Health Professions Council
Council meeting, 5th July 2007

Future Governance of Council – Methodology for Discussions

Executive Summary and Recommendations

Introduction

Following the publication of the Department of Health's White paper in February 2007 *Trust, Assurance and safety – The regulation of Health Professionals in the 21st Century* the Council met on 30th May 2007 to review the White paper and the Council's current strategy.

A key component of the Council's meeting was a series of discussions focusing on the seven working groups that would be set up by the Department of Health (DH) to implement the recommendations of the White paper.

Since then, there have been a number of important external developments which have expedited the need for the Council to address a range of governance issues and in particular the size of the Council and the competences and skills of Council members. The attached paper details some of these external developments.

Discussion – afternoon session of the council meeting
Experience and comments from Council members have suggested that while the existing format of Council papers and the layout of the Council chamber are appropriate for 'everyday' Council matters, they are not always conducive for discussions concerning strategic issues.

Although the Council have previously discussed governance issues with reference to the size of the Council, this paper proposes that this would be an appropriate time for the Council to discuss the subject in depth and to make a number of key decisions.

It is therefore proposed that:

- The Governance issues are dealt separately in the afternoon
- For this session, the seating in the Council chamber is set out in a workshop format
- The meeting will remain open to the public
- The Council will still be able to make formal decisions

A feedback form has been prepared so that Council members can feedback their comments on this format for strategic discussions of Council.

A draft programme for the discussion is attached.

Decision

The Council is invited to agree the proposals detailed above.

Background information

See attached paper and appendices.

Resource implications

None

Financial implications

None

Appendices

Appendix 1: Notes from Council discussion on 30 May 2007
Appendix 2: Background: External environment
Appendix 3: Discussion paper for the DH working group addressing governance issues
Appendix 4: DH letter dated 17th May re regulation of Healthcare scientists
Appendix 5 Draft programme for discussions

Date of paper

25th June 2007

Appendix 1

Notes of a Council Workshop held at 2pm on Wednesday 30 May 2007 at the Avonmouth House, 6 Avonmouth Street, London, SE1 6 NX

Present:
Paul Acres
Karen Bryan
Mary Clark-Glass
Robert Clegg
Helen Davis
Morgwn Davies
Peter Douglas
Elizabeth Ellis
Christine Farrell
Sue Griffiths
Daisy Haggerty
Tony Hazell
Carol Lloyd
Jeff Lucas
Morag MacKellar
Pat McFadden
Alan Mount
William Munro
Helen Patey
Jacki Pearce
Doug Proctor
Keith Ross
Jacqueline Sheridon
Graham Smith
Barbara Stuart
Annie Turner
Anna van der Gaag
Diane Waller
In Attendance:
Sophie Butcher -Secretary to Committees
Roy Dunn – Director of Information
Larissa Foster – Human Resources Director
Kelly Johnson - Director of Fitness to Practise
Jacqueline Ladds – Director of Communications
Simon Leicester – Director of Finance
Niamh O'Sullivan – Secretary to Council
Alison Roberts – Team Administrator - Secretariat
Greg Ross-Sampson – Director of Operations
Marc Seale – Chief Executive and Registrar
Rachel Tripp – Director of Policy & Standards

UNCONFIRMED

Introduction – Anna van der Gaag

The President recapped on the White Paper proposals and reviewed current HPC strategy in terms of what now needs to change.

The Health Professions Council Strategy – Marc Seale

The Chief Executive reported that he and the President were to meet Lord Hunt on the 5 June 2007. They would also be attending the '*Department of Health Stakeholder Conference for the Professional Regulation Reforms*'. The Chief Executive anticipated that this would give HPC a clearer timetable for the implementation of the White Paper's proposals.

The Chief Executive reported that the Department of Health would be setting up 7 national working groups to look at specific questions. The groups would run for a maximum term of 18 months. One key concern for the HPC was the need to identify what core competencies Council members should have so that this can be fed back to the Public Appointments Commission.

Q&A Session
Mary Clark-Glass
Q. What is the timetable for the implementation of the White Paper's proposals?

Marc Seale
A. The timetable should be available at the next meeting of Council in July.

Christine Farrell
Q. What is HPC's timetable for the implementation of the White Paper's proposals?

Marc Seale
A. In terms of Council's new structure it is anticipated that will be in place by 1 April 2008. HPC should aim to be prepared so prioritisation of issues is a must. We can divide priorities by what HPC has direct control over. At the 5 June 2007 meeting HPC could get a hint of what central governments lead will be on this. The Scottish Parliament will need to review this too.

Anna van der Gaag
A. The Executive Management Team has been planning a provisional timetable of events. This hasn't been brought to Council yet until the outcome of the conference on 5 June 2007 is known.

Diane Waller
Q. Who will the working groups be comprised of?

UNCONFIRMED

Marc Seale
A. 250 people have been invited to the conference on 5 June. This includes Presidents and Chief Executives of professional bodies and health regulators. There will be 7 individual steering groups and the attendees will be introduced to the people who are chairing them. He (Marc Seale) would be giving a presentation on revalidation. This was HPC's opportunity to feed back on the timetable. This would include feedback from the workshop today.

Keith Ross
Q. What issues do each of the 7 steering groups cover? Will these have a UK-wide remit?

Marc Seale
A. The 7 steering groups are as follows:

- Governance
- Revalidation of medics
- Local concerns
- National concerns
- The role of the Regulatory Bodies
- Information about health professionals
- New roles and emerging professions

The conference on the 5 June is a Department of Health co-ordinated event and will have representation from Scotland, Ireland and Wales. Regular meetings will be held between the Chief Executives 4 times a year.

The Chief Executive reported that some HPC Council members maybe asked to join some of steering groups.

Mary Clark-Glass
Q. What will the HPC be doing regarding revalidation when the detail and processes are not clear.

Marc Seale
A. The Civil Servants will not have the answer, it is up to the HPC to identify the process regarding revalidation. We are the experts who will be informing the Civil Servants about the practicalities of these undertakings.

UNCONFIRMED

Feedback from Review Groups – see Review Group membership at appendix 1

Governance – Tony Hazell
The group came to the following conclusions:

- HPC needs to determine what work has been done elsewhere e.g. Skills for Justice have been leading the National Occupational Standards research.
- Focus on 4 core functions on p23 of White Paper so that all are addressed.
- Relationship between the Board and the Executive. We need robust mechanisms for engagement.
- Structure of committees. In future it is likely that there will be more non-Council members, therefore HPC needs to ensure that they feel part of Council. Number of committees will decrease in size, for example it is likely that there will be one Fitness to Practice Committee. The Group agreed that this needed to be taken further through legislative changes.
- Accountability – need clarity of this in governance. Independence vs accountability to Parliament - contradiction in White Paper – accountable to whom – independent of whom?
- No agreement from the group regarding the size of a future Council. The more 'board-like' Council mentioned in the White Paper seemed to imply that Council should be smaller.
- There was no consensus on the optimum size of the Council in the group – views varied

Skills Mix of New Council – Paul Acres

- The group believed that the Council understood what was needed and that it had the expertise to go forward.
- Council was currently a governing body, therefore needs to focus on strategy. Operational matters are dealt with effectively by the Executive.
- Role of Board as defined in the Cadbury and the Higgs reports – governing body It leads, directs and controls organisation. It sets plans, strategies, sets values, standards and policies.
- We need to be clear about the distinction between the executive and the governing body.
- Council needs to decide the competencies needed by members.
- Governing body = core skills and sub-specialist skills. Council could also have associate members to bring in specialist skills.
- These skills should not duplicate those of the Executive.
- Make-up requirement of new Board. There should be equal numbers of registrants and lay members. Members should all have shared core skills and then additional skills which are recruited to in a systematic way. (ie in the advert specify in this round we are looking for…x/y etc
- Size 12 -18 – why bigger?

UNCONFIRMED

- Executive – the Chief Executive should be a member of the Board as he has to make the decisions work. There was a need to consider having the Director of Finance on the Board also.
- Core skills required; individuals with a knowledge of :
    - Strategic planning
    - Monitoring performance
    - Corporate and financial governance
    - Standards and values
    - Policy setting processes
    - Specialist skills required - need an individual with a financial qualification but not to take away from the role of the Finance Director.
    - Communications and PR skills
    - HR skills
    - Organisational change and development
    - Legal expertise
    - Professional Education
    - Clinical service delivery
    - Patient advocacy

Principle of involvement of the professions in the regulation of the professions must be maintained and that message communicated clearly. Professions must be clear we are doing a good job for them without 'representing' them.

Regulation of new professions – Diane Waller

- With the reduction in Council's overall size the Group wanted to bear in mind that we don't give the new Council an impossible task.
- Need to be more proactive as a Council to identify new professions that need to be regulated but there is a conflict with the development of professions who don't meet the criteria. The Sports Therapists were an example of a profession who posed a possible risk to patients but did not meet the criteria set by Council for regulation by HPC
- What do we mean by professional skills?
- There are healthcare workers who should be regulated but don't meet the criteria we have set
- Professions exist that should be regulated. HPC needs to liaise with other regulators, professions, inspectorates to identify those who pose a risk but who are not regarded as professions. HPC has a duty to inform the government and protect the public adequately.
- Need to identify what groups are not on the White Paper priority list
- HPC could work with charities as these may be the first port of call for members of the public and share many issues re public protection with us

UNCONFIRMED

- HPC could take on role of validator of certain organisations who can in turn validate others – an inspectorate role
- Need to liaise with other agencies
- Need to pressure government to take action where there are gaps in regulation
- Need to identify a structure which accommodates different levels of professional regulation.

Regulation of Support Workers – Pat McFadden

- Who are the support workers? The Group identified 3 groups:
  - Aspirant groups
  - Assistants
  - Support Workers
- Assistants are working directly below registrants. The term support worker means different things to different people
- Need to undertake a risk assessment of the groups / audit using educational services, Patient Advice and Liaison (PALs) services.
- Scottish Pilot – should HPC be waiting for the report? The Group felt that the results would not inform HPC's decision regarding the regulation of support workers
- Groups which HPC could liaise with were outlined as follows;
- Patient Advisory Liaison Groups – the complaints received by such services could start to inform an audit.
- Royal Colleges – their members interact with non-regulated professions that sit below registered professionals.
- Professional Bodies
- Unions and membership through NHS specific academic and agenda for change.
- PCTs Primary care Trusts
- Consultation with general public

Revalidation – Rachel Tripp

The White Paper has provided mixed messages and is NHS focused and has failed to recognise the differences between medicine and other health professionals

- We must identify opportunities of influencing the debate
- Risks – Sledgehammer to crack a nut
- It's a sheep dip exercise/tick box – how effective will this be?
- Too NHS focused, devalues CPD and impedes personal development
- Devises a system whereby everyone is constantly evaluating everyone else
- Reduces patient care.
- What level of risk are we prepared to live with – what risks could we mitigate?
- Resistance to revalidation – registrants are weary

UNCONFIRMED

- Experience of CPD and HPC's communication of this has been effective. Use the same structural template as a foundation to promote revalidation, learn from the experience we already have
- Suggestion of starting a professional liaison group (PLG) internally to analyse data from FtP hearings.
- Questions about what revalidation is?
- Role for employers / peer review
- No blame culture / whistleblowing encouragement
- Need to identify the problem before finding the solution

Post-Registration Qualifications – Carol Lloyd

- Post-registration qualifications can vary widely in length from a 2 week certificate to a 5 year course.
- There is a link between this and CPD that needs to be explored
- Annotating the Register needs to be kept simple – possibly only annotate the register for a qualification that leads to invasive practice
- Post-registration curricula often become part of the pre-registration programmes
- Legal requirements need further scrutiny
- Keep to same principles as protection of title
- Liaison with professional bodies, Higher Education Institutions, Health Providers for 4 home countries, other regulators as cross reference often happens

Pros and Cons of Student Registration – Helen Davis

Pros

- Early introduction to professional regulation
- If GMC register students the public may expect HPC to do the same

Cons

- Possible problem of Criminal Records Bureau (CRB) checks being repeated, therefore requirement to undertake a CRB check needs to be standardised across all placements
- Minimal Risk but a costly additional layer of administration
- What was the point of registration for students for example in their 1st year, do nutritionist students need to be registered in their first year? Should registration rather come into force as and when supervision is required?

Need to liaise with NHS placement providers, other regulatory bodies to help us come to a decision on this

UNCONFIRMED

Council for Healthcare Regulatory Excellence (CHRE) & Fitness to Practise – Robert Clegg

Fitness to Practice

- Provisions for independence are already put in place by the HPC; Council members are no longer on panels.
- Partners are now appointed through a public appointments process
- How could the HPC be any more independent?
- The HPC system is working very well therefore don't need a separate system
- CHRE need to be more rigorous in their review of the health regulators. NMC backlog of cases has suddenly been lost!
- Keep a watching brief on this
- Major question over who funds this remains

CHRE

- ➢ No difficulty with concept of sharing good practice
- ➢ CHRE should be more rigorous in its performance review processes
- ➢ More cross regulatory working is supported
- ➢ Unclear on future of S29 work

Plenary – Anna van der Gaag

Priorities

- o Council now needs to work fast and efficiently on governance so that a paper can be produced for Council's meeting in July 2007.
- o Need to consider main priorities of size/structure and skills mix of Council
- o We need to set our priorities in the short-term. This will help us shape our long-term strategy
- o

UNCONFIRMED

Q&A Session

Robert Clegg
Q. How will the decisions which Council has made be implemented?

Marc Seale
A. HPC will need to make changes to current legislation and review other sample legislation with HPC's legal advisor Jonathan Bracken, (Bircham Dyson Bell). This will entail changes to the Rules for the election process, S60 changes and changes to the structure of committees. The Council will need to indicate the changes it wishes to make. Section 60 Orders will be drafted based on this and some of HPC's rules will be changed.

There has been a clear steer from government on the psychological professions but need a clearer process for new professions on the register and revalidation overall.

Willie Munro
We need to get the composition of Council right. There could be issues with regard to the time commitment required of members if the Council becomes too small. We need to recognise this.

Paul Acres
HPC should aspire to be the best regulator. We need to decide on our long-term vision for HPC. We need to seize the agenda.

Keith Ross
HPC needs to agree the size of Council first before we can move forward to bigger strategic issues, is it no less than 24 members or less?

Tony Hazell
We need to agree to focus on strategy. The Council needs to be clear about what it should be doing. There are things that a Council would do but that a board would not do.

Mary Clark-Glass
Disagrees with a Board-like Council due to registrants giving money to the organisation and is different from a corporate organisation.

A PLG on revalidation should be set up now using the information we have on CPD.

Diane Waller
Is very against the term used Board. This term had a history with CPSM.

Morag MacKellar
There are different models of linking with HPC registrants. We need to make clear on how we will work with registrants in any work we do.

UNCONFIRMED

Robert Clegg
HPC needs to be more proactive in regulating new professions. We are abdicating our responsibilities to the public.

Anna van der Gaag
HPC's priorities are:

- A paper to Council regarding a proposed new governance structure
- New professions and support workers = risk assessment
- Revalidation – need a PLG to clarify HPC's thinking

Marc Seale
HPC's new legislation will require 3 months of consultation, the Privy Council then switch on the process. The new legislation will require specificity on the number of Council members required. We need to consider the skills mix for Council.

UNCONFIRMED

Appendix 2

Background: External Developments

Following the Council's workshop on the 30th May there have been a number of important external developments in relation to the future governance arrangements of the nine UK regulators of health professionals.

White Paper Working Groups
The Department of Health held a stakeholder conference on 5th June entitled *Professional regulation reforms: Implementation*. Seven working groups were established and a discussion paper was prepared for each group. A copy of the discussion paper for the working group addressing governance issues is attached for reference. Of particular interest are the terms of reference which included a requirement to make recommendations on firstly, "the size and composition of the Councils" and secondly, "job and person specifications for council members".

Regulation of Healthcare Scientists
The Department of Health has circulated a letter dated 17th May confirming that five Healthcare scientists profession will be regulated but not before 2009. A copy of the letter is attached for reference. If no changes were to made to existing governance arrangements, the regulation of a five new professions would have implications for the future size of Council.

Draft Section 60 1b
The Department of Health has indicated that the first Section 60s will be used to allow for the introduction of Constitutional Orders for each of the nine regulators. The Orders will be significantly amended before they are finally published. It is anticipated that thereafter a three month consultation will start in September 2007, followed by scrutiny in the Westminster and the Scottish Parliaments and enactment in April 2008.

It is probable that the first Section 60 will:

- Establish the statutory regulation of specific psychologists by the HPC.
- Instruct the Privy Council to set and publish the skills, competences, qualifications and experience of appointed council members.
- Require at least one council member from each of the four home countries.

Constitutional Order
This will be drafted to require the Councils to set an equal number of lay and registrant council members.

DH Department of Health

Discussion Paper for Breakout Session:

Enhancing Confidence in Healthcare Professional Regulators

1. Background

All the bodies that regulate healthcare professions are governed by Councils that guide and oversee the administration of their policies and their procedures. Patients, the public and health professions need to be able to take it for granted that these Councils carry out their functions dispassionately and without undue regard to any one particular interest, pressure or influence. Doubts based on perceived partiality have threatened to undermine this trust in a number of the regulators over the years.

To ensure professional and public confidence is regained, all the stakeholders need stronger assurance of the independence of Councils. To achieve this, Councils should be constituted to ensure that professionals do not form a majority and that all members, both lay and professional, are appointed rather than elected.

In addition, Councils should take a strategic rather than operational view with the aim of assuring excellence in delivery of their functions in the long term. To achieve this, Councils will need to be smaller shifting away from a model of large representative bodies that seek to include all possible professional, clinical, trades union, lay, educational, employer and geographical interests within them.

The White Paper *Trust, Assurance and Safety – The Regulation of Health Professionals in the 21st Century* set out a number of recommendations to achieve these aims:

- the reconstitution of councils with parity of membership as a minimum
- for the regulators that adopt parity rather than lay majorities, the putting in place of alternative packages of measures to demonstrate their impartiality
- the appointment of all members of all Councils independently by the Appointments Commission against clearly specified criteria and competencies
- councils moving to a more consistent and smaller size that enables them to function more effectively as Boards for their organisations, with a statutory duty to ensure that the interests of all its stakeholders are considered in its deliberations

A national working group will be established to take forward these recommendations. This paper presents the initial thinking for the scope of this working group. We would like to use this breakout session to test these ideas with you. Your contributions and answers to the key questions in bold under each section will be used to help shape the agenda and representation of this group ahead of its first meeting.

2. Draft Terms of Reference

To consider the recommendations in *Trust, Assurance and Safety* that will enhance public confidence in the healthcare professional regulators. In particular, the group should consider and make recommendations on

- the strategic role of councils
- measures to demonstrate to the public, patients and parliament the councils commitment to conducting their responsibilities in a manner that commands public confidence
- how to ensure that the interests of all stakeholders are considered in council deliberations
- the size and composition of the councils
- the role of the council committees
- job and person specifications for council members
- ensure equity and diversity issues are fully considered in all workstreams.

The Group will also consider and make recommendations on the similar changes proposed for CHRE where these changes have not already been agreed.

The group will liaise as necessary with other working groups and establish its own sub-groups where it thinks fit to examine detailed matters.

Q. Are these objectives clear and do they reflect the aims of the recommendations within the White Paper?

Q. What do you see as the key risks and challenges in delivering these objectives?

3. Tasks, outputs and timing

Key Outputs:

Final report by 31st October 2007 in order to provide advice ahead of debates on secondary legislation (Section 60 Orders) and also constitution orders.

Q. What are the particular challenges associated with these outputs and timescales?

4. Contributing Projects

- Pharmacy Regulation and Leadership Oversight Group (partnership between government and the pharmacy profession). The primary purpose of this group is to ensure:
    - a cost effective approach, together with rigorous and robust performance management in the maintenance of the pharmacy regulation functions and the creation of the General Pharmaceutical Council
    - that a Royal College is fit for purpose to complement the responsibilities of GPhC.

Q. What additional initiatives from across the healthcare sector would further contribute to the aims and objectives of this working group?

5. Working Group Membership and Roles

Specific roles

Chair	Niall Dickson, CE of King's Fund
DH Lead	Nick Clarke (Professional Regulation)
DH Policy	Stephen Arthur (Professional Regulation)

Proposed representation

Sectors	**Organisations**
Health and other government departments	
National bodies and expert resources	
Professional associations & representative bodies	
NHS and other health care bodies	
Patient and public interest groups	

Q. Which organisations would contribute to the outputs of this working group and should therefore be represented?

Q. Does the balance of representation adequately reflect the differing interests involved?

We will contact the appropriate organisations soon after the event for their nominations to the Working Group. The first formal meeting of the Working Group will take place in June / July 2007.

DH Department of Health

Appendix 4

17 May 2007

Dear colleague,

Regulation of Healthcare Scientists

On 21 February 2007, the Government published the White Paper "Trust, Assurance and Safety – The Regulation of Health Professionals in the 21st Century". This document sets out plans for the future direction of regulation of healthcare professionals and includes information on the Government's approach to the extension of regulation beyond those professions that are already regulated. The White Paper sets out a significant programme of work to implement the proposals, including the intention to introduce primary and secondary legislation. The precise implementation plan will be finalised following an inclusive stakeholder conference on June 5 but it is clear that the timings for the regulation of healthcare scientists (HCS) will now need to take account of the overall implementation timetable.

In addition, the Department has initiated work to ensure that education and training at both pre and post registration levels are linked to a career structure in a model of provision that is both affordable and sustainable.

The Department of Health met recently with members of the aspirant HCS groups to discuss the effect on the regulation of the following professionals:

Clinical technologists
Clinical perfusion scientists
Clinical physiologists
Clinical photographers
Maxillofacial prosthetic technologists.

Healthcare scientists remain a priority for the introduction of statutory regulation. However, for the reasons set out above, this is now not likely to take place before 2009. In the meantime, it is important that the infrastructure supporting registration arrangements remains in place and that practitioners continue to be held on voluntary registers in the interests of public protection.

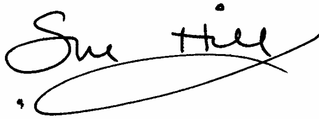
Whilst this may seem disappointing in terms of the timescales, there is much to be done in preparation. As well as undertaking the modernisation of healthcare scientist pre-registration education and training, the following steps need to be undertaken to accommodate the opening of a statutory register:

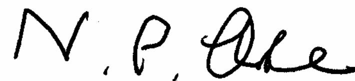
- Publication of a draft Section 60 Order and public consultation document – 3 months
- Report on consultation – 2 months
- Amended Section 60 Order goes through Scottish and English Parliaments – 1 month
- Royal Assent – 1 month
- HPC administration and move of registers – 2 months
- Opening of new part of the register.

It is important to note that these timings are not all fixed and there are a number of factors that may have an impact on timescales, including the availability of Departmental lawyers and Parliamentary time.

It is our intention, in due course, to send a statement explaining the situation to the NHS, so that Strategic Health Authorities and provider organisations are aware of the change in timescales. We will also highlight the importance of staff delivering services in the areas outlined above being on the appropriate voluntary registers. We will of course copy you into this communication.

Yours sincerely





Professor Sue Hill
Chief Scientific Officer

Nick Clarke
Head of Health and Social Care Regulation

Appendix 5

FUTURE GOVERNANCE OF COUNCIL – AFTERNOON DISCUSSIONS

Programme:

1.00	Introduction	*(Anna van der Gaag)*
1.15	Review Groups	
2.15	Coffee Available	
2.30	Feedback from Review Groups	*(Plenary)*
3.15	Conclusions	*(Plenary)*
3.30	**Approximate Finish Time**	

DRAFT