

## SCHEDULE

### The General Pharmaceutical Council (Statutory Committees and their Advisers) Rules 2010

## PART 4

### Appointment and Removal of Statutory Committee Members

#### **Appointments Committee**

6. The Appointments Committee is to exercise the following functions in accordance with these Rules—

- (a) selecting and appointing appropriate persons to serve as members of the statutory committees including as chairs and deputy chairs;
- (b) where appropriate, suspending or removing from office members, including chairs and deputy chairs, of the statutory committees; and
- (c) overseeing procedures for the training, development, performance review and appraisal of members, including chairs and deputy chairs, of the statutory committees.

#### **Eligibility of members and former members of the Council for appointment to statutory committees**

7.—(1) Members of the Council may not be appointed to any of the statutory committees.

(2) Former members of the Council may be appointed to one of the statutory committees, provided that they have not held office as a member of the Council for a period of four years prior to the date of application for membership of the relevant statutory committee.

#### **Eligibility of employees of the Council and other persons for appointment to statutory committees**

8.—(1) An employee of the Council may not be appointed to any of the statutory committees.

(2) A person who is a member of one of the statutory committees may not be appointed to any of the other statutory committees.

(3) A person may not be appointed to a statutory committee if that person—

- (a) has at any time been subject to any investigation or proceedings concerning that person's professional conduct (including fitness to practise) conducted by any licensing body, other than the Council, the final outcome of which was—
  - (i) the person's suspension from a register held by that licensing body, and that suspension has not expired or been terminated,
  - (ii) the person's erasure from a register held by that licensing body or a decision that had the effect of preventing the person from practising the profession licensed or regulated by that licensing body, or
  - (iii) a decision that had the effect of only allowing the person to practise that person's profession subject to conditions, and those conditions have not expired or been terminated;
- (b) has at any time been subject to any investigation or proceedings concerning that person's professional conduct (including fitness to practise) by the Council, the final outcome of which was—

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- (i) the person's entry in the Register, or part of the Register, was suspended (including by an interim suspension order), and that suspension has not expired or been terminated,
  - (ii) the person's entry in the Register, or part of the Register, was removed, or
  - (iii) the person's entry in the Register, or part of the Register, was made subject to an order imposing conditions with which the person must comply (including an order for interim conditional entry), and those conditions have not expired or been terminated;
- (c) has at any time been subject to any investigation or proceedings relating to an allegation that the person's entry in the Register, or part of the Register, was fraudulently procured—
- (i) in the course of which the person's entry in the Register, or part of the Register, was suspended, and that suspension has not expired or been terminated, or
  - (ii) the final outcome of which was the removal of the person's entry from the Register, or part of the Register;
- (d) has at any time been subject to any investigation or proceedings concerning the person's professional conduct (including fitness to practise) by—
- (i) the Council, or
  - (ii) any other licensing body,
- and the Appointments Committee is satisfied that the person's membership of a statutory committee would be liable to undermine public confidence in the regulation of pharmacists or pharmacy technicians;
- (e) has at any time been convicted of an offence—
- (i) in the United Kingdom where the final outcome of the proceedings was a sentence of imprisonment or detention, and the conviction is not spent,
  - (ii) in the United Kingdom where the final outcome of the proceedings was not a sentence of imprisonment or detention, the conviction is not spent, and the Appointments Committee is satisfied that the person's membership of a statutory committee would be liable to undermine public confidence in the regulation of pharmacists or pharmacy technicians, or
  - (iii) outside the United Kingdom and the Appointments Committee is satisfied that the person's membership of a statutory committee would be liable to undermine public confidence in the regulation of pharmacists or pharmacy technicians;
- (f) has received a formal caution for a criminal offence in the United Kingdom and the Appointments Committee is satisfied that the person's membership of a statutory committee would be liable to undermine public confidence in the regulation of pharmacists or pharmacy technicians;
- (g) has at any time been included in—
- (i) any barred list within the meaning of the Safeguarding Vulnerable Groups Act 2006<sup>(1)</sup>, or
  - (ii) any barred list within the meaning of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007<sup>(2)</sup>,
- unless that person was removed from the list either on the grounds that it was not appropriate for that person to have been included in it or as the result of a successful appeal;

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(1) 2006 c.47.

(2) S.I. 2007/1351 (N.I. 11).

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- (h) is included in the children’s list or the adults’ list maintained under the Protection of Vulnerable Groups (Scotland) Act 2007(3);
- (i) has at any time been adjudged bankrupt, or sequestration of the person’s estate has been awarded, and—
  - (i) the person has not been discharged, or
  - (ii) the person is the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986(4) or Schedule 2A to the Insolvency (Northern Ireland) Order 1989(5) or sections 56A to 56K of the Bankruptcy (Scotland) Act 1985(6),and the Appointments Committee is satisfied that the person’s membership of a statutory committee would be liable to undermine public confidence in the regulation of pharmacists or pharmacy technicians;
- (j) is a person to whom a moratorium period under a debt relief order under Part VIIA of the Insolvency Act 1986 (debt relief orders) applies, or is the subject of a debt relief restrictions order or an interim debt relief restrictions order under Schedule 4ZB to that Act(7) (debt relief restrictions order and undertaking), and the Appointments Committee is satisfied that the person’s membership of a statutory committee would be liable to undermine public confidence in the regulation of pharmacists or pharmacy technicians;
- (k) is subject to—
  - (i) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986(8),
  - (ii) a disqualification order under Part II of the Companies (Northern Ireland) Order 1989(9),
  - (iii) a disqualification order or disqualification undertaking under the Company Directors Disqualification (Northern Ireland) Order 2002(10), or
  - (iv) an order made under section 429(2) of the Insolvency Act 1986(11) (disabilities on revocation of a county court administration order);
- (l) has at any time been removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners, the Charity Commission, the Charity Commission for Northern Ireland or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity—
  - (i) for which that person was responsible or to which that person was privy, or
  - (ii) which was contributed to, or facilitated by, that person’s conduct;
- (m) has at any time been removed from being concerned with the management or control of any body in any case where removal was by virtue of—
  - (i) section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990(12) (powers of Court of Session to deal with management of charities), or

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(3) 2007 asp 14.

(4) 1986 c.45. Schedule 4A was inserted by section 257(2) of, and Schedule 20 to, the Enterprise Act 2002 (c.40).

(5) S.I. 1989/2405 (N.I.19); Schedule 2A was inserted by S.I. 2005/1455 (N.I. 10).

(6) 1985 c.66. Sections 56A to 56K were inserted by section 2(1) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3).

(7) 1986 c.45. Part VIIA was inserted by section 108(1) of, and Schedule 17 to, the Tribunals, Courts and Enforcement Act 2007 (c.15) (“the 2007 Act”); Schedule 4ZB was inserted by section 108(2) of, and Schedule 19 to, the 2007 Act.

(8) 1986 c.46.

(9) S.I. 1989/2404 (N.I. 18).

(10) S.I. 2002/3150 (N.I. 4); the relevant amending instrument is S.I. 2005/1454 (N.I. 9).

(11) Section 429(2) was amended by section 269 of, and paragraphs 1 and 15 of Schedule 23 to, the Enterprise Act 2002 (c.40).

(12) 1990 c.40; section 7 was repealed by the Charities and Trustee Investment (Scotland) Act 2005 (asp 10).

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- (ii) section 34(5)(e) of the Charities and Trustees Investment (Scotland) Act 2005<sup>(13)</sup> (powers of Court of Session);
- (n) has at any time been removed from office as the chair, or a member, convenor or director, of any public body on the grounds that it was not in the interests of, or conducive to the good management of, that body that the person should continue to hold that office; or
- (o) has at any time made a composition or arrangement with, or granted a trust deed for, the person's creditors and the person has not been discharged in respect of it.

### **Required competencies for members of statutory committees**

9.—(1) The Appointments Committee is 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.

(2) The Council is to determine the minimum competencies required for appointment as a chair, deputy chair or other member of a statutory committee.

(3) In giving advice as provided for in paragraph (1), the Appointments Committee is to have 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)<sup>(14)</sup>.

(4) No person may be appointed as a chair, deputy chair or other member of a statutory committee unless that person possesses, or has demonstrated the ability to acquire within a reasonable period of time (as determined by the Appointments Committee), the minimum competencies determined by the Council.

### **Standards and training for statutory committee members**

10.—(1) A member ("B") of a statutory committee must—

- (a) attend all meetings and hearings at which B's presence is required unless there is a good reason for B not being able to do so;
- (b) prepare for any meeting or hearing by reading any papers issued to the members of the statutory committee beforehand;
- (c) if B is unable to attend a meeting or hearing at which B's presence is required, take all reasonable steps to give advance warning of B's absence to the secretary of the relevant statutory committee; and
- (d) comply with the code of conduct for statutory committee members approved and published by the Council.

(2) Each member of a statutory committee must undertake periodic training provided or arranged by the Council (which may be training provided by another body), for the purpose of assisting the member to carry out their role as a member of the relevant statutory committee.

(3) Each member of a statutory committee (including chairs and deputy chairs) must have their performance appraised periodically in accordance with arrangements determined by the Appointments Committee.

(4) The appraisal referred to in paragraph (3) must include consideration of the member's participation in training and attendance at meetings of the relevant statutory committee.

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<sup>(13)</sup> 2005 asp 10.

<sup>(14)</sup> The current guidance issued by the Judicial Studies Board entitled "Tribunal Competencies - Qualities and Abilities in Action" is available at [www.judiciary.gov.uk/publications-and-reports](http://www.judiciary.gov.uk/publications-and-reports).

### **Terms of office of statutory committee members**

11.—(1) The term of office of a member of a statutory committee (including a chair and a deputy chair) is to be four years.

(2) No member of a statutory committee (including a chair and a deputy chair) is to hold office as a member of that statutory committee for more than an aggregate period of eight years in any twenty year period.

### **Resignation of statutory committee members**

12. A member of a statutory committee may resign from that committee at any time by notifying the Appointments Committee in writing.

### **Reserve list**

13.—(1) The Appointments Committee must maintain a reserve list of appropriate persons who are eligible to serve as—

- (a) the chair of each of the statutory committees;
- (b) deputy chairs of each of the statutory committees; and
- (c) other members of each of the statutory committees (which is to include both prospective lay members and prospective registrant members).

(2) Persons may only be retained on the reserve list for a period of 3 consecutive years, after which time their suitability for continued inclusion in that list is to be reconsidered by the Appointments Committee.

(3) Persons on the reserve list who are eligible to serve as the chair of a statutory committee may be appointed as the chair, a deputy chair or a member of that statutory committee without further interview by the Appointments Committee, in the event that a vacancy arises on that statutory committee.

(4) Persons on the reserve list who are eligible to serve as a deputy chair of a statutory committee may be appointed as a deputy chair or a member of that statutory committee without further interview by the Appointments Committee, in the event that a vacancy arises on that statutory committee.

(5) Persons on the reserve list who are eligible to serve as a member of a statutory committee may be appointed as a member of that statutory committee without further interview by the Appointments Committee, in the event that a vacancy arises on that statutory committee.

(6) Persons on the reserve list may be invited to attend training provided or arranged by the Council (which may be training provided by another body) to maintain their suitability for continued inclusion on the reserve list.

(7) In the event that a member of a statutory committee (including a deputy chair but excluding a chair) is unable to sit to consider a case for any reason, persons on the reserve list who are eligible to serve as a chair, deputy chair or other member of that statutory committee may be co-opted on to that committee, if its chair decides that it is appropriate to do so, to serve as a member of that statutory committee (including as a deputy chair) for that particular case.

### **Suspension and removal of statutory committee members and persons on the reserve list**

14.—(1) The Appointments Committee must remove from a statutory committee any member—

- (a) who resigns from membership of a statutory committee in accordance with these Rules;
- (b) whose term of office has expired;
- (c) who, in the case of a registrant member, has ceased to be entered in the Register;

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- (d) who, in the opinion of the Appointments Committee,—
  - (i) has ceased to be an appropriate person to be a member of a statutory committee (for example, by reason of misconduct or a criminal conviction),
  - (ii) has seriously or persistently failed to meet the standards of performance, conduct, attendance or participation in training required of a member of a statutory committee in the ordinary course of a member’s duties,
  - (iii) is unable to perform the duties of a member because of ill health,
  - (iv) has improperly disclosed confidential information obtained by the member in the course of membership of a statutory committee,
  - (v) has brought the Council into disrepute,
  - (vi) has failed to comply with the code of conduct for statutory committee members approved and published on the Council’s website by the Council(15), or
  - (vii) should no longer continue to be a member of a statutory committee in the public interest.
- (2) The Appointments Committee must remove from the reserve list any person—
  - (a) who requests removal from the reserve list;
  - (b) who, in the case of a potential registrant member, has ceased to be entered in the Register;
  - (c) who, in the opinion of the Appointments Committee,—
    - (i) has ceased to be an appropriate person to be on the reserve list (for example, by reason of misconduct or criminal conviction),
    - (ii) would be unable to perform the duties of a member of a statutory committee because of ill-health,
    - (iii) has brought the Council into disrepute, or
    - (iv) should no longer remain on the reserve list in the public interest.
- (3) The Appointments Committee may suspend a member of a statutory committee while investigations are being undertaken into that member’s suitability to remain as a member of that statutory committee.
- (4) The Appointments Committee must afford any member of a statutory committee, or any person on the reserve list, who is under investigation the opportunity to make written and oral representations before reaching a decision on whether to remove that member from the statutory committee or that person from the reserve list.
- (5) The procedure for the suspension or removal of a member of a statutory committee, and the removal of a person from the reserve list, is to be—
  - (a) drafted by the Appointments Committee and submitted to the Council for approval;
  - (b) considered by the Council, who may decide to amend the relevant procedure prior to approving it; and
  - (c) once approved by the Council, set out in writing by the Appointments Committee, and a copy of the relevant procedure must be given to every member of a statutory committee or person on the reserve list.

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(15) The guidance can be found on the Council’s website at [www.pharmacyregulation.org](http://www.pharmacyregulation.org).

### **Casual vacancies**

**15.** Where a vacancy occurs on a statutory committee as a result of the resignation, removal or death of a chair, deputy chair or other member of that statutory committee, the Appointments Committee must—

- (a) appoint a replacement chair, deputy chair or other member from the reserve list; or
- (b) where no suitable replacement member is available from the reserve list, appoint a replacement in accordance with these Rules.

### **Power to co-opt members of statutory committees**

**16.—**(1) Subject to paragraphs (3) and (4), the chair of a statutory committee may, after consulting with a legal adviser to that committee, co-opt appropriate persons to act as members of that statutory committee where it is necessary or desirable to do so in order for that statutory committee to be able to dispose of a particular case.

(2) The power in paragraph (1) is in addition to the power in rule 13(7).

(3) No person may be co-opted as a member of a statutory committee unless that person possesses, or has demonstrated the ability to acquire within a reasonable period of time (as determined by the chair of the statutory committee to which it is proposed the person will be co-opted as a member), the relevant competencies determined by the Council.

(4) The following persons may not be co-opted as a member of a statutory committee—

- (a) a member of the Council;
- (b) a member of another statutory committee;
- (c) a member of the Appointments Committee; and
- (d) an employee of the Council.