

## FITNESS TO PRACTISE INFORMATION FOR REGISTRANTS

This document provides information for registrants who are subject to a fitness to practise investigation. It provides information about the process a case will go through and the possible outcomes.

### About us

The Pharmaceutical Society NI is the regulator for pharmacists and pharmacies in Northern Ireland. Our role is to ensure the safety of patients and the public who use pharmacy services in Northern Ireland and to ensure that professional standards are upheld and the public continues to have confidence in the pharmacy profession.

### What is fitness to practise?

When we say that someone is 'fit to practise', we mean that they have the skills, knowledge, health and character to practise their profession safely and effectively. However, fitness to practise is not just about professional performance. It also includes acts or omissions by a registrant which may have an effect on public protection or confidence in the profession or the regulatory process. This may include matters not directly related to professional practice.

There is a public expectation that pharmacists will:

- Be properly trained, qualified and have up to date knowledge and skills;
- Act in the best interest of patients and the public;
- Always treat patients and the public with respect and dignity;
- Never do anything to harm patients or the public; and
- Keep their relationship with patients on a professional level at all times.

In order for members of the public to fully benefit from pharmaceutical services, they must have trust in the pharmacists and organisations that provide these services. If that trust is lost, they may not engage with the profession and suffer harm as a consequence.

For this reason, they are entitled to expect that pharmacists behave at all times with honesty and integrity, ensuring that trust and confidence in the profession is upheld.

## Concerns we can investigate

The Pharmaceutical Society NI has jurisdiction or power to investigate and, if appropriate, take action in relation to the following matters:

- Concerns relating to pharmacists or pharmacies registered with the Pharmaceutical Society of Northern Ireland;
- Fitness to practise matters within paragraph 4 of Schedule 3 to the Pharmacy (Northern Ireland) Order 1976; and
- Disqualification matters.

### a) *Pharmacists or pharmacies registered with Pharmaceutical Society NI*

In order to fall within our jurisdiction, a concern must relate to a pharmacist or pharmacy registered with the Pharmaceutical Society NI. Persons raising concerns about pharmacists or pharmacies in other countries or other parts of the United Kingdom will be directed to the appropriate regulator in that country or region e.g. General Pharmaceutical Council (England, Wales and Scotland) and the Pharmaceutical Society of Ireland (Republic of Ireland).

### b) *Fitness to practise matters*

Concerns which call into question the fitness to practise of a pharmacist registered with the Pharmaceutical Society NI will be investigated by us. Any of the following may impair a pharmacist's fitness to practise:

- misconduct (which may include dispensing errors, serious unprofessional or inappropriate behaviour, working under the influence of alcohol or drugs etc);
- deficient professional performance (which includes lack of competence);
- adverse physical or mental health which impairs the pharmacist's ability to practise safely and effectively or which otherwise impairs their ability to carry out their duties in a safe and effective manner;
- the pharmacist not having the necessary knowledge of English;
- a conviction, caution or penalty imposed by a court;
- a determination of impairment by another health or social care regulator;
- the inclusion of the pharmacist's name on a barred list for the purposes of protecting vulnerable persons.

c) *Disqualification matters*

Concerns which call into question the suitability of a corporate body (i.e. a company) from operating a registered pharmacy will be investigated by us. Under Section 80 of the Medicines Act 1968, the Pharmaceutical Society NI has the power to disqualify corporate bodies from operating registered pharmacies and direct that they are removed from the register. This power may be exercised by the Statutory Committee of the Pharmaceutical Society NI where the corporate body has been convicted of certain offences or certain individuals within the corporate body are convicted of an offence or been found guilty of misconduct and other disqualification conditions are met.

### Concerns we cannot investigate

It is not possible to provide an exhaustive list of all matters which fall outside the jurisdiction of the Pharmaceutical Society NI but common concerns raised with us which we cannot investigate include:

- Customer service issues, such as waiting times and rudeness. These should be taken up with the pharmacy directly through their complaints policy.
- Receiving a brand of medicine that the patient did not want. If a generic medicine is on the prescription, the pharmacist can provide any brand. The patient should discuss the brand with their prescriber.
- Contractual matters, such as closing before the advertised closing time. These matters should be directed to the Health and Social Care Board.
- Medicine dispensed without an expiry date. This may arise when a pharmacist has cut up a blister pack or dispensed medicine in bottles. The pharmacist is allowed to dispense medication without an expiry date, the assumption being that the medicine is in date.
- Cost of medicine. Pharmacies may charge whatever fee they deem appropriate for medicines on private prescriptions or emergency supplies.
- Low stock levels. We do not regulate how much stock pharmacies should keep or which medicines they should keep.
- Concerns relating to non-medicinal products such as makeup or shampoo.
- Concerns regarding other health professionals. We will signpost persons to the relevant body.
- Claims for compensation. Persons may wish to obtain legal advice.

- Employment issues such as working conditions or wages. These matters should be addressed with the employer or legal advice sought.
- Health matters which are being managed and are not capable of impairing fitness to practise.

## Anonymous Concerns

Some persons raising concerns choose to remain anonymous – they don't give us any of their personal details. Unfortunately, without those details, it may be difficult for us to fully investigate the concern raised unless we can verify the information provided from an independent source or where the person raising the concern is able to anonymously provide evidence which can be shared with the pharmacist.

## What is the purpose of the fitness to practise process?

Fitness to practise proceedings are about protecting the public. They are neither a general complaints resolution process nor are they designed to deal with disputes between registrants and service users. Our fitness to practise process is not designed to punish registrants for past mistakes. Its purpose is to protect the public from those who are not fit to practise. Finding that a registrant's fitness to practise is 'impaired' means that there are concerns about their ability to practise safely and effectively. This may mean that they should not practise at all or that they should be limited in what they are allowed to do. We will take appropriate action to make this happen.

## Who can raise a concern?

Anyone can raise a concern about a registrant. This includes members of the public, employers and other registrants. The police will also normally let us know about criminal proceedings against a registrant.

## What happens if a concern is raised about me?

Once a concern is received by the Pharmaceutical Society NI:

- Our Legal Officer will review the concern with the Registrar to check that it is a matter that we can investigate. We may contact the relevant pharmacist, pharmacy owner or Superintendent for information in order to make this decision.
- The Registrar may decide to refer the concern to the Health and Social Care Board (HSCB) or the Department of Health NI (DoH) to investigate and they may contact the relevant pharmacist, pharmacy owner or Superintendent to obtain further information.
- If the Registrar decides that the concern does not fall within our jurisdiction (i.e. it is not a matter which we can investigate), the case will not proceed any further

and if we have communicated with the relevant pharmacist, pharmacy owner or Superintendent in relation to the matter, they will be informed in writing of that decision.

- If the Registrar decides that the concern does fall within our jurisdiction (i.e. it is a matter which we can investigate), the relevant pharmacist, pharmacy owner or Superintendent will be informed in writing of that decision and the Registrar will begin a fitness to practise investigation during which they may be asked for further information in relation to the concern.

Once the fitness to practise investigation has concluded:

- The Registrar will apply the Threshold Criteria to decide if the concern raises fitness to practise allegations which should be referred to a fitness to practise committee (the Scrutiny Committee or Statutory Committee).
- If the Registrar decides that the allegation(s) do not meet the Threshold Criteria, the case will not proceed any further and the relevant pharmacist, pharmacy owner or Superintendent will be informed in writing of that decision. When the Registrar closes the case at this stage, she may give advice to the registrant on how to uphold professional standards.
- If the Registrar decides that the allegation(s) do meet the Threshold Criteria, the relevant pharmacist, pharmacy owner or Superintendent will be informed in writing of that decision and the case will progress to either the Scrutiny Committee (to be concerned on the papers) or the Statutory Committee (which involves an oral hearing).

## Interim orders

The Registrar may also refer a concern to the Statutory Committee during the course of an investigation if she considers that there is an immediate risk to the public or the registrant themselves or it is otherwise in the public interest for an Interim Order (suspending or restricting the pharmacist's practice) to be imposed while the investigation continues.

If we apply for an Interim Order, a hearing will be held at relatively short notice. The Statutory Committee will decide if an Interim Order is necessary.

## Scrutiny Committee

The Scrutiny Committee consists of a legally qualified Chair, a lay person and a pharmacist. This Committee meets to review, on paper, the evidence gathered by the Registrar and to consider any recommendation made by the Registrar, although they are not bound by this. The Scrutiny Committee may:

- Dismiss the case;
- Issue advice;

- Issue warning(s) to the registrant;
- Agree undertaking(s) with the registrant;
- Refer the case to the Statutory Committee (where there is a real prospect of a finding impairment).

## Statutory Committee

Where a case has been referred to the Statutory Committee directly by the Registrar or by a Scrutiny Committee, the Statutory Committee meets and invites the registrant to attend and give evidence. The registrant may be legally represented and this is a public hearing unless there are health issues or it is an Interim Order hearing. The Statutory Committee consists of a legally qualified Chair, a lay person and a pharmacist.

Depending on the outcome of the case the Statutory Committee may:

- Issue advice;
- Issue warning(s) to the registrant;
- Agree undertaking(s) with the registrant;
- Impose conditions on the registrant's practice;
- Suspend the registrant from the Register;
- Remove the registrant's name from the Register.

## Appealing against the Statutory Committee's decision

Some decisions of the Statutory Committee are appealable to the High Court. In those cases, the registrant has 28 days from when the written decision is sent to them to lodge an appeal and the decision does not take effect until after the appeal period.

## Interim Measures

In cases where the Statutory Committee has decided to remove a registrant from the Register or to suspend or impose a Conditions Order, it may go on to consider whether it is necessary to order that the registrant is suspended from the Register or subject to conditions immediately, during the appeal period.

## What can you expect from the Pharmaceutical Society?

If a fitness to practise allegation is made about you, you can expect us to treat you fairly and explain what will happen at each stage. We will keep you up to date with the progress of our investigation. We are neutral and will not take the side of either you

or the person who raised the concern with us. It may be helpful to get advice from your union (if you are a member), professional body or Citizens Advice. You may wish to take legal advice.

## How long will the process take?

We understand that it can be stressful when a fitness to practise concern is raised about you and we will try to consider your case as quickly as we can. We will give you an idea of how long our enquiries will take at each stage of the process. This will include:

- When we first contact you about the allegation;
- When a date is set for the Scrutiny Committee to consider the allegation;
- After the Scrutiny Committee meet; and
- At regular intervals before a Statutory Committee (if the case reaches this stage in the process).

The time a case takes to reach the end of the process can vary depending on the nature of the investigation we need to carry out and how complicated the issues are. The types of issues that can delay a case include:

- Difficulty in gathering information from another organisation;
- An ongoing police investigation or criminal trial – this is because we will wait until any criminal case has finished;
- An ongoing employer investigation – as we may wait until that has finished;
- Difficulty finding dates when everyone is available for a final hearing; and
- Adjournment requests.

If you have any questions about what is happening with your case or why it may be taking longer than expected, you can contact the Pharmaceutical Society NI.

## Support for pharmacists

We understand that fitness to practise investigations and proceedings are stressful for pharmacists involved. Support is available to pharmacists from the PASS service at: <https://www.pfni.org.uk/pass/who-we-are/>

## Removing your name from the Register

You cannot voluntarily withdraw from Register while there is an ongoing fitness to practise investigation or proceedings against you, unless the Registrar considers that it is in the public interest to allow you to voluntarily withdraw. You can continue to practise while we investigate the case unless an Interim Order has been imposed.

## The Professional Standards Authority (PSA)

PSA is the regulator for the 9 regulatory bodies in the UK, including us, and they promote best practice and consistency in all our work. All decisions made by the Statutory Committee are automatically sent to PSA for audit. If PSA considers that a decision taken by the Statutory Committee is insufficient to protect the public, it has the power to refer that decision to the High Court.