

Annual Report of the Scrutiny Committee 2022

1. Introduction

As Chair of the Scrutiny Committee, I have compiled the tenth Annual Report of the Committee's work in compliance with Regulation 7(1) of the Council of the Pharmaceutical Society of Northern Ireland (Statutory Committee, Scrutiny Committee and Advisers) Regulations (Northern Ireland) 2012 for the year 01 January 2022 to 31 December 2022.

1.1 The legislation states as follows at Regulation 7(1):

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.

1.2 Following the final removal of the pandemic restriction in February 2022 the Committee has continued to meet online with the option for the panel Chairs to hold meetings at the Pharmaceutical Society NI premises. I would like to record the Committee's appreciation of the extraordinary efforts of Pharmaceutical Society NI staff and the understanding of all those involved in the fitness to practise processes to ensure the continued effectiveness, fairness, and transparency of the Committee's work during this past year.

2 Composition of the Scrutiny Committee

The Scrutiny Committee, which sat during 2022, consisted of a publicly recruited panel, trained in fitness to practise proceedings. A panel considering a case comprises a legally qualified Chair, a lay member, and a pharmacist member.

Following the end of his tenure as a lay member on 30 June 2022, Colin Kennedy left the Committee and the next lay reserve member, Jennifer Knape, was

appointed to the Committee on 1 July 2022 by the Council of the Pharmaceutical Society NI.

On behalf of the Committee, I want to thank Colin for his service to the Committee and to the regulation of pharmacy services in Northern Ireland.

Table 1: Table showing the membership of the Scrutiny Committee in 2022	
Chair and legally qualified member	Ms. Nicole Lappin
Deputy Chair and legally qualified member	Mr. Paddy McDaid
Lay member	Mr. Colin Kennedy (end of tenure 30 June 2022)
Lay member	Mr. Andrew Popplewell
Lay member	Ms. Jennifer Knape** (from 1 July 2022)
Pharmacist member	Ms. Rachel Lloyd
Pharmacist member	Mr. Andrew Dawson
Pharmacist member	Ms. Anita Lawther
Pharmacist member	Ms. Patricia Holden

** New Committee member.

3. Assignment of Scrutiny Committee panels in 2022

- 3.1 I assign members to panels on a rota basis unless the member is unavailable or where, for example, a potential conflict of interest exists in a particular case. Members from the Scrutiny Committee reserve list may also be used if a Committee member is unavailable under Regulation 11(7) of the 2012 FtP Regulations.

Table 2: Table showing the number of cases assigned to Scrutiny Committee members in 2022.		
	Member	Number of Panels
Chair and legally qualified member	Ms. Nicole Lappin	2
Deputy Chair and legally qualified member	Mr. Paddy McDaid**	3
Lay member	Mr. Andrew Popplewell	4
Lay member	Mr. Colin Kennedy (end of tenure - 30 June 2022)	1
Lay member	Jennifer Knape** (from 1 July 2022)	0

Pharmacist member	Ms. Rachel Lloyd	3
Pharmacist member	Mr. Andrew Dawson	1
Pharmacist member	Ms. Anita Lawther	0
Pharmacist member	Ms. Patricia Holden	1

4. **Background**

4.1 Following the enactment of new legislation in October 2012, additional powers enable the Fitness to Practise Committees of 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 Committees are empowered to:

- 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.

4.2 Fitness to Practise Committees

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

4.2.1 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).

4.2.2 Statutory Committee (Hearings Committee)

This Committee considers allegations at hearings of misconduct of registered pharmacists. Registrants are invited to make representations with legal support should they so wish. 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 practice of a pharmacist,

impose suspension and remove registrants from the Register. It also deals with interim orders, restoration applications and review hearings.

5. **The Work of the Scrutiny Committee in 2022**

The Committee sat on four occasions during the reporting period, dealing with a total of five cases.

A table outlining the date of the meeting, the Registrar's recommendation in each case and the method of disposal by the Committee is shown below at Table 3 below.

All cases were examined using the published Pharmaceutical Society NI 2020 Threshold Criteria. These criteria guide the Scrutiny Committee as to how to assess which cases meet the criteria for referral to the Statutory Committee. Following the Committee's deliberation, the legally qualified Chair provides a full written determination setting out how these criteria have been applied in each case.

The Scrutiny Committee must not refer any fitness to practise 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 registered person's fitness to practise is impaired. In addition, the Scrutiny Committee must not refer any disqualification allegation to the Statutory Committee unless it is satisfied that there is a real prospect that the Statutory Committee will give a direction for disqualification.

The 'real prospect' test applies to both the factual allegations and to the question whether, if found proved, the facts could support a finding of impairment. Where there is doubt as to whether the real prospect test is met, case law indicates that the Scrutiny Committee should err in favour of referral to the Statutory Committee.

The Scrutiny Committee concluded that in three of the five cases before it, (Registrants A, B and C), the threshold for referral to the Statutory Committee was met and these cases are not discussed further in this report.

The Scrutiny Committee dealt with the remaining two cases (Registrants D and E), using the powers granted to it by the legislation. In both cases, the Committee was not satisfied that there was a real prospect that the Statutory Committee would make a finding that the registered person's fitness to practise is currently impaired and, following consideration of the evidence and the options available to it, disposed of the two cases by way of a warning to the Registrant.

Further information on these cases is provided in Section 7 of this report which deals with Regulation 7(1)a(iii).

Table 3: Table showing the recommendation of the Registrar compared to the method of disposal by the Scrutiny Committee.			
Registrant	Date of meeting	Registrar's recommendation for disposal	Disposal by the Scrutiny Committee
A	31/01/22	Referral to Statutory Committee	Referral to Statutory Committee
B	19/05/22	Referral to Statutory Committee	Referral to Statutory Committee
C	24/06/21	Referral to Statutory Committee	Referral to Statutory Committee
D	28/09/22	Referral to Statutory Committee	Warning
E	28/09/22	Referral to Statutory Committee	Warning

6. The statutory purpose of this report

6.1 Regulation 7(1) a(i): "Trends, Patterns and Learning Points".

As required by legislation, the key 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.

6.1.1 Trends and Patterns

Of the five cases dealt with by the Scrutiny Committee during the reporting period, three met the statutory criteria and were referred to the Statutory Committee. In the remaining two cases, Registrants D and E, which related to the same incident in university where two final year undergraduate students, (now Registrants), shared information and discussed answers with each other through electronic media during open book assessments held under COVID-19 restrictions.

In relation to Registrants D and E, the Scrutiny Committee, having carefully considered all the evidence before it, was not satisfied that there was a real prospect that the Statutory Committee would find that the Registrants' fitness to practise was impaired.

The Scrutiny Committee was satisfied that the cases merited the imposition of a sanction and having considered the powers available to it determined that the appropriate method of disposal was to issue both Registrants with a warning.

This year, the cases which have come before the Committee highlight a diverse mix of issues but, given the low numbers of cases again this year, it is impossible to discern any pattern of concern.

6.1.2 Learning Points

Each panel considering a case comprises a legally qualified Chair, a lay member, and a pharmacist member. The pharmacist members were asked to comment on any learning points which had arisen in each case they were involved in, as they are best placed to identify what may be the considered view of the average member of the profession. Other members were asked to put forward any points they viewed as relevant from their general experience.

Below is a summary of the points as to what could be considered learning points.. 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 Committee's caseload, these may be areas where further emphasis may be needed. That would be a matter for the Pharmaceutical Society NI to consider.

Learning points for the profession – recorded at the Scrutiny Committee meetings in 2022.

Meeting date 28/09/22

Honesty and integrity

A Registered Pharmacist must behave at all times with the upmost integrity adhering to the highest professional standards and never act in any manner which could or would call the profession into disrepute.

Registered Pharmacists must all at all times adhere to the Professional Code and behave in a manner befitting a member of the Profession of Registered Pharmacists, particularly with reference to honesty and integrity.

Pharmacy trainees should be reminded that any serious concerns raised against their actions before registration may be considered by the Registrar for referral to the Fitness to Practise Committees following registration.

7. **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 was able to dispose of the case by way of warnings and/or undertakings rather than refer the case on to the Statutory Committee.

Under Regulation 7(1)a(iii) of FtP Regulations 2012: Reasons for non-referral to Statutory Committee, the Scrutiny Committee must not refer any fitness to practise 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 registered person’s fitness to practise is impaired (Regulation 10(8)(a) of FtP Regulations 2012).

Two cases were disposed of by warnings (Registrants D and E) during the reporting period.

7.1 Registrants D and E

In the cases of Registrants D and E, it was alleged that.

During four of their final year open book assessments university assessments held under COVID-19 restrictions they had colluded by –

- i. Having a Skype call open during the assessments
- ii. On various occasions discussing what resources to use in relation to some of their answers, and that they had
- iii. Shared information and discussed answers.

As a result, they were found guilty of a major academic offence, which under the University procedures is considered as cheating, and had failed to meet the standards of behaviour expected from students seeking to register as a pharmacist.

Following punitive action by the University and acknowledgement by the Registrants that their actions were inappropriate and of a nature which would undermine the trust of the public in the profession, the Registrants undertook a period of reflection.

Registrant D completed a written reflection on the incident and accepted additional support from a senior member of academic staff in the School of Pharmacy in relation to support, teamwork, and decision-making in professional practice. Registrant E had

participated in a process where they shared their experience with the new intake of students. The Registrants subsequently completed their pre-registration training with undertakings agreed with the Pharmaceutical Society NI in accordance with the Procedures for the Initial Education and Training of Pharmacists in Northern Ireland 2014.

On Registrants D and E joining the Register of Pharmaceutical Chemists, the Interim Registrar decided that the matters fell within his jurisdiction to investigate as a fitness to practise concern and raised the matter with the Scrutiny Committee.

The Registrar alleged that the following threshold criteria were relevant to this case.

Criterion (a)- The Pharmacist Conduct, Ethics or Performance presents an actual or potential risk to the public.

Criterion (b) – The Pharmacist conduct, ethics or performance undermines, or is likely to undermine, confidence in the Pharmacist profession.

Criterion (c) – The Pharmacist conduct, ethics or performance reveals a serious or persistent failure to meet the standard for Pharmacists laid down in the code.

Criterion (d) - The Pharmacist conduct, ethics or performance called their honesty or integrity into question.

Having carefully considered all the evidence in relation to Registrants D and E, the Scrutiny Committee was not satisfied there was a real prospect that the Statutory Committee would find that the Registrants' fitness to practice was impaired.

The Scrutiny Committee acknowledged in both cases that the Registrants had demonstrated remorse and shown a high level of insight into the consequences and inappropriateness of their actions and that there had been no repeat of the behaviour.

The Scrutiny Committee was satisfied in both cases that the evidence merited the imposition of a sanction and having considered the powers available to it determined that the appropriate method of disposal was to issue the Registrants with a warning.

The terms of the Warning to both Registrants was as follows: -

- (i) As a Registered Pharmacist you must behave at all times with the upmost integrity adhering to the highest professional standards and never act in any manner which could or would call the profession into disrepute.
- (ii) You must all at all times adhere to the Professional Code and behave in a manner befitting a member of the Profession of Registered Pharmacists, particularly with reference to honesty and integrity.

8. **Conclusion**

As Scrutiny Committee Chair, I believe that Committee members have found the work they have been tasked with to be challenging, varied and interesting.

I want to express the Committee's appreciation of the support by Pharmaceutical Society staff to the Committee to enable it to fulfil its role. In particular, I would like to thank Simon McClenahan, the Scrutiny Committee Secretary, for his assistance throughout the reporting period and in the preparation of this report. I look forward to continuing to work with him and others as the Committee carries out its role to protect the safety of patients and maintain the reputation of the profession along with confidence in it.

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 in a satisfactory and proportionate way.

Accordingly, I commend this report to you.

Nicole Lappin
Chair
Scrutiny Committee of the Pharmaceutical Society NI

10 March 2023