



Draft Indicative Sanctions Guidance - Consultation

30 August 2018 – 26 October 2018

About the Pharmaceutical Society of Northern Ireland	2
Overview	3
Why are we consulting?	3
Who should be interested in responding?	4
Draft Indicative Sanctions Guidance document	4
How can I respond to this Consultation?.....	4
Consultation Questions	5
Accessibility of information.....	7
How will we respond to Consultation feedback?.....	7

About the Pharmaceutical Society of Northern Ireland

The Pharmaceutical Society of Northern Ireland is the regulatory body for pharmacists and registered pharmacies in Northern Ireland.

Our primary purpose is to ensure that practising pharmacists in Northern Ireland are fit to practise, keep their skills and knowledge up to date and deliver high quality safe care to patients.

It is the organisation's responsibility to protect and maintain public safety in pharmacy by:

- setting and promoting standards for pharmacists' admission to the Register and for remaining on the Register, and the standards for registered pharmacy premises;
- maintaining a publicly accessible Register of pharmacists and pharmacy premises;
- handling concerns about the Fitness to Practise of pharmacists, acting as a complaints portal and acting to protect the public; and
- ensuring high standards of education and training for pharmacists in Northern Ireland.

Overview

The Council of the Pharmaceutical Society NI (the Council) is consulting on revised Indicative Sanctions Guidance. Indicative Sanctions Guidance is used by the Statutory Committee of the Pharmaceutical Society NI when considering what is an appropriate sanction when a pharmacist's Fitness to Practise has been found to be impaired. The Consultation will run for eight weeks from 30 August 2018 – 26 October 2018.

Why are we consulting?

The Statutory Committee considers and adjudicates on serious Fitness to Practise allegations made against pharmacists in Northern Ireland. Indicative Sanctions Guidance is used by the Statutory Committee as a reference point when it is deciding on an appropriate sanction to impose in a situation where a pharmacist's Fitness to Practise has been found to be impaired.

The Statutory Committee is independent of Council and its decisions are made on the merits of the case in front of it¹. The Statutory Committee is tasked to make decisions on sanctions in the public interest and they are not intended to be punitive against a pharmacist. The Indicative Sanctions Guidance seeks to support consistent, proportionate and fair decision making which reflects current case law and best regulatory practice.

The Statutory Committee must pay proper regard to the Pharmaceutical Society NI's Indicative Sanctions Guidance when deciding upon sanctions and must provide sound reasons if it chooses to depart from the Guidance².

The current Indicative Sanctions Guidance was published in 2012 and the Council of the Pharmaceutical Society NI has carried out a comprehensive review of the document, engaging in pre-Consultation and receiving feedback from a number of stakeholders. In carrying out the review, the following objectives were set:

1. To make the revised Indicative Sanctions Guidance clear and understandable within the context of wider Fitness to Practise processes;
2. To ensure the document is up to date and proportionate, providing:
 - a. suitable focus on the public interest;
 - b. clear advice on insight and remediation, aggravating and mitigating circumstances and testimonials; and
 - c. appropriate additional guidance in the areas of dishonesty, duty of candour, raising concerns, sexual misconduct and violent conduct.

¹ *CHRP v (1) GMC (2) Leeper* [2004] EWHC 1850 (Admin)

² *PSA v HCPC + Doree* [2017] EWCA Civ 319

The review process has resulted in the proposed Draft Indicative Sanctions document attached.

Upon completion of the Consultation, the Council will consider all responses and respond to feedback via a Consultation report which will be published on the Pharmaceutical Society NI website.

Based on the Consultation responses, the Indicative Sanctions Guidance will be approved by Council, published and regularly reviewed to take account of legislative changes and case law and to ensure it remains fit for purpose and accessible to stakeholders.

Who should be interested in responding?

The Indicative Sanctions Guidance is primarily for members of the Statutory Committee of the Pharmaceutical Society NI and should be referenced by them when deciding upon an appropriate sanction in any given Statutory Committee Hearing.

The Indicative Sanctions Guidance establishes the issues that the Council of the Pharmaceutical Society NI considers important when a pharmacist's Fitness to Practise has been found to be impaired.

This Consultation should, therefore, be of interest to pharmacists and pharmacy representative bodies in Northern Ireland, patients and service users, defence organisations, the Professional Standards Authority and the Courts.

Draft Indicative Sanctions Guidance document

The revised Draft Indicative Sanctions Guidance is split into three sections.

Part 1 outlines the Fitness to Practise stages and is designed to enhance the reader's understanding of the Guidance by placing it within the overall Fitness to Practise processes of the Pharmaceutical Society NI and, in particular, the different stages of a Statutory Committee hearing.

Part 2 deals with the Indicative Sanctions Guidance itself and details the issues that the Statutory Committee should take into consideration when deciding upon an appropriate sanction when a pharmacist's Fitness to Practise has been found to be impaired. This section includes new Guidance on difficult issues that Council considers require further Guidance.

Part 3 outlines actions that should be taken by the Statutory Committee when a sanction has been decided upon.

How can I respond to this Consultation?

You can find the Draft Indicative Sanctions Guidance and all documents relating to the Consultation on the Pharmaceutical Society NI website: <http://www.psn.org.uk/publications/consultations/>

You will be asked to complete a response form based on the questions outlined below and return it to the Pharmaceutical Society NI.

This **8-week** Consultation starts on 30 August 2018 **and ends at 12 noon on Friday 27 October 2018.**

Responses can be returned electronically to consultations@psni.org.uk and hard copy responses may be sent to Mark Neale at:

Indicative Sanctions Guidance Consultation
Pharmaceutical Society of Northern Ireland
73 University Street
Belfast
BT7 1HL

For further information on responding to this Consultation, please contact Mark Neale at consultations@psni.org.uk or telephone 02890326927.

Consultation Questions

We would welcome any views you may wish to submit on the questions outlined below. **It is important that you provide reasons for your answers, where possible, so the Council of the Pharmaceutical Society NI can understand the rationale for your views.** We have provided a response template to complete which is available on the website: <http://www.psni.org.uk/publications/consultations/>

1. Does the document clearly set out the processes of the Statutory Committee?
Yes, No, Unsure
2. Does the document clearly set out the purpose of Indicative Sanctions Guidance?
Yes, No, Unsure
3. Is the Guidance on the public interest and proportionality (Pg.8) appropriate?
Yes, No, Unsure
4. Is the Guidance on when a particular sanction might be appropriate (Pg.9) clear?
Yes, No, Unsure
5. Is the Guidance on when a particular sanction might be appropriate proportionate?
Yes, No, Unsure
6. Is the Guidance on mitigating and aggravating circumstances (Pg.12) appropriate?

Yes, No, Unsure

7. Is the Guidance on insight and remedial actions (Pg.13) appropriate?
Yes, No, Unsure
8. Is the Guidance on testimonials (Pg.14) appropriate?
Yes, No, Unsure
9. Is the Guidance on how the Statutory Committee should consider an Interim Suspension Order proportionate (Pg.14)?
Yes, No, Unsure
10. Is the section on additional issues identified for requiring further Guidance (Pgs. 14-16) clear?
Yes, No, Unsure
11. Is the content of the section on additional issues identified for requiring further guidance appropriate?
Yes, No, Unsure
12. Is the Guidance on actions when a sanction has been decided upon (Pgs. 18-20) clear?
Yes, No, Unsure
13. Are any aspects of our proposals that could result in equality and diversity implications for groups or individuals based on one or more of the following protected characteristics? If yes, please explain what could be done to change this.
 - Age
 - Gender reassignment
 - Disability
 - Pregnancy and maternity
 - Race
 - Religion or belief
 - Political Opinion
 - Sex
 - Sexual orientation

Yes, No, Unsure

14. Do you have any other comments about the Draft Indicative Sanctions Guidance?

Yes, No, Unsure

Accessibility of information

If you are having difficulties accessing the documentation or you need us to make adjustments to enable you to respond to this Consultation, please contact us and we will do our best to address the issue.

If you wish your response to remain confidential, you should indicate this in your response and the Pharmaceutical Society NI will generally respect this request. However, the information you provide may be subject to disclosure under the Freedom of Information Act 2000.

How will we respond to Consultation feedback?

Once the Consultation period ends, all Consultation responses will be considered and a report analysing the Consultation responses will be produced and published on our website.

The Council of the Pharmaceutical Society NI will consider all the Consultation responses and based on the feedback received will decide if and how the Draft Indicative Sanctions Guidance should be amended.

New Indicative Sanctions Guidance will subsequently be approved and published by the Council of the Pharmaceutical Society NI.