

## **Policy on the disclosure and publication of fitness to practise information**

**June 2014**

## **Purpose of this policy**

The purpose of this policy is to set out how the Pharmaceutical Society NI will publish and disclose information relating to the fitness to practise of pharmacist registrants.

## **Application of this policy**

The policy incorporates relevant legislative requirements resulting from the Pharmacy (1976 Order) (Amendment) Order (Northern Ireland) 2012 and its associated regulations.

## **Background**

On 1 October 2012 the enactment of the Pharmacy (1976 Order) (Amendment) Order (Northern Ireland) 2012 and its associated regulations, has enabled the Statutory and Scrutiny Committees to utilise the full range of fitness to practise sanctions.

The greater range of sanctions enables the committees to issue formal warnings, suspensions, place conditions on the practise of pharmacists and impose interim orders where appropriate to take the pharmacist off the register whilst a case is investigated.

The legislation also makes it possible for the fitness to practise sanctions to be displayed on the Pharmaceutical Society of Northern Ireland's online public register. (Previously, the Pharmaceutical Society NI possessed one single sanction: removal from the register.)

## Policy on the publication and disclosure of fitness to practise information

### 1. Introduction

1.1 The Pharmaceutical Society NI is the regulatory body for pharmacists in Northern Ireland. Our primary purpose is to ensure practising pharmacists in Northern Ireland are registered and 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;
- Maintaining a publicly accessible register of pharmacists, and pharmacy premises;
- Handling concerns about the Fitness to Practise of registrants, acting as a complaints portal and taking action to protect the public; and
- Ensuring high standards of education and training for pharmacists in Northern Ireland.

### 1.2 Key principles of this policy

1.2.1 The key principles adopted by the Pharmaceutical Society NI are consistent with the principles of good regulation identified by 'Better Regulation Executive' in 2000; the Hampton Review of 2005, commissioned by the Treasury and the Professional Standards Authority (formerly Council of Healthcare Regulatory Excellence (CHRE<sup>1</sup>)) 'Right Touch Regulation'.

1.2.2 When making decisions on what to publish and disclose, the Pharmaceutical Society NI adheres to:

- **Proportionality** – We are committed to ensuring that information that is disclosed is appropriate and proportionate. It is important to achieve the correct balance between the rights of the individual and the need to consider what is in the public interest.
- **Transparency** - The Pharmaceutical Society NI will be transparent about its processes, explain and publicise the decisions it makes.
- **Accountability** - We will seek the views of stakeholders and consult before policy decisions are taken. We will justify and clearly explain our decisions which we expect to be open to public scrutiny.
- **Consistency** - This policy has been developed to ensure consistency across the organisation and that is implemented fairly. We will also ensure consistency, where appropriate with other UK healthcare regulators.
- **Targeted** - We will ensure that our activity is focused on areas of greatest risk and/or what is deemed to be in the interests of public safety.

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<sup>1</sup> On 1 December 2012 the Council for Healthcare Regulatory Excellence became the Professional Standards Authority for Health and Social Care.

### 1.3 Aims of this policy

- To outline the Pharmaceutical Society NI's approach to the publication and disclosure of fitness to practise information;
- To outline the Pharmaceutical Society NI's policy in relation to the disclosure of fitness to practise information to interested parties;
- To outline how fitness to practise information is displayed on the online public register;
- To outline the timeframes for the display of fitness to practise information.

### 1.4 Legislative context/framework

The Pharmaceutical Society NI is also subject to, and will take account of the following non exhaustive list when it makes decisions about disclosing information that it holds.

- The Pharmacy (1976 Order) (Amendment) Order (Northern Ireland) 2012 [click here](#)
- The Council of the Pharmaceutical Society of Northern Ireland (Fitness to Practise and Disqualification) Regulations (Northern Ireland) 2012 [click here](#)
- The Council of the Pharmaceutical Society of Northern Ireland (Continuing Professional Development) Regulations (Northern Ireland) 2012 [click here](#)
- The Council of the Pharmaceutical Society of Northern Ireland (Statutory Committee, Scrutiny Committee and Advisers) Regulations (Northern Ireland) 2012 [click here](#)
- The Council of the Pharmaceutical Society of Northern Ireland (Appointments and Procedure) Regulations (Northern Ireland) 2012 [click here](#)
- [Freedom of Information Act 2000](#) - The Freedom of Information Act 2000 provides, to any person upon written request, a general right of access to information held by a public authority. They have the right to be informed whether or not the authority is in possession of the information and, with certain exemptions, to have that information communicated to them.
- [Data Protection Act 1998](#) – prohibits the disclosure of personal data unless certain exemptions apply. One of those exemptions is where the data subject consents to disclosure.
- Human Rights Act 1998

## **2. Public interest disclosure**

- 2.1 The Pharmaceutical Society NI has the power to disclose to any person, any information relating to a person's fitness to practise which it considers to be in the public interest to disclose.<sup>2</sup>

## **3. Information relating to a registrants health**

- 3.1 The Pharmaceutical Society NI does not publish information relating solely to the physical or mental health of a pharmacist. This information is treated as confidential regardless of which Committee (Scrutiny or Statutory) hears the case.
- 3.2 Where information regarding a pharmacist's health is disclosed during any part of a hearing that is held in public, this information will be redacted from the published determinations.

## **4. Complainant confidentiality**

- 4.1 Upon receipt of a complaint, we will notify the registrant concerned that we have received information – however, this is subject to consent obtained from the complainant, as appropriate.
- 4.2 If the complainant refuses to give such consent or decides that they do not want to pursue their complaint, it is unlikely that the complaint will proceed. However, if there is a clear public interest reason, we will pursue the matter and inform the complainant.

## **5. Initial Investigation stage**

- 5.1 The Pharmaceutical Society NI does not disclose or publish information about ongoing investigations on its website, to the media or any other enquirers; except where it is necessary for the protection of the public or otherwise in the public interest.
- 5.2 The decision to disclose information to employers will be decided on a case by case basis appropriate to circumstances to the case and/or where the issues being investigated give rise to immediate concerns about patient or public safety.
- 5.3 The registrant and complainant will be notified of the outcome of an investigation. This information will not be published on the website.

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<sup>2</sup> 'Disclosure of fitness to practise matters in the public interest' Pharmacy (1976 Order) (Amendment) Order (Northern Ireland) 2012

## 6. Referrals to the Scrutiny Committee

6.1.1 Following initial investigations, where a registrant's fitness to practise may be impaired, it will be considered by the Scrutiny Committee.

6.1.2 Meetings of the Scrutiny Committee are held in private<sup>3</sup> therefore no information is published about forthcoming meetings or proceedings, and cases that the Committee are due to consider.

## 6.2 Disclosure of referrals to the Scrutiny Committee

6.2.1 Once a decision has been taken to refer the allegation to the Scrutiny Committee the Registrar must as soon as is reasonably practicable,<sup>4</sup> notify the following persons of the investigation:

- The complainant
- Registrant
- Registrant's employer and any other person with whom the registrant is engaged to provide services
- DHSSPS Minister
- Secretary of State, the Scottish Ministers and the Welsh Ministers
- Department of Health, Social Services and Public Safety (DHSSPS)
- Any other healthcare regulator where the Pharmaceutical Society of Northern Ireland is aware of dual registration

## 6.3 Scrutiny Committee determination

6.3.1 The Scrutiny Committee has the power to

- dismiss a case;
- in relation to a health allegation, require the person concerned to undergo a medical examination;
- issue warnings;
- agree undertakings;
- give advice to the person concerned or to other persons and
- Refer the matter to the Statutory Committee.

## 6.4 Publication of Scrutiny Committee determination

6.4.1 The Pharmaceutical Society NI **will not publish** the outcomes of the Scrutiny Committee where the case has been closed without any admission or where no finding of impairment has been made. In cases where only advice has been given to the person concerned or to other persons, where no impairment has been admitted or found, no publication will be made.

6.4.2 In health related cases where the registrant has agreed to undertakings, the determination will be published but details of the undertaking will not be disclosed.

6.4.3 The Pharmaceutical Society NI **will publish** determinations of the Scrutiny Committee where the outcome is a warning; an undertaking or referral to the Statutory Committee. Warnings and undertakings will appear on the Pharmaceutical

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<sup>3</sup> The Council of the Pharmaceutical Society of Northern Ireland (Fitness to Practise and Disqualification) Regulations (Northern Ireland) 2012

<sup>4</sup> Pharmacy (1976 Order) (Amendment) Order (Northern Ireland) 2012

Society NI online register, three working days after the registrant has been notified<sup>5</sup> of the warning or within three working days of the registrant accepting an undertaking.

## **6.5 Disclosure of referrals to the Statutory Committee**

6.5.1 The Pharmaceutical Society NI has a statutory duty<sup>6</sup> to give notice of referral of any pharmacist to the Statutory Committee to the list of people outlined in 6.2.1

## **6.6 Publication of the Statutory Committee Notice of Hearing**

6.6.1 Information about a Statutory Committee hearing will be published on the website, three working days after the Notice of hearing is served.

## **6.7 Transcripts/Minutes of hearings**

6.7.1 The Pharmaceutical Society NI will not publish transcripts or minutes of Scrutiny Committee hearings, as these meetings are held in private.

6.7.2 The Pharmaceutical Society NI will not publish transcripts or minutes of Statutory Committee hearings. These are, however, available on request and sent out electronically. Paper copies requested will be subject to copying and postage charges.

## **6.8 Statutory Committee determination**

6.8.1 The Statutory Committee has the power to impose the following sanctions:

- Give advice to the person concerned or to other persons;
- A warning;
- Agree undertakings;
- Place conditions on the registrant's registration;
- Suspension from the Register
- Remove the registrant from the Register.

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<sup>5</sup> The Council of the Pharmaceutical Society of Northern Ireland (Fitness to Practise and Disqualification) Regulations (Northern Ireland) 2012

<sup>6</sup> Pharmacy (1976 Order) (Amendment) Order (Northern Ireland) 2012

## 6.9 Disclosure of Statutory Committee determination

6.9.1 After the Statutory Committee has met, the Pharmaceutical Society NI will notify the list of organisations/people outlined in 6.2.1 of the outcome.

6.9.2 The Pharmaceutical Society NI will not make any disclosures where no impairment has been found or no sanction has been applied; unless the registrant requests so.

## 6.10 Publication of Statutory Committee determination

6.10.1 The Pharmaceutical Society NI has a statutory duty to publish as soon as reasonably practicable, particulars of any orders and decisions made by any of its Committees.

At the end of a public Statutory Committee hearing, decisions and reasons in cases where a registrant's fitness to practise is impaired and a sanction is imposed **will be publicised** on the website, within ten working days of the end of the hearing. All determinations will be published in the on the organisation's website. The length of time this information will be available will be aligned to our policy on the display of sanctions on the online register.

The Pharmaceutical Society NI **will not** publish the outcome of a hearing where no impairment or sanction has been applied; unless the registrant requests so.

The Pharmaceutical Society NI will publish the determination of a Statutory Committee hearing where an interim order has been applied. **Note** only the determination will be published, no details of any interim order cases will be disclosed.

### 6.10.2 Publication of Fitness to practise determinations (before 1 October 2012)

Past hearing outcomes (before 1 October 2012) will remain accessible in an archive section of the website.

## 7. Witnesses

7.1 The names of witnesses, including professional witnesses are not normally redacted.

7.2 The names of patients, vulnerable witnesses<sup>7</sup> and minors (i.e. under the age of 18) are anonymised in all hearing bundles setting out the allegation and names will be redacted when placed on the website. In exceptional circumstances, vulnerable witnesses may be allowed to give evidence to the Panel in private.<sup>8</sup>

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<sup>7</sup> 46. 'Vulnerable witnesses at hearings' The Council of the Pharmaceutical Society of Northern Ireland (Fitness to Practise and Disqualification) Regulations (Northern Ireland) 2012

<sup>8</sup> The Council of the Pharmaceutical Society of Northern Ireland (Fitness to Practise and Disqualification) Regulations (Northern Ireland) 2012

## 8. Multi factorial cases

- 8.1 Sometimes concerns about a pharmacist relate to a variety of factors. Some cases will therefore involve a number of different factors such as convictions, health, conduct or performance. These are known as multi factorial cases.
- 8.2 In multi factorial cases, committees are expected to adapt the procedures where necessary and hold as much of the hearing as possible in public while entering into private session only for those parts of a hearing which relate to a registrant's health.<sup>9</sup>

## 9. Online register

- 9.1 The role of the Pharmaceutical Society NI is to protect, promote and maintain the health, safety and well being of patients and the public. One of the ways this is achieved is by maintaining an online register of all pharmacists who have current registration with the Pharmaceutical Society NI. The register is available on our website at [www.psni.org.uk](http://www.psni.org.uk) and anyone can search this to check that a pharmacist is registered.

### 9.2 Display and recording of sanctions on the register

- 9.3 All current sanctions in relation to a pharmacist will be displayed on the Pharmaceutical Society NI online register.<sup>10</sup>
- 9.4 The only exception to this is matters relating solely to the registrant's health which is treated as confidential.

## 10. Duration of fitness to practise determination on the online register

- 10.1 In keeping with the organisation's commitment to openness and transparency and to ensure that all stakeholders can access relevant and up to date fitness to practise information regarding a registrant, all sanctions will be displayed on the online register against a registrant's entry for the duration as listed in the table 1, below.

### 10.2 Table 1

	<b>Warning</b>	<b>Suspension</b>	<b>Conditions</b>	<b>Undertaking</b>	<b>Interim Order</b>
<b>Length of time determination will remain on the register</b>	2 years	Duration of the suspension plus 5 years	Duration of the condition plus 5 years	Duration of the undertaking plus 5 years	Duration of the Order

- 10.3 Details of the determination will also be available on the website.

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<sup>9</sup> The Council of the Pharmaceutical Society of Northern Ireland (Fitness to Practise and Disqualification) Regulations (Northern Ireland) 2012

<sup>10</sup> The Council of the Pharmaceutical Society of Northern Ireland (Fitness to Practise and Disqualification) Regulations (Northern Ireland) 2012

#### **10.4 Accessibility of past hearing outcomes**

- 10.5 Statutory Committee Hearing determinations will remain accessible on the Pharmaceutical Society NI website for a set period of time. The length of time this information will be available on the website will be aligned to our policy on the display of sanctions on the online register (see table 1.)

#### **11. Struck off the register following statutory committee hearing**

- 11.1 Public registers, in principle are intended to be a definitive record of all those who are registered and fit to practise. As former registrants who have been removed from the register are not entitled to practise, this information will not be displayed on the online register.
- 11.2 It will be made clear on the Pharmaceutical Society NI website that pharmacists who have been struck off the register no longer appear on the online register. This will be available on the website for 5 years.

#### **12. Employer checks**

Anyone employing a pharmacist is expected to check the whether they are registered with the Pharmaceutical Society of Northern Ireland and therefore entitled to work in the UK. The Pharmaceutical Society of Northern Ireland will provide employers with further details of sanctions imposed on written request.