

# THE ROYAL PHARMACEUTICAL SOCIETY OF GREAT BRITAIN

## Transcript of the Public session of the Council meeting held on Tuesday 3 June 2008

[NB: Decisions in square brackets and narrow type are taken from the unconfirmed minutes of Council and therefore are subject to amendment].

*The Transcript of the public meeting of the Council is not the formal record of the meeting. The formal record comprises the papers presented to the meeting and the minutes as subsequently approved. The policy of the RPSGB is actively debated at the meeting. The views expressed in the transcript do not necessarily represent the Society's agreed policy.*

### PUBLIC BUSINESS

#### Present

	Vice-President	Mr M Astbury (in the Chair)
	Treasurer	Mr A Gush
Mr S Acres		Ms S Agha
Mr G Alexander		Mrs C Brown
Mr David Carter		Mr S Churton
Dr B Curwain		Mrs D Drury
Dr C Duggan		Dr P Entwistle
Mr J Gentle		Mrs S Hikins
Mrs L Jacobs		Mr R Jobling
Mr J Jolley		Mr A Kershaw
Mrs S Kilby		Ms Y Liddell
Professor B Michell		Ms A Moore
Mr D Simpson		Mr D Thomson

#### In attendance

Mr P Bennett, Chairman, English Pharmacy Board, Mr P Jones, Chairman, Welsh Pharmacy Board and Dr RM Parr Chairman, Scottish Pharmacy Board.

Chief Executive & Registrar, Mr J Holmes

**Mr Martin Astbury, the Vice-President** (in the Chair): Good afternoon, Council.

#### 1. Apologies for absence

We have apologies from Margaret Allan, Nick Barber, Keith Wilson, Marcia Saunders and Jane Ramsey for today.

#### 2. Declaration of interests

If I can remind everyone to make declarations of interest at the beginning of any relevant agenda items.

#### 3. Welcome to guests

It gives me enormous pleasure to welcome our guests today. We have David Morgan from the Clwyd Branch, Mags Norva from the Mersey region, Charles Flynn from the Isle of Man, Alan Robinson from the Nottingham and District Branch and Jodie Taylor from the BPSA. You are all very welcome.

#### 4. Welcome to new Council Members

I have enormous pleasure welcoming three new Council members here today in the Council chamber, taking their position around the table. We have Catherine Duggan, Alison Moore and Yvonne Liddell. We look forward to contributions from you in the future.

Items 5, 6 and 7 will be taken first thing tomorrow morning. They are all based around the election process.

**8. Standing Orders of the Council**

We now move to item 8, which is standing orders for Council, if anyone has any questions, we are here to answer. If there are no questions, I ask us to adopt the standing orders. **(Agreed)**

[Council adopted the Standing Orders of Council, as provided for in Section 15 of the Regulations.]

**9. Adoption of the Council Governance Handbook**

We move swiftly to item 9 on the agenda, which is the adoption of the Council Governance Handbook. I would like Lorna Jacobs, Acting Chair of Governance Committee, to introduce the paper.

**Mrs Lorna Jacobs, Acting Chairman of Governance Committee:** The revised version of the Council Governance Handbook was included with the Council papers, as a separate spiral-bound document. During the year the Governance Committee reviewed a number of aspects of the handbook, as requested by the Council. These changes, and a number of other amendments agreed by the Committee, have been incorporated into the version circulated. Additional changes have been made to reflect the regulations now in force, which the Council has previously agreed as batch 2. A summary of these changes is set out in paper 46. Please note that the amendment to the composition of RPS Publishing Board is included in paragraph 5.19, not 5.9, as stated in the paper. The Governance Committee recommends that the Council adopts the revised Council Governance Handbook for 2008/2009.

**Mr John Gentle:** Just further on from that, about the numbering. In section 2, there are two 2.5s. In the paper it talks about Chairman of Committee Groups.

**Mrs Lorna Jacobs:** In the paper, or in the Governance Handbook?

**Mr John Gentle:** In the last paragraph of page of 1/3 it says "included at paragraph 2.5". In fact, it should say 2.6, but in the Handbook there are two section 2.5s.

**The Vice-President:** If that can be taken away. Can we adopt the Governance Handbook, please?  
**(Agreed)**

**Mrs Lorna Jacobs:** These are further revisions of the handbook. The Governance Committee considered that the existing handbook is a comprehensive description of principles and procedures which underpin the governance of the Society's Council; that it makes transparent the way Council and the Committees do their business, and that it is effective in explaining how the Council and its structures operate. It acts as a practical guide for members, Council members and staff. With the focus of the Society and the Council now firmly on de-merger and the establishment of the General Pharmaceutical Council and a further professional body for pharmacy, the Governance Committee recommends that going forward, amendments to the governance of the Council and Committee should be considered on the basis of the level of risk, and only matters representing a high risk, which would affect the Society before establishment of the successor body, should be brought to Council.

**The Vice-President:** Any there any questions, or can we agree that, Council? **(Agreed)** Thank you, Lorna.

[Council i. adopted the Council Governance Handbook for 2008/09, and ii. agreed that going forward amendments to the governance of the Council and committees should be considered on the basis of level of risk and only matters representing a high risk which would affect the Society before the establishment of the successor bodies should be brought to the Council.]

**10. Minutes of the public business part of the meetings of Council held on 1 and 2 April, 24 April and 21 May 2008**

We move to item 10 on the agenda, which are the minutes of public business. We have not been notified of problems with the minutes. If we can agree the minutes for 1 April? **(Agreed)** 2 April? **(Agreed)** 24 April? **(Agreed)**

[Council resolved that the minutes of the public business parts of the meetings held on 1 and 2 April and on 24 April 2008 be received and agreed as a correct record.]

**11. Matters arising from the public business part of the minutes not specifically included in the agenda.**

Next we have matters arising. We have not been notified of any matters arising.

**Professional leadership matters****12. Report of the Clarke Inquiry**

This is the inquiry into principles, functions and structure of the future professional body of pharmacy. I will hand over to Jeremy.

**Mr Jeremy Holmes, Chief Executive & Registrar:** We will be discussing this in slightly more detail in confidential business, but for public business, I would like to report that I had a very constructive meeting with Nigel Clarke whom Council has agreed should be the Chair of the new the Transitional Committee. I met with him on Friday. He is very keen that we should adopt a flexible approach to membership of that Committee, such that we can be sure that all the relevant views are heard properly, and we have as wide as possible a stakeholder group that is involved in the transitional process. He is very keen that we should engage with as many of the other groups who want to be part of the new professional body as we possibly can, and also to make use of a reference group of other bodies, who may not become part of the new professional body, but have a clear interest in its success. I would like to report that we are on track to get that Committee established. Nigel is very clear of the need for flexibility and I feel very confident that we will have a good mechanism to get that process underway.

**The Vice-President:** We will be discussing this further as in item in confidential business as well.

**13. Report on the 167th Annual General Meeting of the Society held on Wednesday 21<sup>st</sup> May 2008**

If we can now move to item 13, which is to receive the report of the 167<sup>th</sup> Annual General Meeting? You all have got the report. Has anyone any comments to add or can we receive this? **(Agreed)**

[Council received the report of the 167<sup>th</sup> Annual General Meeting.]

**14. Branch Representatives' Meeting (BRM)**

We next move to the report of the Branch Representatives' Meeting, which was held on 22 May 2008. John, do you have any comments?

**Mr John Gentle:** Yes. It is relatively straightforward. The paper before you is for noting. It makes comments about what happened on the day. The Council comments on the motions, which were agreed at the meeting in April before the Branch Reps' Meeting. It is somewhat unfortunate that the only motion that lost is one of our guests' here today. **(Laughter)** But the person sitting next to him can be proud of the fact that both the BPSA motions were passed so, so she can get one over in the bar later on.

One of the items that did pop out of the meeting which it might be appropriate to raise briefly now for Council members to ponder, if not to decide upon, is the membership team are currently allocating/reallocating Council members to Regional Committees. There are two or three Regional Committees a year in England. We are talking of England now. Because of various Council members leaving, there will have to be some new appointments, and sometimes it is difficult geographically to allocate members. Phillida lives in Dumfries so will not be keen to be put in the Anglia Region, for instance. But mentioning Phillida, she is a lay member and we have two technicians, and up to now it has been the convention that only pharmacist members are appointed to Regional Committees. It has been suggested, partly because it is a good idea for lay members to access Regional Committees and go and meet with these people and partly because it will help the membership team in allocating the geographical distribution of membership of the regional committees, that we may want to reconsider the allocation of Council committee posts to the whole Council, and not just the pharmacists members; the point being that maybe we should have lay members appointed to Regional Committees and the technicians as well, as opposed to just pharmacists. That may be something Council would like to ponder. I am not sure if a decision would have to be taken by Council, but certainly if any lay members or technicians were interested in the proposal, if they were to approach Amanda King and the membership team, and put their names forward, I am sure they would be gratefully received.

**The Vice-President:** I think that is a sensible suggestion. Rather than opening a debate here, I suggest that we discuss it at the Strategy Day we have coming up in July, along with other ways of working. I think it is a very good proposal.

**Mr John Gentle:** I think independently though, if those members of Council, Steve and Yvonne were interested, if they were to approach Amanda and the membership team, I am sure that would smooth things along.

**Mr Gerald Alexander:** Just to support John, I would like to think we could deal with it fairly swiftly; it is fairly uncontentious. I think the membership team need all the help it can get. We need to get out to members. We have a Council of 30 members. We should undertake to go and see Branches, Local Pharmaceutical Committees and get our message across. The more of us that who do it, the better and the sooner. We could leave it to July, but if we are going to work together effectively, I think we should do just that and just get on with it.

**The Vice-President:** I hear what you are saying; I am not wanting to slow things down. As far as I am aware, the next round of regional meetings will be in the Autumn. Therefore nothing be will be slowed by down by this.

**Mr Gerald Alexander:** What I was saying is that we should be going out and talking to members, wherever they may be. That could be in a local Branch, at a Local Pharmaceutical Committee level or anywhere. The sooner we do it the better. Although it is slightly off the point John raised, that is what I am trying to say.

**Ms Seema Agha:** Perhaps some precedent has been set, because as a lay member of the English Pharmacy Board I hosted a dinner for Regional Secretaries with another pharmacist member. This work is important in shaping the future and discussions on the professional body. I went to another dinner in Manchester on behalf of the English Pharmacy Board, and that work is already being done. I do not think we have time on our hands. I have started that work and there has been no objection to it. Working on those principles, we can start this as we mean to go on.

**Mrs Sylvia Hikins:** I welcome the suggestion and would be happy to be involved. I say that because I will not be at the July strategy meetings. I would hope that we could pick this up as soon as possible. I agree with Seema; why wait to July. Let us get cracking on it and think of how you would want to use the lay membership.

**Mrs Lorna Jacobs:** I am speaking essentially in support of what both Seema and Sylvia were saying. The advantage of getting on with it, although the meetings may not be until later in the Autumn, is that in terms of people's diaries the sooner people know what dates they may be wishing to attend, the greater chance of them getting there. It would be sad to find that people are really enthusiastic about going to their region and finding on that day now they have a commitment.

**Mrs Sue Kilby:** I think somebody said already today that if you are a Council member, it is not just a case of sitting in Council meetings and Committee meetings. It is what you do around and outside the meetings as well. I think for the regional side, I am in contact with those people who are on the Committees in the different groups and I act as a conduit, so that they can talk to me about a range of issues on what is happening at Council. Therefore I would encourage and support the motion that we look at this sooner than later. I do not think it is a contentious issue. The more people who can help and support the network the better. We have a range of skills. They need different skills to be brought in to help them at regional level. I ended up having to stand in at very short notice for somebody to give a presentation at a regional meeting. If I could not have done, it would have been helpful if somebody else could have done it. They would have been familiar with that person. It is about having a list of names they can call on. You are building the bridges.

**Mr Steven Acres:** As a pharmacy technician, I have no problems with John's proposal. I would support it. I do interface with my local Branch and the LPC. I know Lesley, who was on Council before, also did the same.

**The Vice-President:** John, if you wish to make that a formal proposal and Council wish to take it forward at this point, I am in the hands of Council.

**Mr John Gentle:** I would caution that there are one or two financial aspects - at the risk of incurring the wrath of the Treasurer for sticking us with an extra £10,000 bill for this. If we could agree that in principle this is a good idea. I think the Vice-President is right, when he says that most of the next round of meetings would be later on. If we can agree in principle now and put this to a Strategy Day in July, to give staff time to check up, in case there are other implications. On the face of it, it is a good idea. I think it is a good idea, particularly at this juncture of the Society's history, that everybody gets out and starts talking to people. There is no reason why lay members should not go to these meetings, talk to the pharmacists there and see what goes on.

**Mr Andrew Gush, the Treasurer:** Can I add something: subject to budgetary constraints? (Laughter) Everything needs to work within a budget, otherwise we lose control. I am very happy to support this, as long as people are happy that a budget is put in to support it.

**The Vice-President:** Are we happy with that Council? (Agreed)

**Mr David Thomson:** One aspect on 14. The opening paragraph suggests the work would be taken forward by some of the Committees of Council. I am surprised that motion (e) might have been mentioned that it could be referred to the English and Welsh Boards, because it carries an element of practice. It would be appropriate for that element to be considered by the respective Boards in England and Wales.

**The Vice-President:** I am sure that will be taken on board. I think the relevant wording should be any motions that are here of the Boards or the relevant Committees.

**Chief Executive & Registrar:** Can I make a comment on motion E? Council members may have seen the article in the Chemist and Druggist on accountability. We are thinking of doing another article, or possibly a series of them, one of which will be on MURs, which is directly relevant to that particular motion. So I hope members will start seeing some clear direction and support through that.

[Council noted motions carried, amended and lost at the BRM meeting held on 22 May. Council also agreed in principle to the proposal that allocation of Council members to regional committees in England be extended to include allocation of lay and pharmacy technician members of Council and that it be discussed further at the July strategy day, when further information, particularly on cost, could be considered.]

### **15. Members designated as Fellows of the Society by the Panel of Fellows under Byelaws Section III**

**The Vice-President:** We now move to item 15, which is for noting. It is the members designated as Fellows of the Society by the Panel of Fellows under Byelaws, Section III. You should all now have a list of the people who have been put forward as Fellows. If we can congratulate all the people nominated. We have one of those designated Fellows here. (Applause)

**Mr Peter Jones, Chairman, Welsh Pharmacy Board:** I would like to thank you, Council, for accepting me. I was truly and greatly surprised. I am overwhelmed and honoured. Thank you. (Applause)

[Council noted the members designated as Fellows of the Society for 2008.]

### **Regulatory Matters**

### **16. Pharmacy Regulation and Leadership Oversight Group (PRLOG)**

**Mrs Christine Gray, Head of Corporate Governance:** Thank you, Vice-President. This is simply an update for the Council to bring you up to speed. We have not had a PRLOG meeting since the last Council meeting, so there are no new developments as such. This is simply an update for you. If you have any questions you want to raise at this time, I or colleagues will be happy to try and answer; otherwise try and get in touch with Elaine or I.

**The Vice-President:** Can we receive the update? (Agreed)

[Council noted the report.]

### **17. Referral from Law & Ethics Committee: Consideration of cases suitable for non-referral to the Investigating Committee.**

Seema will introduce this item.

**Ms Seema Agha:** Hopefully Council have received the papers and had an opportunity to read the report. Just by way of background, at its meeting in December 2007, Council agreed to consult the membership and others on a series of proposals about the way in which single one-off dispensing errors are handled; the scope of the single, one-off dispensing error and the threshold criteria of such cases. It also agreed to consult on other cases suitable for non-referral, the threshold criteria for these cases and the way in which these cases should be handled. Subsequently at the meeting in April the Law & Ethics Committee carefully considered the issues raised within the consultation, and is presenting to Council today a series of recommendations on the way in which these cases should be handled. It is important for Council that the recommendations of the Law & Ethics Committee are carefully considered, and that the Society has a proportionate, open and transparent process for dealing with these cases.

By way of information, through the 11-week consultation, 212 responses were received. There is now a PR campaign in place to inform the membership and others of the decision that Council make today. Therefore, I would ask Council to give some thought in terms of the recommendations. Jackie Giltrow will answer questions, but I remind Council that the Committee has given time to go through the paper very carefully. I would propose that Council does not ask detailed questions, but looks at the recommendations being put forward to you. Therefore, I will hand over to Jackie Giltrow, Head of Regulatory Transition, who has been involved in this work since it began and to take Council through the recommendations of the Law & Ethics Committee and to answer any questions for you.

**Mrs Jackie Giltrow, Head of Regulatory Transition:** Thank you. For some of you, this may look a bit like *deja vu*, as you have seen similar papers perhaps in the past. Before I go through the recommendations, I advise Council members that in the year until today, we have dealt with a 50 one-off dispensing error cases using the non-referral route. So we have now quite a bit of experience of handling the non-referrals.

As we go through the recommendations I will try to point out some of the more significant changes that have taken place as a result of the consultation that the Law & Ethics Committee considered. Looking at recommendation (i), that cases involving single one-off dispensing errors should not be referred to the Investigating Committee, there is no change to the previous Council position on that. There was very much widespread support throughout the consultation responses. So no change there.

The threshold criteria for the referral of single one-off dispensing errors are set out in Appendix 1, box 1. The major change is that the criteria relating to relevant history within the last three years has been removed. Throughout the consultation response there was widespread criticism of the use of the relevant history criteria of three years. It was felt there was no evidence base for using that criteria, so that has now been removed.

Recommendation (iii) is that the scope of the single one-off dispensing error should include errors made throughout the whole dispensing process; that is, from receipt of the prescription until supply of the dispensed medicines made to the patient. That has been a change. Prior to that, we had quite a narrow definition of single one-off dispensing errors which basically meant the wrong medicine went to the wrong patient. That would be dealt with. Now we have broadened the scope of dispensing errors. So perhaps shortfalls of medicines or oversupplies of medicines will be captured and potentially used through the non-referral route. Scope of dispensing errors should not include near-misses. Again, that has changed from the last paper you would have seen. Again, there was widespread support throughout the consultation process for that move.

In terms of the action taken for the non-referred cases, there was no change in so far as the Inspectorate will investigate, ask whether the individual admits the allegations made and accepts the advice that the inspectors provide to them. There has been a change, however, in the maintenance of records in relation to non-referral cases. Previously there was no time limit on how long a record was kept against a registrant's name. Now we have proposing that records are maintained for five years rather than in perpetuity. There was widespread support for that throughout the consultation process. So that is a major change.

Recommendation (v) really picks up a point about the history, in relation to non-referral cases, and what use should be made of that history before the Investigating Committee and/or other Committee. That is going to be subject to a further paper to be considered by LEC and brought back to the Council.

Recommendation (vi) is a change. We were purely dealing with single one-off dispensing errors in the past.

Now we are seeking to extend the category of what we would determine as the less serious cases that do not bring the fitness to practise of an individual into question. There is a list of the proposed cases that we would seek to deal with in this way at Appendix 1, box 2. That list again takes into consideration the consultation responses.

Recommendation (vii) is a change. We did not have threshold criteria for the other cases, because we did not use to deal with other cases through non-referral. These set out a threshold criteria. Again, there was major support in the consultation for these criteria and major support for not adding further criteria to the list.

Finally recommendation (viii), where there has been a change. We are actually putting forward recommendations that registered pharmacy technicians should be incorporated into the non-referral route. Before, it only related to pharmacists but that is perhaps an oversight. We should include registered technicians in this as well, so we have a level playing field for both professions.

That is all I wanted to say on recommendations unless anyone wishes to raise issues. If not, we ask Council to accept the recommendations.

**The Vice-President:** Does anyone have any general comments to make?

**Mr John Jolley:** I think these recommendations are certainly to be welcomed. I wonder what effect this will have on the workload of the statutory committees by imposing those criteria, because quite clearly there will be a reduction in caseload. Have you done any calculation?

**Mrs Jackie Giltrow:** We have looked at the types of cases that may fall within the non-referral criteria. It is difficult to estimate, but potentially up to, say, 200 cases could fall outside of the Investigating Committee remit. It is difficult, as cases do vary year on year. But if you anticipate that we have dealt with 50 dispensing errors in one year, which is one set of cases, we do not have huge numbers with regard to the others. I would approximate about 200.

In terms of the effect on the Disciplinary Committee, there will be no effect, because these are the less serious cases. There will be no reduction in workload for Disciplinary and Health. There will be a slight reduction for the Investigating Committee, as they will be looking at less non-serious cases, but they still will be looking at all the serious cases.

**Mr Alan Kershaw:** I am in support of this paper. I have a couple of points on individual recommendations. One point that I do not see covered is what the Investigating Committee will see. I think it would be helpful if we could be sure the Investigating Committee will see an aggregating report from time to time on cases dealt with in this way, with trends identified and so on. They do not have to reopen the cases -- I do not think it is right that they should -- but they should see what is going on, and perhaps have a chance to comment and perhaps have drawn to their attention issues where it is not working out as we intended, or where we could go further than we intended. It would be helpful if we could know that was going to happen.

**Mrs Jackie Giltrow:** Indeed. At the moment I provide a quarterly report to the Investigating Committee, and we will also be reporting through the Law & Ethics Committee as well, and I anticipate that on a quarterly basis.

**Mr Douglas Simpson:** I used to be Chairman of the Law & Ethics Committee, so perhaps I could declare an interest. I think it is an improvement in the one-off dispensing error, because the previous decision meant that hardly anything got through. I welcome the broadening of this. There is just one tiny thing. Under advertising, for instance, we have advising prescription-only medicines -- anything in breach of that would not be referred. I used to edit the Pharmaceutical Journal. I am quite alarmed at the fact that I could be subject to two-years' imprisonment for breaching these regulations. Technically you could end up with a conviction, under some of these regulations. What happens, in the outside chance a conviction does result?

**Mrs Jackie Giltrow:** With convictions, it depends on whether there has been a prison sentence imposed. Within the fitness to practice rules there are routes that convictions have to take, so they will be dealt with. It depends whether it is an imprisonment term or whether it is a direct route through a Disciplinary Committee or to the Investigating Committee. Without double-checking in the rules, I suspect you could get a conviction that would still fall within the non-referral if it is a minor breach and there is to term of imprisonment potentially.

**Mr Douglas Simpson:** I was not admitting to anything! **(Laughter)**

**Mrs Jackie Giltrow:** I am glad to hear that, because anything you say Doug... **(Laughter)**

**Mr Gerald Alexander:** As you know, I am a member of Law & Ethics so I support the broad drift of the paper and thanks to Jackie for the quality of the paper. I suggested this at the Law and Ethics Committee. I have one little issue about the standard form of recording of the records. Are you any further forward with the process? Recommendation (iv) does not say how the records will be kept. What actually will be kept and the standard form. I thought it was a good idea that the Registrant, once they have accepted, would be able to see the form in which their record was kept.

**Mrs Jackie Giltrow:** That is a good point. We have standard templates already to handle the single one-off dispensing errors. They will be revised subject to Council's recommendations. We seek to ensure that the Registrant is provided with the standard format for the allegations against them and the standard format for the advice given to them. So they are very clear that at the moment the template will say, "This will form part of your fitness to practise history. Do you understand? You must consent to the allegation. Do you understand this could be used in future cases?" So there is very much a formulaic approach to it, so we make sure everyone is in no doubt at all about the allegation that they are accepting. That goes into a standard format on the database at the moment. I think we will need to revisit that and ensure it meets the purpose.

**Mr Steven Acres:** I strongly welcome the approach of extending this to pharmacy technicians and strongly support that. If we could move the mandatory registration of technicians forward, so it covers all pharmacy technicians that would be a significant step forward.

**The Vice-President:** Can we agree item (i)? **(Agreed)** Does anyone have comments on (ii)? **(Agreed)** (iii)? **(Agreed)** (iv)? **(Agreed)** (v)? **(Agreed)**

**Mr Alan Kershaw:** One small point, to be clear we consider the distinction between what is kept privately here and what goes on the public record. There is a very important distinction.

**Mrs Jackie Giltrow:** That will be part of the paper.

**The Vice-President:** (v)? Agreed.

**Mr Alan Kershaw:** A specific of Doug's general point, about page 9/16 on restricted titles and maybe a conviction for someone improperly using one. We are then told "not dealt with by the Society". We would not be prosecuting in the courts, but would pick that up at conviction and deal with it in some kind of fitness to practise way.

**Mrs Jackie Giltrow:** Indeed.

**Mr Alan Kershaw:** I did not want to give the signal that this was not one the Society thought important, because it is.

**Mrs Jackie Giltrow:** When we look at the criteria, one of the criteria is misleading the public; either attempting to mislead or misleading the public. For example, if an employee within a pharmacy used the title 'pharmacist' it would be referred to the Investigation Committee, as we obviously value the title highly. The problem we have at the moment -- and this is why this is here -- is that often the police pick up people, and when they ask them what their profession is, they say, "I work in a chemist," so they put down "chemist" or "pharmacist". We then receive the notification of conviction, we chase people up saying, "You're a pharmacist. You have been convicted", and they say, "I don't what you're talking about, Gov. I used to do a cleaning job in a pharmacy 20 years ago." It is really to cover those types of cases.

**Mr Alan Kershaw:** What we are saying is that it is not the Society that would pursue and prosecute the matter in the criminal courts, but when it had been prosecuted, we would deal with the conviction, and if it was a pharmacist there would be consequences.

**Mrs Sue Kilby:** To seek clarification on advertising breaches. Are we talking about advertisements within community pharmacy, not within the pharmaceutical industry?

**Mrs Jackie Giltrow:** Potentially it is advertising breaches by a pharmacist, where a pharmacist is responsible or a pharmacy technician.

**Mrs Sue Kilby:** Or the company?

**Mrs Jackie Giltrow:** If it was a company that we registered. If it was an industrial company, we would have no jurisdiction.

**Mrs Sue Kilby:** I am thinking of Pfizer or GSK, where the pharmacist may have been responsible for sign off for advertising.

**Mrs Jackie Giltrow:** If there was a conviction against that company, we would not have jurisdiction.

**The Vice-President:** Can we agree (vi)? **(Agreed)** (vii)? **(Agreed)** Any comments on (viii)? **(Agreed)**

Before we move to 18, I would like to thank all the Council for the way in which we are proceeding. If I could remind members of Council during the debate, if you could pass notes to those sitting next to you and not talk when other people are having a debate?

[Council agreed i. That cases involving single one-off dispensing errors should not be referred to the Investigating Committee (subject to threshold criteria). ii. The threshold criteria for referral of single one-off dispensing errors to the Investigating Committee as set out in Appendix 1, Box 1. iii. That the scope of a single one-off dispensing error should include errors made during the dispensing process, from receipt of prescription through to supply of the dispensed medicine to the patient. The scope of 'dispensing error' should not include 'near misses' ie. medication errors that did not reach the patient/representative. iv. That cases against registrants which are not referred should be disposed of by way of a letter sent to the individual by the office as a result of the findings of the Inspector's investigations, where the individual admits the allegations made and accepts the advice provided. The letters should make it clear to registrants that they can seek legal advice prior to responding to the allegations against them. Records should be maintained for 5 years as part of the registrant's fitness to practise history to show that the individual has admitted to the allegations made and accepted the advice provided. v. A further paper should be considered by Law & Ethics Committee to discuss the use of records and fitness to practise history. The paper should take into account any advice or guidance from the Council for Healthcare Regulatory Excellence. vi. To extend the categories of cases that are suitable for non referral to the Investigating Committee (subject to threshold criteria) to include the categories of cases set out in Appendix 1, Box 2. vii. The threshold criteria for referral of those cases not involving single one-off dispensing errors as set out in Appendix 1, Box 3. viii. That the threshold criteria should apply to cases involving registered pharmacy technicians (including those voluntarily registered).]

### **18. Administrative determination of registration and retention forms**

Does anyone have any comments on this paper? Richard Anderson will answer any comments.

**Mr Alan Kershaw:** This is not a point of policy, but it appears several times. If it is inevitable that we have the equality monitoring form in each of these forms in this manner which is prescribed by CHRE, and if it is inevitable that we have the questions of our religion and sexual orientation -- which many people think are unnecessary -- could we at least spell *heterosexual* correctly? **(Laughter)**

**The Vice-President:** I am sure that will be taken into account. Do you want the first question answered?

**Mr Alan Kershaw:** I think I know the answer.

**Mr Steven Acres:** I was curious as to why Council have to approve forms, when as a Council member I would not have a clue whether the forms are right or not. It seems to me this is something staff could undertake.

**Mr Richard Anderson, Acting Head of Registration:** Parliament's requirements of the Order requires Council to agree the forms. That is why they are before Council.

**Chief Executive & Registrar:** I would like to put on record thanks to Richard and his colleagues. We are quite lean and efficient in Registration at the moment. They have done a sterling job. I would like to thank Richard and the team for putting this together under some pressure.

[Council approved the forms relating to registration, retention and fees.]

### **19. Statutory Committees statistical report**

**The Vice-President:** Can we receive the statistical report, Council? **(Agreed)**

[Council received the report.]

### **Organisational matters**

#### **20. Council Confidential Business attendance of Branch and Regional observers**

**Mrs Lorna Jacobs:** At the Council Meeting on 24 April, the Council considered a paper with proposals relating to the attendance of branch and regional observers at the confidential sessions of Council meetings. The Council referred the paper to the Governance Committee for deliberation and paper 54 contains the recommendations of the Committee. The Committee was of the view that on the basis of risk, only Council members and relevant directors and staff should attend the confidential business of the Council meetings. However, the Council meetings could be organised, so as to minimise disruption to the agenda and the need for observers to leave and to rejoin the meetings.

The Governance Committee recommend that Branch and Regional observers at Council Meetings should not attend the confidential business, but that every effort should be made to include items in public business wherever possible and keep to the published agenda order, and that items on the confidential agenda should indicate under which criteria they are so designated.

**Dr Brian Curwain:** My general comment is that I welcome the paper. Whatever we end up with would be a huge step forward, which is helpful. I am interested to explore with the Governance Committee that they do not seem to have really addressed in this paper, as far as I can see it, the difference between an invited pharmacist observer and a member of the public or a member of the press. I can see very good reasons why we need confidential items that are separate and are discussed in the absence of the press and any member of the public who may choose to come. I think there may be a different case to be made for pharmacist observers, who understand the need for confidentiality, who are bound by the Code of Ethics and so on. I remember being excluded as an observer from a meeting, when what was being discussed was the level of fees. I would have thought you can see why there are some parts of the reportage that might not be helpful get into the press. As a member, I was passionately interested to know how you were discussing my next lot of fees. I wondered what your thoughts were.

**Mrs Lorna Jacobs:** The Governance Committee did have a very heated debate on this matter and we looked at it in great detail. Our focus was on that particular item or issue. If we are to have people in confidential business, are there some categories you could include and some that should exclude. It was on the basis of risk that we decided it would only be appropriate to have Council members for confidential business. It was as a result of that conversation that we put in item 3, that it should be clear what the logic is by which an item is in confidential business. If you look at why something is in confidential business, then it becomes more clear why people should be excluded. If you are merely putting something in confidential business because you are a bit embarrassed to be discussing it in public, then it gets a bit more woolly. If you are clear that it is to do with the fact that something is a policy in process, or something that it would be inappropriate for other organisations to know about at this stage, or things that relate to personal individuals, it then becomes much clearer that actually the reason this is in confidential business is good and sound. Therefore everyone, other than Council members, should be excluded.

**Dr Brian Curwain:** Thank you. I am content. That is helpful.

**Mr David Thomson:** I express a degree of disappointment with the first point. I would have anticipated that pharmacist members governed by our Code of Ethics might have been allowed to attend confidential business. That is qualified by a comment from members who attended the meeting as observers on 1<sup>st</sup> and 2<sup>nd</sup> April. If you remember that day, that series of meetings was particularly destructive. The majority of the time they were here, they spent outside. I had lunch with them. I think at one time, they were to have lunch with the officers. For some reason, I was the only one left. Their honest opinion was that any potential to be gained from the exercise was lost because of the amount of time they were out of the meeting. Yet they deal with very confidential business/patient identifiable material on a routine daily basis and are entrusted with that. I do not see why we restrict information where we can qualify and place conditions upon them, if they attend the meeting that they keep it confidential. I see that as a very retrograde step when we are trying to modernise and improve communication with the membership.

**Mrs Lorna Jacobs:** I think what we are hoping to achieve is that much more will be in public business. So for example, the discussion about fees and how they are set will be in public business, I understand. That is the idea. When we discussed it, we did not say, "Oh we think we will stick with the status quo". That was not the tenor of the discussion. It was very much that everything should be in public business unless there is very good reason for it to be in confidential.

**Mr David Thomson:** I hear what you are saying, but I can hark back when I was Chair of the Scottish Exec and was allowed to attend RMC meetings, where you were party to some very confidential business, but when I attended the same discussion in this chamber, you are an observer and you sit out in the hall, because you were not entrusted with the same information you heard the day before. I remember when Sandra Gidley was here as a guest. Again, that had been a particularly disruptive meeting and she had spent most of her time out there and, as a consequence, wrote a very angry letter. The same reassurance was given that the timetable would be restructured to allow maximum exposure to the main thrust of debate. We are now back into this fairly disruptive routine again. I cannot see it lasting. We have been there in the past and it has not worked.

**Dr Phillida Entwistle:** I was going to ask about how the Committee assessed the level of risk and how they intended to address it, but I think that has been answered by Lorna. My other comment is that if the public business is a public meeting, are we under any requirement to advertise it so Joe in the street can come in too, as are other NHS bodies?

**Ms Averil Ridgway, Head of Secretariat:** Some months ago the Governance Committee did look at public access to meetings, and that is a piece of work that remains outstanding for the Governance Committee. If we bring proposals to Council on that, it will include making the meetings known to the general public.

**Mr John Jolley:** I would like to support this motion on the condition that those confidential items are *confidential-confidential* and that they are kept to a minimum. There have been occasions when there have been certain items which only the Council can discuss, even to the exclusion of members of staff on some occasions. I think we should have our procedures in place to allow us to continue to do that. One area that might be of help -- because when I first joined Council (and there will be one or two people who will remember); as I was appointed Treasurer my job during the meeting was to control the flag. This was a stand that was put on the table. Whenever that was up, there would be no public reporting of the issues discussed. Nobody was ever excluded from a meeting to talk about whether it was confidential or not, but there would be no public reporting of any issue while that flag was on the table. Maybe I would we should go back to that?

**Mr Douglas Simpson:** What John said is technically incorrect. The flag was put up and that meant there could be no direct reporting of that part of the proceedings, but if the Editor of the Journal, in consultation with the Secretary and Registrar, decided that a report should be included in the Journal's report, then a report could be included. It put a loop into the system; it was not a straight cut-off.

**Ms Averil Ridgway:** Just to give Council a point of information, of course a piece of wood on a stick does not protect you from FOI disclosure.

**Mr John Jolley:** Nothing would protect you from that in any event, no matter who was present at the meeting.

**Mrs Alison Moore:** That was the point I wanted to raise about freedom of information. Perhaps because I am coming into this new, I am finding it difficult to understand why one should put things in confidential business that could technically be released anyway under freedom of information. Because it does say in the Handbook that there could be things you are discussing in confidential business that could be released under freedom of information. Could I ask whether that is something that is being considered in the criteria for when we decide something is confidential? Is it something that should be released under freedom of information or not?

**Mrs Lorna Jacobs:** The criteria are in the paper under 2.2. When I said items should indicate which criteria they are designated under, it would be to say which of those designations, why it is in confidential, according to items 1 to 8 in there. I think the point about the fact that it may be in confidential business, but may not be protected from freedom of information, is to make Council members aware that they should always choose their words with care. Because even if, as a paper comes to Council, it is the decision of the Registrar that the item does come under those, if every time an agenda item comes we have to do a real dig

around legally to say "Can we protect this under FOI" we would never get the agenda put together. FOI would generally be reasonable for those. That would be the starting point. If somebody asked for information we would say, "No it relates to an individual," but we cannot guarantee that if somebody pursued it and took it to the Commissioner that we would win. So just be aware that even if it is in confidential business, we cannot guarantee that we would win a fight. Does that make sense?

**Mrs Alison Moore:** I wonder if it would help if it was actually stated that things would only be put in confidential business if we would expect then not to be released under freedom of information. That is not guaranteeing that they could not be released, and that we might have made an error of judgement, but those criteria look like a freedom of information criteria to me. Perhaps it should be more explicitly stated that we would normally only put items in confidential business if we expect that they would be protected under freedom of information.

**Chief Executive & Registrar:** I think that is an interesting point. I do not know the view that the Information Commission would take on that, if we were to go public on it. Also, I think to the outside world the criteria set out in 2.2 are clearer in layman's language as to why something might be in confidential and not public business. I agree it is remarkably close to the criteria that one might imagine being used under FOI. Firstly, I think 2.2 is a good description and would be very clear to somebody outside the organisation. The issue is: how can we minimise the number of items that fall under those criteria? I am absolutely supportive of Lorna's view on that.

**Mr Gerald Alexander:** John Gentle brought the issue to the Governance Committee, where we discussed it at length. As a member of Governance Committee I fully support the recommendations that are before you. Lorna has pointed out the risk implications and the allusion to the Governance Committee of where items should be taken as confidential have been listed. For instance, the issue of disclosure could be prejudicial to the commercial activities of the Society, or another organisation or individual. I think we know what an individual might mean. I think, where we discussed specific cases, it is pretty obvious you cannot do that in public. The handbook is there for that purpose. The whole purpose of this is to improve the openness and transparency of our proceedings. I think it is all down to trust and something we have talked about a little earlier, but not in this session, and moving issues into open business where they can be in open business. It is down to the Chair and the Chief Executive and Registrar to make that happen. Clearly not everything can go into open business because there are areas where risk is involved. I think Lorna has explained that. I understand Brian's point of view and David; you do not want to offend anyone, but on the other hand the business has to be transacted in a proper way in order that leaks do not occur that would be prejudicial to the organisation or the individuals that might have been discussed at those proceedings. As a Council, I think we should accept the recommendations put forward here by the Governance Committee.

**Mrs Lorna Jacobs:** I wanted to come back to the point about the disruption for people going in and out. That is why we put in recommendation (ii), to keep to the published agenda order. What has happened in the past is that we have had public business and for some reason have ended up having to go into confidential business. People have gone out, come in, gone out. I think that is the thrust behind this point. If, for some reason, you are discussing something and it becomes confidential, we do not throw out our guests; we say "We are dealing with confidential business tomorrow." Therefore, this item will move, not our guests, so you do enable them to stay in for a period of time, rather than play musical chairs.

**Mr David Thomson:** I did put this on the table, which I will withdraw subject to a review being put in place that we monitor this, say six months down the line to demonstrate that it is working.

**Dr Rose Marie Parr, Chairman, Scottish Pharmacy Board:** The paper mentioned Council members and staff. It does not mention the directors in the National Boards. Just to seek clarification that we could remain during confidential business. It does mention it in the governance handbook, but not in the paper. Going back to David's point about the Scottish and Welsh Executive Chair being out of the room in confidential business. It is to confirm that the Chairs of National Boards can stay.

**Mrs Lorna Jacobs:** Can we amend this now? No?

**The Vice-President:** We could agree it;

**Mrs Lorna Jacobs:** We agree that this can be amended.

**Mr John Gentle:** Apropos of nothing tomorrow morning, I am not supporting Gerald; I am with Brian on this one. Steve has kept his mouth shut! **(Laughter)** At least the Branch observers today are fortunate enough to sit in to find out why they are going to be kicked out tomorrow. **(Laughter)** I suppose they should be grateful. He still has his boyish good looks, but it is over 20 years since Alan Robinson -- he is the one in the jacket there -- was my boss, who drove me for a week around leafy Cheshire while you reviewed pharmacists' performances, while I babysat the dispensary while he interviewed them. The wheels are somewhat reversed now, because I will sort of be his boss and telling him where to get off for a change. **(Laughter)** I am somewhat embarrassed that I will have to tell him to get out. As I have not been outed by Gerald as the person who put this forward (and by the minutes), it seems rather silly for me to support the Governance view, despite the fact that I am on the Governance Committee, because it is in the public record. But I do not support the group view. I think the principle that members -- particularly those members who are pharmacists and invited guesses, as has been mentioned (Dave and others) -- are not bound, as it says in this paper, by the Code of Conduct on advice to Council members, it is relatively straightforward to bind them to that code, or to get them to that code, or to give undertakings as professional people. In many cases it is Branch Secretaries who get invited, who have been professional people for years and years, and wear other hats and serve on other organisations, such as David who is here tomorrow and the others, I am sure, who I do not know so well. I am faintly embarrassed that they get kicked out of meetings. I think the principle is they should be allowed to stay, giving undertakings on confidentiality, as has happened on the Scottish Board, as David said. I think the Council should be ashamed of itself for maintaining the current position.

**Mr David Morgan (Clwyd Branch):** Thank you, Vice-President. If I can make two points. The first one is that if the intention is to have all the confidential business in one part of the agenda, say at the end, then I think that would be more acceptable to those of us who are going to be excluded. I think that is a good way to manage the business. The second point (and perhaps you could use this as an example) is this. I have been disappointed by the fact that the Council have only spent two minutes in public business talking about the Clarke Report. Yet for the four pharmacists and one pharmacy student here today, I am sure we are passionately interested in that subject, and yet we will not be party to the discussion because it is part of confidential business.

**Ms Seema Agha:** Just a couple of points. If we follow the rules, this can be managed well. I think the last term felt like a kangaroo court, where you feel that things are jumping in and out. *We have felt When is it confidential?* That process has to be managed by the Chair to look ahead and say what should go in and also give people enough warning, when something is going to be confidential, and not keep shutting it in and out. It has felt like a kangaroo court. We need to manage and keep to the rules. I think things will then follow a sense of order. So some responsibility on to whoever is going to sit on the Chair is to give notice to people. It is courtesy. Perhaps thinking through with the Chief Executive when things are changing; review each stage of confidential and public business when things are changing. It is keeping that alive.

**Mr Charles Flynn (Isle Of Man Branch):** Just a couple of points. I am very impressed by the general level of debate here. You seem to be coming to a conclusion which can be justified in the public interest, which is the main point. I think when you are talking about transparency and auditing on these sort of things it is very important that things which are taken out of public debate are confidential. It is important Council can justify the reasons for doing that. I think you are getting to the right thing, but obviously as an observer, try and minimise it. Understand as well that we are all professionals. Lots of the people who turn up as observers are long-standing pharmacists. I am sure with good judgement on both sides a wonderful solution can happen.

**Mrs Sylvia Hikins:** I can agree completely with (ii) and (iii). I do not agree with (i). Obviously, any old Joe from the public and certainly the press should not be in on confidential business. But I think Branch and Regional Observers, who are part of our RPS family and are invited guests, should be trusted anyway and should be included in the entire agenda. We know the discussion in confidential business is not same as in public. If we exclude people who we should trust, our Branch and Regional observers, it can look like a stitch-up; where we say certain things behind closed doors and in the public arena say little indeed. I take the view these are members who, as has been eloquently said before, handle confidential business for patients. If we entrust them in that way, I am happy to entrust them around the table. However, I would want them to agree to some kind of confidentiality clause. I think that helps in risk management, but I say let us include them.

**Mr Andrew Gush:** With reference to Branch and Regional observers, could we leave it to the discretion of the Chairman to decide whether they can stay for confidential business?

**The Vice-President:** I will let another two people speak.

**Mrs Lorna Jacobs:** I really do have sympathy with that approach, but I think in terms of risk management, to expect the Chair time at the time to be making these decisions -- I see Phillida as Chair of Audit nodding -- as Council members we have serious fiduciary duties, and it is not appropriate that those kind of decisions are left for the Chair of meetings to make on-the-hoof, as it were, exposing the Society to those risks. This is absolutely not in any way to denigrate our guests. Our guests have their own skills and expertise and they are very welcome, but they do not have the same fiduciary duties as Council members. They have many other problems -- possibly more onerous duties and responsibilities -- but they are different.

**Mr Ray Jobling:** I think it was John Gentle who brought it to attention here in recent time. He did that on a day when I too felt profoundly embarrassed at what was going; it was intolerable. I supported him then and I support what he is saying now. I know the Governance Committee has looked into this in detail. I am with him and with Sylvia. I think Branch and Regional observers are professional and should be treated as such. If they need to give an undertaking, I am sure they would do so willingly. I think it is to be regretted that they are excluded from confidential business.

**Dr Catherine Duggan:** I do not have much to add, only that I think three words that were the title of the White Paper this time last year or thereabout, Trust Safety and Assurance, describe the process that we are trying to undertake and enforce here. I suppose the rules need to be thrashed out. Then Council needs to enforce them and the Chair is there to undertake them. To have any *ad-hocery* on the day might put the Chair in an awkward position, which the rules are there to protect them against. Whoever you trust to be party to discussions ought to have an undertaken, to ensure that trust is two-way. I think those three words might help to clarify where we are on our discussions around this. Whoever is party to these discussions needs to be able to ensure a professional approach as to how they use that information, or do not.

**Mrs Sue Kilby:** Lorna, you have a difficult position to come up with something that would be acceptable to all Council, because we are looking at it from different perspectives. I agree with John and David around the table that generally speaking, that members of the Society should be present for the entire meeting. If we have invited them as guests, they should be able to be present. They have a Code of Ethics and these people are in responsible positions and we should be able to trust them. However, occasionally we do have areas where there is extremely sensitive information, where we need to be sitting together around Council. It is almost as though it is the old confidential-*confidential* information, where there really is a need for it to be just the Council members. I agree that should not be often, and I agree totally with what you are trying to do; to get most of the business dealt with in public, which I think is what we are really trying to cover. I support that and agree with you. But I think if we say we never have the opportunity as Council to sit round the table as Council with members, and perhaps senior members within the Society, we may be putting ourselves in a dither. I know it is not often we need to use that facility, but there are some occasions when it is necessary and appropriate for us to conduct our business in that way.

**Ms Jodie Taylor (BPSA):** I agree with all these points. I am a pharmacy student. If you were going to say that observers can be including in the discussion as pharmacist members, I am not a pharmacist. I have no responsibilities and I do not have to abide by the Law and Ethics Committee guidelines. I am not registered with anybody. I do not think I would feel right being in here, because there are grey areas.

**Mr Douglas Simpson:** I think we have to be careful here. The Governance Committee considered this carefully. I think we could perhaps ask them to look again. I would hate to see their view overturned after a discussion around the table. We have Branch and Region observers here. Sometimes they have other interests. Even I, as a pensioner of the Pharmaceutical Society, am not permitted to stay in the chamber at all times. There are times when I have to withdraw and I am not able to know of the discussion that has taken place and I cannot ask for a transcript to see what was said in my absence, even if I am not entitled to be present on all occasions.

We have to recognise that from time to time matters of an intense personal interest crop up, where it would be quite unreasonable to have anything other than people with a proper fiduciary duty in the matter present. There are times when the proceedings have to be confidential. I entirely agree with the direction of travel to put as much in public business as possible. I used to edit the PJ, so I was very cross when things went into private business that should have been in public business, like discussions on the fees, where the members would have a very big interest, but I recognise that there are matters which really are confidential and only Council members should be discussing them.

Even then, there are times when Council members who have special interests have to withdraw. So we do not get a completely free sheet, even if we are on the Council.

My general point is that rather than overturn the Governance Committee report, I think we should perhaps ask them to look at it again. I think to do anything on-the-hoof, other than that, would be a mistake.

**Mr Alan Kershaw:** I think the resolution may lie in the status of what we are agreeing. If what we are agreeing is a new standing order, there is a provision for suspending standing orders when appropriate. If it required a two-thirds majority, or whatever the rules say, then we can resolve to suspend this order in certain circumstances when, for example, the conduct of individuals is being considered of a personal position of some kind of something that is genuinely sensitive. I think if it were on the understanding that (i) is that Branch and Regional observers at Council meetings should attend confidential business on the same basis as Council members. In other words, they will be bound by declarations of interests and to leave the room if appropriate. They would be bound specifically by confidentiality that was set up in whatever letters were exchanged when they agree to come. I do not really see any difficulty in that. If we do not, what is the purpose of an observer, except to observe? If they are here to observe, if we are to exclude them from confidential business in the same way as members of the public, we may as well not invite them at all. We may as well put a notice in the Journal saying "There is a meeting coming up, anyone can come". I am very much with the view that they should be entitled to attend, provided it is clear that their attendance is on the same basis as the rest of us.

**Mr John Jolley:** In the interests of trying to progress the matter, I propose an amendment to item (i), which is that regional observers at Council meetings should not attend the confidential business, conditional that the items included in that confidential business be restricted to exceptionally sensitive issues, so that we basically reduce the agenda of the Council members.

**Mrs Lorna Jacobs:** That is what (ii) is saying.

**Mr John Jolley:** I know, but that is not what we are voting on.

**The Vice-President:** If we do not want to go with motion (i), we will vote it down, then we will look at the alternatives. That is my suggestion and the way I would like to progress it.

**Mr John Jolley:** If we have voted it down, Chairman, the issue is lost. If we amend it first and then vote on it, that is certainly the preferred route, without losing this item altogether.

**Mrs Sylvia Hikins:** We have had a full discussion. I think Lorna, as Chair of Governance, can reflect on the views. I think we should go to her Committee and have another look, so we have a breathing time.

**Mrs Lorna Jacobs:** I suggest that if we are to reflect on it, we would like guidance from the Audit Committee on management of risk. We are happy to take it back. Can we agree points (ii) and (iii)? If points (ii) and (iii) come into force and are seen to be working, the pressure on (i) may reduce.

**The Vice-President:** Do you have objections to me going to recommendations at this point for (ii) and (iii)? Can we accept (ii)? **(Agreed)** (iii)? **(Agreed)** Do other people wish to speak?

**Professor Bob Michell:** I do, because I think we have been too focused on our own behaviour and not what is definitely relevant in some of these cases, which is the fact that information about individual people is put on to the table in front of us because we are in a position to do something with information, or indeed have to do something with that information. In some cases, like an appeal against an exam result, for example, the person making the appeal is perfectly clear that we will read about their medical records, their nervous breakdowns, divorce and all the rest of it. They do not provide us with that information on the grounds that the same information will be shared with someone who is quite legitimately here to see how we do our business, even if we give the reassurance that they are sworn to secrecy. Without being rude, that information is none of their business, because there is nothing that they can do with the information. I think the right route is keep to the absolute minimum the stuff that is in confidential business, but to respect that if it is there, it is there for a good reason, and it is there so that it is only accessible to the people who can use the information, who have a duty to use the information -- not merely people who might be understandably interested in it.

**The Vice-President:** I suggest that if this is going back to the Governance Committee, if at all possible (and if it is appropriate) that when the paper is produced it can be shared with Council prior to that Governance Committee, so people can feed in. Is that appropriate or not?

**Mrs Lorna Jacobs:** I do not think I understand.

**The Vice-President:** If you produce the paper that is going to Governance, if you share it with the rest of Council, they can feed in any comments.

**Mrs Lorna Jacobs:** If people have further comments they want to make, I will have a copy of the transcript, because that will help. If people can feed any other comments they want to make to the Chair of Governance. I think we have the answer.

**Dr Phillida Entwistle:** You can certainly ask the Audit Committee for their views. At the moment, I cannot think what they are going to say. I think you are creating unnecessary delay in implementing a policy that seemed to me to be sound from the beginning. We are creating delay. The Audit Committee will not meet until nearly the end of July, so this will not be operative for the next Council meeting.

**The Vice-President:** If (i) is referred back and we carry on the status quo, if it is carried we will be carrying on with the status quo anyway, so it will only be if somebody proposed an amendment to the first one.

**Mr Steven Acres:** I thank Jodie for introducing context. There are discussions that go on around the table where we have papers and a lot of information that is not necessarily available to the observers who come to the meeting, so they do not always understand the context of the discussion and sometimes they may not understand the impact of a comment passed outside a meeting.

**Mr Gerald Alexander:** On the point Bob alluded to about exam attempts, Phillida, Bob and I have been here a little while and I think we can recall individuals coming in and out of this chamber making representations to us at various time. Had that information been in the public domain -- and I am alluding to something very general -- we could have been subject to legal challenge. Now Bob made the point that you do not want your medical records bandied around in public or your personal history. It is public business because at the end of the day, I am sure our representative from the BPSA has suggested it is not a good idea to be listening to that. I do not think colleague observers would wish to listen to that. Where information is really confidential, you cannot have that exposed to the public gaze. That is the reason why the Governance Committee came up with (i). That is the extreme, but there are less extreme ways of putting matters into public business that were in confidential. You have to trust us. As we move forward, we will try our best to put information in public business. I think it is down to trust, openness and transparency. To try and fix it by way of changing the recommendation, or even sending it back to Governance -- I am sure we could look at it again in Governance and there may be a half-way position -- is not the right thing to do. I think you have to do things that are right, and this is right.

**The Vice-President:** Can we take a vote on whether we send this back to Governance? If we decide not to, then we will go on to vote on the recommendation. All those in favour of item (i) going back to Governance? **(Vote taken: Lost)** Those in favour of recommendation (i)? **(Vote taken: Carried)** That has been agreed. Jeremy would like to make a comment.

**Chief Executive & Registrar:** I wanted to respond to the point David Morgan made, which struck home, which was the importance of Nigel Clarke's Inquiry and the Transitional Committee, which I appreciate is the subject of great interest to many in the profession. The principal issue that Council needs to discuss is the Society's own representation on the Transitional Committee. That is an issue that is in confidential business because, in the words of the paper we had just a few moments ago, it refers to individuals or organisations which could be prejudiced by disclosure. There is going to be a discussion about individuals on the Transitional Committee. What I can tell you is that Nigel Clarke is being given very wide discretion on other members of the Transitional Committee. Council has agreed that there should be a high level of discretion for Nigel, and he is prepared to use that and be flexible with membership of other organisations on the Transitional Committee. There is no secrecy about this. We just want to establish who the Society's representatives will be, which is why it is in confidential business.

**Mrs Sue Kilby:** Can I make one point? I do not want what Council said about non-attendance in confidential reported when it goes out, but want to put it in the context of the discussion we had around it; that we were wholeheartedly in support of encouraging as much as possible for it to be in open and public business. Taken in isolation, it could be totally misleading.

[Council agreed i. that branch/regional observers at Council meetings should not attend confidential business; ii. that every effort should be made to include items in public business wherever possible and to keep to the published agenda order, iii. that items on the confidential agenda should indicate under which criteria they are so designated, and iv. that the Governance Committee would keep under review the allocation of items between public and confidential business on the Council agendas.]

**21. Minutes circulated since the April 2008 meeting of the Council**

**The Vice-President:** The next item is 21 on the agenda, to accept the minutes for the various committees that are listed. Can we accept those? **(Agreed)**

[Council received the minutes.]

**22. Council update**

The next item on the Council update is for noting. **(Agreed)**

[Council noted the report.]

**23. Any other business**

No any other business has been notified. We close open business. We will be restarting public business at nine o'clock in the morning with the elections and outstanding items. We will start confidential business in 15 minutes.

Public business continued on 4 June 2008