

Annual Report of the Scrutiny Committee 2018

One of the obligations of the “The Council of the Pharmaceutical Society of Northern Ireland (Statutory Committee, Scrutiny Committee and Advisers) Regulations (Northern Ireland) 2012”, is the provision of an annual report. The legislation states as follows;

7.—(1) The Scrutiny Committee has the following additional functions—
(a) providing an annual report to the Council in respect of each calendar year, by a date specified by the Council, which is to include
(i) trends, patterns and learning points observed from cases considered by the Scrutiny Committee,
(ii) details of the numbers of fitness to practise and disqualification allegations which were disposed of by the Scrutiny Committee by means of warnings and undertakings during that year, and
(iii) the reasons why the allegations referred to in sub-paragraph (ii) were not referred to the Statutory Committee;

This is the sixth such report and covers the calendar year of 2018. During this period the composition of the Scrutiny committee was the same as last year.

Composition of the Scrutiny Committee

The statutory Scrutiny Committee which sat during 2018, consists of a publicly recruited panel, trained in fitness to practise proceedings.

Chair and legally qualified member	Mr. John Gibbons
Deputy chair and legally qualified member	Ms. Rosemary Connolly
Lay member	Mr. Andrew Popplewell
Lay member	Mr. Colin Kennedy
Pharmacist member	Mrs. Bronagh White
Pharmacist member	Prof. Colin Adair
Pharmacist member	Mr. James Taggart
Pharmacist member	Mrs Anita Lowther

Background

By way of background, following the enactment of new legislation in October 2012, additional powers enable the Pharmaceutical Society NI to take more proportionate approaches to the management of fitness to practise case outcomes, than simply removal from the register.

The powers in regard to fitness to practise mean that as a regulator the Society can

- Give advice,
- Issue formal warnings,
- Agree undertakings,
- Place conditions on the practise of a pharmacist,
- Impose suspension,
- Issue interim orders and
- Remove registrants from the register.

Fitness to Practise Committees

Under the legislation, two committees have been established which determine allegations regarding fitness to practise.

Scrutiny Committee (Initial Proceedings)

This committee considers initial allegations on a paper based format and it has the power to dismiss a case, give advice, issue warnings and agree undertakings if appropriate and refer more serious cases to the Statutory Committee (subject to threshold criteria).

Statutory Committee (Hearings Committee)

This committee considers allegations at hearings of misconduct of registered pharmacists. Registrants are invited to make representations with legal support if necessary. The Statutory Committee deals with all categories of alleged impairment referred to it by either the Registrar or the Scrutiny Committee and may utilise the full range of fitness to practise sanctions i.e. Give advice, issue formal warnings, agree undertakings, place conditions on the practise of a pharmacist, impose suspension and remove registrants from the register. It also deals with interim orders, restoration applications and review hearings.

The Work of the Scrutiny Committee, 2018

The Committee sat on just two occasions this year dealing with a total of two cases, in the full calendar year. A short summary of those cases is attached hereto at **Appendix one**, detailing the registrant, the date of hearing, composition of the committee panel, the category of complaint and the method of disposal.

To better understand the reasoning of the Scrutiny Committee, in such cases, the “Threshold Criteria” for referral to the Statutory Committee are set out in full at **Appendix two** hereto. These criteria guide the Scrutiny Committee as to how to assess which cases are more serious and deserving of consideration by the Statutory Committee. In each of the two cases, a full reasoned written decision is provided by the Legal Chairperson setting out how these criteria have been applied in each case, after deliberation by the committee. None of this year’s cases

resulted in the Scrutiny Committee concluding that the threshold for referral on to the Statutory Committee had been met. In each of the cases it was felt that the Scrutiny Committee was able to deal with those matters, using the powers granted to it by the legislation. Further information on those matters is necessarily provided later, in the section of this report that deals with Regulation 7(1)a(iii).

Referral by the Scrutiny Committee to the Statutory Committee is likely to remain an exception, as obviously serious cases will remain likely to be referred straight to the Statutory Committee.

THE STATUTORY PURPOSE OF THIS REPORT:

Regulation 7(1) a(i) : “Trends, Patterns and Learning Points”

As required by the legislation mentioned earlier, the first purpose of this report is to identify “trends, patterns and learning points” and bring these to the attention of the Council of the Society, with a view to enabling issues to be identified at as early a stage as possible.

Trends and Patterns:

The Scrutiny Committee noted that, like last year, it was *not* dealing with cases involved dispensing errors.

One of the cases involved the proceedings being dismissed and the other was an unusual case involving dishonesty on behalf of a student, who was coming onto the Register, but involved behaviour occurring when she was still a student at Queens University.

The cases that do come before the Committee highlight a diverse mix of cases, but given the low numbers of cases, again this year, it was impossible to discern any particular pattern of concern.

Learning Points

Each panel considering a case will comprise a Legal Chair, a Lay member and a Pharmacist member. The pharmacist members of each panel were asked to comment on any learning points they felt had arisen in each case they were involved in, as they were felt to be best placed to comment on what may or may not be the considered view of the average member of the profession. Other members were asked to put forward any points they felt may be relevant, from their more general experience. Below are a summary of the points made by committee members, as to what could be considered learning points, which were considered and gathered from the panel members at the end of each hearing, on the dates given. These are issues which may already be addressed in training and guidance given to the profession, but as they have arisen in the context of the

caseload of the committee, these may be areas where further emphasis may be needed. That would be a matter for the Society to consider.

Learning points for the profession - recorded at Scrutiny Committee meetings in 2018

Hearing date; 12-04-2018

- When joining the Register it is vital to disclose all Fitness to Practice issues, so that the profession can be satisfied of the calibre of person entering the profession.
- Students should be reminded at all times of the potential long term consequences of foolish or immature behaviour when entering the Regulated professions.

Hearing date 28-09-2018

- i. In cases where there has been a conviction for any matter, even when as a student, it is vital to disclose fully all such matters when applying to join the Register.

Regulation 7(1)a(ii): “Details of disposals by warnings and undertakings”

As required by the legislation mentioned earlier, the second purpose of this report is to identify those cases where the Scrutiny Committee felt able to dispose of the case by way of warnings and/or undertakings, rather than refer the case onto the Statutory Committee for disposal. The one case that required sanction by the Committee, did involve a warning. The legislation has established “referral criteria”, and *only* those cases that meet the referral criteria, should be referred on to the Statutory Committee. By definition, these will be the more serious cases.

The Scrutiny Committee will therefore receive less serious cases, that do not pass the threshold for referral to the Statutory Committee, yet demand suitable censure or response on behalf of the Council of the Society. The purpose of this part of the annual report is to inform the Council of the Society of the detail of such cases. One case considered resulted in a **formal warning**. There were no cases that involved **advice** about future conduct being given, nor where there any that resulted in a **referral** to the Statutory Committee. One case was **dismissed**.

These cases are identified in the report at **appendix one** hereto.

Regulation 7(1)a(iii): “Reasons for non referral to Statutory Committee”

The Scrutiny Committee is obliged to explain, in this third part of the report, the reasons why the one case mentioned above did not pass the threshold for referral to the Statutory Committee. The purpose of this, is to satisfy the Council of the Society that the Scrutiny Committee is exercising its powers in an appropriate way.

For example, if the Council of the Society was concerned that the Committee was being too lenient in the way it disposed of any particular case or category of case, then the reasoning of the Committee should be readily available to be understood and explored.

In the one case involving a warning, it was noted that the student had been sanctioned by a disciplinary investigation by the University. However, it was a case involving a level of dishonesty. The Committee considered that the case was serious enough by reference to the threshold criteria that the Registrar was correct in referring them to the Scrutiny Committee in the first place. There were however mitigating circumstances, and a level of insight. Other student misconduct cases have resulted in a recorded warning, such as had happened in a similar case, the year before. Consistency is important in that regard. However this year’s case was considered a serious matter, as there was an element of dishonesty, reflected in the sanction.

The Scrutiny Committee must not refer a fitness to practice allegation to the Statutory Committee unless it is satisfied that there is a real prospect that the Statutory Committee will make a finding that the registrant’s fitness to practise is impaired. Each case will have its own unique factual matrix, with mitigating factors in play. A short summary of the reasoning of the Committee in each case is set out below;

Appendix One;

1. Registrant A

In this case the registrant has studied medicine at QUB and had been the subject of a FTP investigation. She been required to complete a module and submit a log-book as part of her fourth year studies. She had failed to attend parts of the module and dishonestly completed her log-book, around that. She had been sanctioned about her dishonesty and required by the QUB FTP process to give an undertaking that she would notify the Society about those matters, should she seek to join the Register, and she did so. The case resulted in a 24-month

warning being recorded against the registrant, this being at the top end of the sanctions scale for the Committee.

The Committee had regard to the following issues in reaching its decision in this case:

- The Registrant provided necessary levels of insight, in which she apologised for her behaviour and fully accepted responsibility;
- The Registrant made disclosures at appropriate times to the University and Society;
- The Registrant had complied with the undertakings she had given.

2. Registrant B

In this case the registrant had committed road traffic offences as a student for which she had been dealt with by the Magistrates Court.

The case did not involve alcohol or drugs and was entirely outside university time.

- The Registrant provided necessary levels of insight, in which she apologised for her behaviour and fully accepted responsibility;
- The Registrant made disclosures at appropriate times to the University and Society;
- No obvious FTP issues arose and the case was dismissed

Conclusion

I trust that this report will again provide a useful insight into the work of the Scrutiny Committee in the past year, and reassurance to the Society that these important issues are being addressed in accordance with the legislation, and in a satisfactory and proportionate way. As Chair, I am again delighted that my colleagues and I have dealt with the cases in a timely and professional way and to a high standard.

Accordingly, I commend this report to you.

As Chair of the Scrutiny Committee I can report that the Committee members have found the work they have been tasked with, to be challenging, varied and interesting. We have benefitted greatly from the training and assistance provided by the Society, together with the dedicated and professional preparatory work carried out by the administration office, to whom we owe a debt of gratitude.

John Gibbons
(Chair of the Scrutiny Committee)
31 May 2019

Appendix two

Threshold Criteria for referral to Scrutiny Committee

Cases are not to be referred to the Scrutiny Committee unless one of the following statements is true:

Principle 1: Make the safety and welfare of patients your prime concern

- There is evidence that the registered person's conduct or performance caused moderate or severe harm or death, which could and should have been avoided.
- There is evidence that the registered person deliberately attempted to cause harm to patients and the public or others.
- There is evidence that the registered person was reckless with the safety and well-being of others.

Principle 2: Respect and protect confidential information

- There is evidence that the registered person failed to respect the confidentiality of information or misused confidential information acquired in the course of professional practice to an extent likely to undermine public confidence in the profession if not challenged by the regulatory body.

Principle 3: Show respect for others

- There is evidence that the registered person failed to respect the human rights of patients, or demonstrated in their behaviour attitudes which are incompatible with registration as a pharmacy professional.
- There is evidence that the registered person failed to maintain appropriate professional boundaries in their relationship with patients and/or others.

Principle 4: Exercise professional judgment in the interests of patients and public

- There is evidence that the registered person put their own interests, or those of a third party, before those of their patients.
- There is evidence that the registered person culpably failed to act when necessary in order to protect the safety of patients.

Principle 5: Encourage patients (and/or their carers as appropriate) to participate in decisions about their care

- There is evidence that the registered person damaged or put at significant risk the best interests of patients by failing to communicate appropriately with patients or others.

Principle 6: Maintain and develop professional knowledge and competence

- There is evidence that the registered person practised outside of their current competence.
- There is evidence that the registered person failed to maintain their knowledge and skills in a field relevant to their practice.
- There is evidence of a course of conduct, which is likely to undermine public confidence in the profession generally or put patient safety at risk, if not challenged by the regulatory body.
- There is evidence of adverse physical or mental health which impairs the registered person's ability to practice safely or effectively.

Principle 7: Act with honesty and integrity

- There is evidence that the registered person behaved dishonestly.
- There is evidence of behaviour on the part of the registered person which is likely to undermine public confidence in the profession generally, if not challenged by the regulatory body.

Principle 8: Provide a high standard of practice and care at all times

- There is evidence that the registered person has practised in a way that was systematically unsafe, or, has allowed or encouraged others to do so, where he or she has responsibilities for ensuring a safe system of working.

If the Registrar is in doubt as to whether the above criteria have been met, he shall refer the case to the Scrutiny Committee.