



Threshold Criteria - Consultation

15 January 2020 – 11 March 2020

About the Pharmaceutical Society of Northern Ireland	2
Overview	3
Why are we consulting?	3
Who should be interested in responding?	4
Draft Threshold Criteria document	5
How can I respond to this Consultation?.....	5
Consultation Questions	6
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 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 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 Threshold Criteria. The Threshold Criteria is used by the Registrar when deciding whether to refer a fitness to practise allegation to the Scrutiny Committee or to take no further action. The Consultation will run for 8 weeks from **15 January 2020 – to 12 noon on Wednesday 11 March 2020**.

Why are we consulting?

The Threshold Criteria is a document published (and amended from time to time) by Council in which the Council states the type of fitness to practise allegations which should not be referred to the Scrutiny Committee.¹ The Registrar must apply the Threshold Criteria when deciding, at the conclusion of a fitness to practise investigation, on referral to the Scrutiny Committee.² If so referred, the Scrutiny Committee will then determine if the allegation ought to be considered by the Statutory Committee,³ on the basis that there is a real prospect of a finding of impairment.⁴

The Society's legislation states that the Registrar must refer a fitness to practise allegation⁵ to the Scrutiny Committee, unless the Council has provided in regulations for it not to be so referred.⁶ Regulations state that the Registrar must not refer a fitness to practise allegation which is "of a type stated in the threshold criteria which should not be referred".⁷

The Council is committed to reviewing the Threshold Criteria regularly to take account of legislative changes and new case law, to ensure it is consistent with other related guidance and remains fit for purpose and accessible to stakeholders.

The Council published the Threshold Criteria for referral to the Scrutiny Committee in 2014 and this was revised in 2016 following the launch of the new *Code: Professional standards of conduct, ethics and performance for pharmacists in Northern Ireland* (2016) (the 'Code'). It was considered in 2018 that the Threshold Criteria should be reviewed and consulted upon as five years had passed since its introduction and use.

¹ Paragraph 5(2)(a) of Sch 3 to the Pharmacy (NI) Order 1976 (the '1976 Order').

² Regulation 5(2)(a) of Council of the Pharmaceutical Society of Northern Ireland (Fitness to Practise and Disqualification) Regulations (Northern Ireland) 2012 (the 'Fitness to Practise Regulations').

³ Para 6(1) of Sch 3 to the 1976 Order.

⁴ Regulation 10(8)(a) of the Fitness to Practise Regulations.

⁵ Or information which calls into question a registered person's fitness to practise, even though no allegation has been made to the Society: paragraph 5(1)(b) of Sch 3 to the 1976 Order.

⁶ Paragraph 5(1) of Sch 3 to the 1976 Order.

⁷ Regulation 5(2)(a) of the Fitness to Practise Regulations.

The Council's current Threshold Criteria is closely aligned to the *Code* and is divided into five sections which correspond with the five Principles within the *Code*. The current Threshold Criteria are not explicitly linked to the fitness to practise criteria which must be considered by the Statutory Committee⁸ and does not refer to the purpose of regulation and three limbs of public protection⁹ namely:

- Protecting the public from harm;
- Maintaining public confidence in the profession;
- Upholding professional standards.

Following an extensive desktop review of other healthcare regulators, the Council agreed that the revised Threshold Criteria should reflect the fitness to practise criteria considered by the Statutory Committee and should incorporate some key aspects of the public interest, namely the three limbs of public protection. In line with the purpose of regulation, it was decided that public protection should be placed at the heart of the referral decision and that the Threshold Criteria should continue to be linked to the *Code* which sets out what is expected of a pharmacist.

It was decided that an additional wider public interest test (which could include consideration of issues such as insight, remediation or proportionality) should not be included in the Threshold Criteria as it is more appropriate that such complex assessments are considered in the more formal setting of the Scrutiny Committee.

The review process has resulted in the proposed Draft Threshold Criteria document attached.

Upon completion of the Consultation, the Council will consider all of the 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 Council may approve the new Threshold Criteria which will be 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?

⁸ Regulation 4 of the Fitness to Practise Regulations.

⁹ The Pharmaceutical Society NI is the only healthcare regulator which is not subject to the statutory over-arching objective and three limbs of public protection set out in the Health and Social Care (Safety and Quality) Act 2015. Despite the absence of this statutory objective, the Society is committed to fulfilling this objective in all aspects of its work.

The Threshold Criteria is primarily for the Registrar of the Pharmaceutical Society NI to use when deciding on the referral of fitness to practise allegations to the Scrutiny Committee. It is designed to provide a decision-making framework to assist with the delivery of consistent, proportionate and reasonable decisions on referral and must be considered by the Registrar when coming to a decision on referral.

The Threshold Criteria will also be useful for anyone else involved in a fitness to practise investigation. This Consultation should, therefore, be of interest to pharmacists and their representatives, pharmacy representative bodies in Northern Ireland, patients and service users, defence organisations, the Professional Standards Authority and the Courts.

Draft Threshold Criteria document

The revised Draft Threshold Criteria sets the referral decision in the context the fitness to practise investigations conducted by the Office of the Registrar. It describes what complaints are investigated by the Registrar, how those investigations are conducted and what actions the Registrar may take during and at the conclusion of an investigation. This context is designed to enhance the reader's understanding of the Threshold Criteria placing it within the overall fitness to practise processes of the Pharmaceutical Society NI.

The document sets out the revised Draft Threshold Criteria and describes how it is applied. Actions taken by the Registrar if a decision is taken not to refer a case to the Scrutiny Committee are also outlined.

How can I respond to this Consultation?

You can find the Draft Threshold Criteria and all documents relating to the Consultation on the Pharmaceutical Society NI website: <http://www.psni.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 Wednesday 15 January 2020 **and ends at 12 noon on Wednesday 11 March 2020.**

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

Threshold Criteria 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 purpose of the Threshold Criteria (page 2-3)?
Yes, No, Unsure
2. Does the document clearly set out the context in which the Registrar takes decisions based on the Threshold Criteria (page 4-5)?
Yes, No, Unsure
3. Is the inclusion of the three limbs of public protection in the Threshold Criteria appropriate (page 6)?
Yes, No, Unsure
4. Is the section on the inclusion of the three limbs of public protection in the Threshold Criteria clear (page 7)?
Yes, No, Unsure
5. Is the continued link to the *Code* in the Threshold Criteria appropriate (page 6-7)?
Yes, No, Unsure
6. Is the continued link to the *Code* in the Threshold Criteria clear (page 7)?
Yes, No, Unsure
7. Is the exclusion of an additional wider public interest test (which could include consideration of issues such as insight, remediation or proportionality) from the Threshold Criteria appropriate?
Yes, No, Unsure

The Pharmaceutical Society NI has carried out an equality screening on the policy changes contained in the Draft Threshold Criteria. This showed that there were no differential impacts on any of the equality categories.

8. Do any aspects of our proposals have equality implications for groups or individuals based on one or more of the following categories? If yes, please explain what could be done to change this.

- Age
- Gender
- Disability
- Pregnancy and maternity
- Race /ethnicity
- Religion or belief
- Political Opinion
- People with dependants
- Sexual orientation
- Marital Status

Yes, No, Unsure

9. Do you have any other comments about the Draft Threshold Criteria?

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 Threshold Criteria should be amended.

New Threshold Criteria will subsequently be approved and published by the Council of the Pharmaceutical Society NI.