximum of two terms.

Quorum
10. A quorum shall be three members of the Committee one of whom must be the Chair or the Deputy Chair.

Frequency of meetings
11. The Committee shall meet as necessary.