

Health Professions Council -11 December 2008

Council Elections 2009

Executive Summary and Recommendations

Introduction

The Section 60 Order which will bring about the restructured Council has not been published at the time of writing this paper however it is likely to be published shortly. If the Order is enacted by 8 July 2009 there will be no further elections and thereafter all new members will be appointed. However if the legislation is not enacted by July 2009 elections for registrant members will be held.

The elections will be for the registrant member for Arts Therapists, Orthoptists and Prosthetists and Orthotists. All alternate members come to the end of their four year term of office in July 2009 and therefore elections will take place for all alternate member vacancies.

The Health Professions Council (Election Scheme) Rules 2004 require Council to take a number of decisions with regard to the elections.

These are as follows;

(i) Returning Officer

Rule 3 (1) states 'Not less than six months before the end of the full term of office of any registrant or alternate member.....the Council shall, as regards the election to be held in respect of that vacancy, appoint a Returning Officer and may at the same time appoint a Deputy Returning Officer who shall be entitled to carry out the functions of the Returning Officer if he is absent or unable to act'.

(ii) Return of Expenses

Rule 15 (2) states 'the Returning Officer shall publish all statements of expenditure received under this rule in such a manner as the Council may determine'

Decision

The Council is asked to agree the following:

- (i) that the Chief Executive/Registrar is appointed as the Returning Officer as of 8 January 2009 until the close of the 2009 election process and will run the election if required
- (ii) that all statements of expenditure are published on the HPC website.

Background information

The following decisions are at the discretion of the Returning Officer;

- (i) the timetable for the election;
- (ii) the format of the election notice and ballot paper;
- (iii) the length and form of the election statement;
- (iv) the electronic format in which a passport-sized photograph of the candidate should be sent;
- (v) the development of a proforma and guidance notes for statements of expenditure.

At the request of the Chief Executive, the HPC Solicitor and Parliamentary Agent has provided advice regarding the timetable for the possible elections. This advice is attached at appendix 1.

The Council is asked to note this advice regarding the elections and also regarding the HPC's power to make an appointment to the Clinical Scientist vacancy which will be made in the usual way in open competition using the services of the Appointments Commission.

The Council should also note the following;

(i) Independent Scrutineer

Rule 4 (1) states 'The Council, shall, not less than five months before the due date, appoint an Independent Scrutineer to supervise the conduct of the election.

As a result of the 2002 consultation the Council took the decision to appoint the Electoral Reform Services (ERS) to run the election on its behalf. The ERS will act in the capacity of Independent Scrutineer.

(ii) Communications

Information regarding the elections will be made available on the HPC website.

Resource implications

None

Financial implications

A quote has been obtained from Electoral Reform Services- see attached at appendix 3. The costs will be incorporated in 2008/9 budget.

Date	Ver.	Dept/Cmte	Doc Type	Title	Status	Int. Aud.
2007-11-30	a	SEC	AGD	Councilelections2008	Draft DD: None	Public RD: None

Background papers

Letter of 21 February 2005 sets out the guidance from the Privy Council on the provisions of the Health Professions Order 2001 regarding the cycle for the election of registrant Council members (available from the Secretariat).

Appendices

Appendix 1

Letter dated 4/12/07 from Jonathan Bracken, HPC Solicitor and Parliamentary Agent to Marc Seale, HPC Chief Executive

Appendix 2

The Health Professions Council (Election Scheme) Rules 2004

Appendix 3

Electoral Reform Services Quote for 2008 elections

Date of Paper

6 December 2008

Date	Ver.	Dept/Cmte	Doc Type	Title 3	Status	Int. Aud.
2007-11-30	a	SEC	AGD	Councilelections2008	Draft DD: None	Public RD: None

Appendix 1

Marc Seale
Chief Executive and Registrar
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184 Kennington Park Road
London
SE11 4BU

Your Ref

Our Ref
JKB/Y030370

Date
4 December 2007

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Dear Marc

HPC Council Elections

You asked for my advice on whether HPC needs to hold Council elections in 2008, given that the health ministers are currently proposing to make an order under section 60 of the Health Act 1999 which would amend the Health Professions Order 2001 (HPO) to make the Council a wholly appointed body. In asking for that advice I am aware that you are keen to avoid unnecessarily incurring the significant costs involved in holding an election given that the changes proposed by ministers may take effect before that election has concluded.

As matters stand, elections are due to be held for three registrant member posts on the Council, one of which is currently vacant. In addition, due to resignation, a further vacancy exists in respect of the registrant member for the clinical scientist Part of the Register and the unexpired term runs until July 2009. Although HPC has the power to hold by-elections to fill vacancies, it is under no obligation to do so and may instead appoint someone to fill the vacancy for the remainder of the unexpired term. Given the uncertainty which the proposed section 60 Order has created, I would suggest that HPC exercises that power of appointment.

In relation to the section 60 Order, the most recent draft which has been shared with me by the Department of Health (the draft Health Care and Associated Professions (Miscellaneous Amendments)(No. 2) Order 2008) contains the following provision:

“Temporary measures pending the introduction of the new composition of the council...

(1A) The term of office of any registrant or alternate member who holds office on 8 July 2008, or full term of office that relates to a vacancy on the Council on that date, shall expire at the end of 8th July 2010 or on the coming into force of the first order of the Privy Council under article 3(8), whichever is the sooner.”

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The effect of this provision would be to keep in office for a further two years all registrant and alternate members who are on the Council on 8th July 2008, but with the proviso that their extended term would expire if, within that two year period, a constitution order was made by the Privy Council establishing the new, wholly appointed, Council.

Clearly if the draft section 60 Order was currently the law then there would be no need to hold any elections. However, the draft has yet to be published for formal consultation and, allowing for the required three month consultation period, the time for responses to be analysed and for the revised draft order to be laid and debated in the UK and Scottish Parliaments, it is unlikely that the law can be changed until May or June of next year.

HPC must act in accordance with the law as it stands and, given the time it takes to organise and hold elections, my clear advice is that the Council must begin the process for holding elections in July 2008 but should do so in a manner which minimises unnecessary costs and enables it to cancel those elections if that step proves necessary.

Those elections must be held in time for appointments to be made and new members to take office on Wednesday, July 9th 2008. Working backwards from that date, the last realistic date on which the election can be held is Friday 4th July. Based upon those dates, the effect of the HPC Election Rules is that:

- 1 The Council must appointment the Returning Officer by 8th January 2008 and the Independent Scrutineer by 8th February 2008;
- 2 The Returning Officer must announce by 8th February 2008 the date on which nominations will close.

These steps involve minimal expenditure (notice of the date on which nominations close can be given by publishing it on the HPC website) and I would therefore suggest that the Council is asked to make the relevant appointments at its December meeting.

So far as the remainder of the election timetable is concerned, the logical approach must be to base it on the statutory minimum periods between events so that the elections are scheduled to take place as late as possible, expenditure is minimised and the Council is placed in the best possible position to reach an informed view on whether to hold the elections, based upon on the progress of the draft section 60 Order. On that basis, working backwards and applying the minimum relevant time limits:

- 1 Polling Day should be as close as possible to the date on which any appointments take effect and I have already suggested above that polling should be on 4th July;
- 2 Ballots papers should be sent out to voters on 26th June;
- 3 Nominations should close on 13th June;
- 4 Notices inviting nominations should be sent out on 23rd May.

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Applying this timetable and by taking other steps which avoid costs being incurred – for example, preparing ballots etc. for printing but not authorising printing until the last possible moment – it should be possible for HPC to be ready to hold elections in good time for July yet avoid committing to the costs of doing so until mid-May.

I trust this is helpful.

Kind regards,

Yours sincerely

Jonathan Bracken
Partner

For and on behalf of Bircham Dyson Bell LLP

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Health Professions Council

10/11/08

INDEPENDENT ADMINISTRATION OF ELECTION OF COUNCIL MEMBERS

183,275 VOTERS/ 13 CONSTITUENCIES

POSTAGE

178,000 UK C5 Nomination Packs Mailsort 2 /Standard 2	£37,825
178,000 UK C5 Ballot Packs Mailsort 2/ Standard 2	£37,825
(Assuming weight less than 100 gms Assuming thickness is less than 5mm)	

(N.B. if 1st class postage used:-

178,000 UK C5 Nomination Packs Mailsort 1/standard 2 cost would be £53,934

178,000 UK C5 Ballot packs Mailsort 1/standard 2 cost would be £53,934

(Assuming weight less than 100 gms

Assuming thickness is less than 5mm)

** New postage pricing structure ("Pricing-in-Proportion" was introduced in August 2006. All HPC mailings have been well within the new 100gms weight limit but some election packs came close to the new 5mm thickness limit because of the size of the candidate statements. If any constituency exceeds the new thickness limit then the postage cost 2nd class would increase by around 13p per item. ERS will advise the Council on any possible ways to reduce the thickness e.g by combining items, using lighter paper*

5275 C5 overseas Nomination Packs	£3058
5275 C5 overseas Ballot Packs	£3377
(Based upon average weight of packs in 1 st round of elections)	

26700 UK ballot Papers returned 2 nd class	£6408
800 overseas returned by International Freepost	£361
(Based upon 15% response rate)	

(N.B. if 1st class used 26700 returned would be £9,078)

ENVELOPES (UK & OVERSEAS)

184,000 stock C5 despatch for Nominations	£4968
184,000 stock C5 despatch for Ballot	£4968
(Both sets customised with HPC logo etc/ 3 colour print)	

184,000 stock C5 business-reply for Nominations	£4600
184,000 stock C5 business-reply for Ballot	£4600
(Printed with ERS licenses & barcodes)	

PRINTING/ ARTWORK/ PROOFREADING/ FOLDING

Computer-scan ballot papers/ security printed / duplex A4/ sequentially numbered/ 3 colour print/ 184,000 across 13 constituencies	£5934
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Candidate details/ 8 page A4/ 3 colour/ 13 constituencies
184,000 in total/ inc half-tone photos
(Based on largest size statements expected - 8 page A4)

£19900

Ballot cover letter/ duplex A4/3 colour/ 184,000

£3985

Nomination Forms/ 4 page A4/ 3 colour/ 184,000

£6750

Nomination cover letter/ duplex A4/3 colour/ 184,000

£3985

ADMINISTRATIVE FEE

Independent administration of the nomination
Procedures for 184,000 members in 13 constituencies.
Receipt of address files/ data processing/ mailsort
coding/arranging printing of documents/ inserting
3 items per pack/ laser personalisation of despatch
envelopes/distribution to Post Office
Receipt of nomination forms/ validation and
acknowledgement of nominations returned/
submission of a certified report of the nomination
process.

£7600

Independent administration of the ballot Procedures
for 184,000 members in 13 constituencies.
Receipt of address files/ data processing/ mailsort
coding/arranging printing of documents/ inserting
4 items per pack/ laser personalisation of despatch
envelopes/distribution to Post Office
ERS to receive back ballot papers/ manual validation
and batching/ electronic scanning of votes cast/ count
using ERS certified in-house software/ Submission of a
certified independent scrutineer's report of voting for
the election. Includes all election consultancy and
project management.

£25750

Addition of internet voting facility/ set up of voting
Web-site with candidate details formatted as drop-down
boxes/ generation of PINS & Passwords to provide
secure access to the internet voting facility/ laser
personalisation of ballot papers with PINS & Passwords/
security monitoring of internet 24/7 throughout the
voting period/ de-duplication of postal and internet
votes cast and addition of valid internet votes cast
to the final scrutineer's voting report. 184,000 voters
in 13 constituencies.

£13000

TOTAL ESTIMATED COST

£194,894

All prices exclusive of VAT