

PRACTICE DIRECTION OF THE CHAIR OF THE STATUTORY COMMITTEE
MADE PURSUANT TO REGULATION 24 OF THE COUNCIL OF THE
PHARMACEUTICAL SOCIETY OF NORTHERN IRELAND (FITNESS TO PRACTISE
AND DISQUALIFICATION) REGULATIONS (NORTHERN IRELAND) 2012

Practice Direction (No. 1 of 2023)

- A. This Practice Direction provides directions in respect of the conduct of reviews by the Statutory Committee pursuant to the provisions of the Pharmacy (Northern Ireland) Order 1976 (the Order), Schedule 3, Paragraph 8, concerning Interim Orders, and relevant provisions in the Council of the Pharmaceutical Society of Northern Ireland (Fitness to Practise and Disqualification) Regulations (Northern Ireland) 2012.
- B. This Practice Direction shall come into effect on the 10th March 2023.

The Legislation

- The Pharmacy (Northern Ireland) Order 1976, Schedule 3, Paragraph 8, Interim Orders.
- The Council of the Pharmaceutical Society of Northern Ireland (Fitness to Practise and Disqualification) Regulation (Northern Ireland) 2012

The Practice Direction

1. Paragraph 8(2) of Schedule 3 to the Pharmacy (NI) Order 1976 lays down a general rule that once an interim order is made, it must be reviewed by the Statutory Committee within 6 months. Thereafter, the Statutory Committee must review the interim order every 6 months or 3 months after it was reviewed, if the person concerned requests an early review. The Statutory Committee may review an interim order at any time if new evidence relevant to the order has become available after it was made.

2. Paragraph 8(7) of Schedule 3 to the Order deals with specific circumstances where there are different review requirements. Those circumstances being:
 - i. where the interim order has been extended by the High Court, and
 - ii. where a 'replacement order' was made by the Statutory Committee under sub paragraph (3)(c). Sub paragraph (3)(c) outlines that an interim order is replaced if an interim conditions order is replaced with an interim suspension order or vice versa.

3. In relation to the two types of cases covered by paragraph 8(7), (High Court extension and replacement orders), there are two possible review periods set out, depending on whether the interim order has been previously reviewed. These being:
 - (a) if the order (or the order which has been replaced) has not been reviewed at all under sub-paragraph (2), within the period of 6 months beginning with the date on which the High Court ordered the extension or on which the replacement order under sub-paragraph (3)(c) was made; and*
 - (b) if the order (or the order which has been replaced) has been reviewed under sub-paragraph (2), within the period of 3 months beginning with and including that date.*

4. The provisions as set out in paragraph 8(7)(a), for a review to take place within the period of 6 months of a High Court extension, or from the date on which a replacement order was made, are to be followed.
5. In relation to circumstances set out in paragraph 8(7)(b) - where a replacement order is made, or an interim order has been reviewed prior to a High Court extension, then the order must be reviewed within 3 months. It is considered that the time spans and frequency of holding such interim order review hearings are capable of placing a significant burden on a Registrant and the Society in terms of time and costs. Therefore, in the circumstances outlined in paragraph 8(7)(b), the parties to the proceedings are encouraged to explore the possibility of reaching an agreed position in relation to the review and making a joint application to the Statutory Committee under Regulation 38(14) of The Council of the Pharmaceutical

Society of Northern Ireland (Fitness to Practise and Disqualification) Regulations (Northern Ireland) 2012 (the Regulations). Regulation 38(14) outlines that:

"Where the terms of the order to be made or continued, or the terms of the variation to the order, or its revocation, are agreed between the parties, the Statutory Committee may make an order in those terms without the need for a hearing."

On receipt of a joint application under Regulation 38(14), and where the Committee considers it appropriate to proceed to consider the matter under this provision, the Committee will consider the matter 'on the papers' without the need for the parties to the proceedings to be present. Up to the point where a Committee decides to make an order under Regulation 38(14), it reserves the right to hold a full review hearing to consider the matter.

6. In circumstances where a Registrant is not legally represented, the Society should engage with the Registrant to appropriately explain the relevant provisions and the Registrant's rights and options in relation to holding a review hearing in front of the Statutory Committee, or agreeing a position with the Society which may dispense with the need for a hearing. Any Committee receiving a joint application under Regulation 38(14), where the Registrant is not legally represented, should seek reassurance that the Registrant has been appropriately engaged with on the issues and is fully informed of their right to have a review hearing in front of the Statutory Committee.
7. Registrants should also be reminded of the right of parties to proceedings before the Statutory Committee to make a written request to the Secretary of the Statutory Committee, at any time, for a case management meeting to be held under Regulation 21 of the Regulations.
8. It should be made clear to Registrants that any agreement to a joint application with the Society under Regulation 38(14) should be entirely voluntary and that their right to request an early review or a review based on new evidence under paragraph 8(2) is unaffected by this Practice Direction.

The Chair of the Statutory Committee

A handwritten signature in blue ink, appearing to be 'A. P. ...', written over a horizontal line.

Dated: 31 March 2023