

Consultation on Knowledge of English Regulations

A consultation document

26 July 2023 – 26 September 2023

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About the Pharmaceutical Society of Northern Ireland

The Pharmaceutical Society of Northern Ireland is the regulatory body for pharmacists 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;
- 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 taking action to protect the public; and
- ensuring high standards of education and training for pharmacists in Northern Ireland.

[The Pharmacy \(Northern Ireland\) Order 1976](#) requires that the organisation ensures the provision of professional leadership – the Council has established a Pharmacy Forum for this purpose.

What is this consultation about?

The Pharmacy (Northern Ireland) Order 1976 ('the 1976 Order') is the main legislation governing the regulation of pharmacists in Northern Ireland. This legislation was amended by the Health Care and Associated Professions (Knowledge of English) Order 2015 (the '2015 Order') to ensure that pharmacists in Northern Ireland have adequate knowledge of English to safely and effectively perform their roles. The 2015 Order is UK-wide legislation and applies to a range of healthcare professionals including pharmacists, nurses and dentists.¹ Similar legislation has also been introduced in respect of doctors.² As a result of these amendments, the 1976 Order provides that a person is not entitled to be registered as a pharmacist in Northern Ireland unless they satisfy any conditions as to their knowledge of English which are prescribed by the Society in regulations.³ The Council of the Pharmaceutical Society has

¹ The relevant provisions amending the 1976 Order came into force on 1st June 2016.

² See for example The General Medical Council (Fitness to Practise and Overarching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 at: http://www.legislation.gov.uk/ukxi/2015/794/pdfs/ukxi_20150794_en.pdf

³ Article 8(2A) of the 1976 Order as amended by Article 7 of the 2015 Order.

powers to make regulations in relation to language conditions⁴ and must make regulations requiring persons who wish to be registered with the Society to satisfy the registrar that they have the necessary knowledge of English.⁵ In accordance with the 1976 Order, regulations made by the Council must be approved by the Department of Health.⁶ The Society must also consult on and publish guidance in relation to the evidence, information or documents to be provided for the purpose of satisfying the registrar.⁷

The Pharmaceutical Society of NI is now consulting all stakeholders on draft Regulations and Guidance (see [Consultation on Knowledge of English Guidance](#)) which, in the view of the Society, will introduce fair and proportionate language controls for pharmacists in Northern Ireland. All applicants and registrants will be required to have the necessary knowledge of English for safe and effective practise.

For registrants, not having the necessary knowledge of English is a new category of impairment for fitness to practise purposes⁸ so that proceedings can be taken if a justifiable concern has been identified about a registrant's knowledge of English.

Applicants who are refused registration on the grounds that they have failed to satisfy the registrar that they have the necessary knowledge of English can appeal that decision.⁹

How to respond to this consultation

We welcome your response to this consultation and have listed some questions to assist you. In order to help us analyse responses, we would strongly encourage you to complete the response template provided. Responses should be sent by post or email to:

Knowledge of English Regulations Consultation 2023

Pharmaceutical Society of Northern Ireland

73 University Street Belfast,

BT7 1HL

Tel: 028 9032 6927

Email: Mark Neale, Consultation coordinator: consultations@psni.org.uk

⁴ Article 5(1)(bb) of the 1976 Order as amended by Article 6(2) of the 2015 Order.

⁵ Article 5(1B) of the 1976 Order as amended by Article 6(3) of the 2015 Order.

⁶ Article 25A(2) of the 1976 Order.

⁷ Article 8AA of the 1976 Order as inserted by Article 8 of the 2015 Order.

⁸ Paragraph 4(1)(ca) of Schedule 3 to the 1976 Order as inserted by Article 10(2) of the 2015 Order.

⁹ Article 11(2) of the 1976 Order.

Accessibility of information

If you are having difficulties accessing the documentation or you need us to make adjustments in order to be able to respond to this consultation, please contact us and we will do our best to address the issue.

The Pharmaceutical Society NI will publish a summary of responses following the completion of the consultation process. Your response, and all other responses to the consultation, may be disclosed on request. We can only withhold information in exceptional circumstances. We will only consider withholding information in cases where the respondent has indicated, at the time of submission, that the information is to be withheld, and only where a legitimate reason has been provided. If you wish your response to remain confidential, please provide your reasons in writing, setting out why you believe the information should remain confidential. It should be noted that such reasons must be capable of being justified to the Information Commissioner as we are subject to the Freedom of Information Act 2000.

Consultation period

The consultation will run for 8 weeks from 26 July 2023 until 12 noon on 26 September 2023.

When the consultation closes, we will analyse the responses we receive which will be considered by the Council of the Pharmaceutical Society NI before making a final decision on any amendments.

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 comments, where possible, in order for the Council of the Pharmaceutical Society NI to consider the rationale for your views. We have provided a response template to complete, which is available on the website: <http://www.psn.org.uk/publications/consultations/>

The draft Regulations can be found at Appendix A to this document.

Draft Regulation 2 (inserting Regulation 11A into the General Regulations¹⁰) in relation to registration requirements

Question 1

Under the proposed regulations, applicants for registration would be required to provide evidence to satisfy the registrar that they have the necessary knowledge of English (proposed Regulation 11A(2)(a) of the General Regulations). The Society is also consulting on proposed guidance about the evidence, information and documents that may be provided by an applicant to demonstrate that they have the necessary knowledge of English and the process to be followed by the registrar when making that determination (see [Consultation on Knowledge of English Guidance](#)).

- *Do you agree that applicants for registration should be required to provide evidence to satisfy the registrar that they have the necessary knowledge of English?*

Question 2

The proposed regulations would require applicants for retention to provide a written declaration that they hold evidence to satisfy the registrar that they have the necessary knowledge of English (proposed Regulation 11A(2)(b)(i) of the General Regulations) and provide additional evidence, as the registrar may reasonably require, to satisfy the registrar that they have the necessary knowledge of English (proposed Regulation 11A(2)(b)(ii) of the General Regulations).

- *Do you agree that applicants for retention should be required to provide a written declaration as to whether they hold evidence to satisfy the registrar that they have the necessary knowledge of English and provide additional evidence, as the registrar may reasonably require, to so satisfy the registrar?*

¹⁰ The 'General Regulations' means the [Pharmaceutical Society of Northern Ireland \(General\) Regulations \(Northern Ireland\) 1994](#), as amended.

Question 3

The proposed regulations would require applicants for restoration to provide a written declaration that they hold evidence to satisfy the registrar that they have the necessary knowledge of English (proposed Regulation 11A(2)(c)(i) of the General Regulations) and provide additional evidence, as the registrar may reasonably require, to satisfy the registrar that they have the necessary knowledge of English (proposed Regulation 11A(2)(c)(ii) of the General Regulations).

- *Do you agree that applicants for restoration should be required to provide a written declaration as to whether they hold evidence to satisfy the registrar that they have the necessary knowledge of English and provide additional evidence, as the registrar may reasonably require, to so satisfy the registrar?*

Draft Regulations 3 to 9 (amending the Fitness to Practise Regulations¹¹)

Question 4

Not having the necessary knowledge of English is a new category of impairment for fitness to practise purposes,¹² and the Council considers that a number of amendments must be made to the Fitness to Practise Regulations to accommodate this change.

Draft Regulation 3 (amending Regulation 2 of the Fitness to Practise Regulations) would include a definition of a “knowledge of English allegation” in the interpretation section of the Fitness to Practise Regulations and would provide a new definition of “allegation” which would include a “knowledge of English allegation”.

Draft Regulation 4 (amending Regulation 5 of the Fitness to Practise Regulations) would permit the registrar, in the course of their investigations into a knowledge of English allegation, to require the person concerned to agree to undergo an examination or assessment of their knowledge of English commissioned by the Society and to provide to the registrar information in respect of that examination or assessment, including evidence of the result of that examination or assessment (proposed Regulation 5(4)(e) of the Fitness to Practise Regulations).

¹¹ The ‘Fitness to Practise Regulations’ means the Council of the Pharmaceutical Society of Northern Ireland ([Fitness to Practise and Disqualification\) Regulations \(Northern Ireland\) 2012](#).

¹² Article 10(2) of the 2015 Order which inserts a new para 4(1)(ca) of Schedule 3 to the 1976 Order.

Draft Regulation 5 (amending Regulation 6 of the Fitness to Practise Regulations) would require the registrar, when referring a knowledge of English allegation to the Scrutiny Committee, to send the person concerned a copy of the Society's guidance about the evidence, information and documents that may be provided for the purpose of satisfying the registrar that they have the necessary knowledge of English (proposed Regulation 6(1)(b)(iii) of the Fitness to Practise Regulations). The Notice of Referral to the Scrutiny Committee must also be sent to the person concerned to inform them of the Committee's power, in a knowledge of English case, to direct them to undertake an examination or assessment of their knowledge of English (proposed Regulation 6(2)(d)(iia) of the Fitness to Practise Regulations).

In order to bring fitness to practise restoration in line with the general restoration provisions outlined at draft Regulation 2 (discussed at Question 3, above), draft Regulation 6 (amending Regulation 9 of the Fitness to Practise Regulations) would require applicants for restoration following fitness to practise removal from the register to provide a written declaration that they hold evidence to satisfy the registrar that they have the necessary knowledge of English (proposed Regulation 9(3)(aa) of the Fitness to Practise Regulations) and may require applicants to provide additional evidence to satisfy the registrar that they have the necessary knowledge of English (proposed Regulation 9(3)(b)(ia) of the Fitness to Practise Regulations). Applicants for restoration following fitness to practise removal must already provide to the registrar such additional documents, information or evidence as the registrar may reasonably require for the purposes of verifying the information in, or determining, the application (Regulation 9(3)(c) of the Fitness to Practise Regulations).

Draft Regulation 7 (amending Regulation 10 of the Fitness to Practise Regulations) would allow the Scrutiny Committee, when considering a knowledge of English allegation, to direct the person concerned to undertake an examination or assessment of their knowledge of English commissioned by the Society (proposed Regulation 10(6A)(a) of the Fitness to Practise Regulations). The person concerned may also be required to provide to the registrar information in respect of that examination or assessment, including evidence of the result (proposed Regulation 10(6A)(b) of the Fitness to Practise Regulations). If the person concerned failed to comply with such a direction or requirement, the Scrutiny Committee could refer that failure to the Statutory Committee as an allegation of misconduct, with or without the knowledge of English allegation (proposed Regulation 10(6B) of the Fitness to Practise Regulations).

Draft Regulation 8 (amending Regulation 15 of the Fitness to Practise Regulations) would allow the Statutory Committee, when considering a knowledge of English allegation, to direct the person concerned to undertake an examination or assessment of their knowledge of English commissioned by the Society (proposed Regulation 15(1)(aa)(i) of the Fitness to Practise Regulations). The person concerned may also be required to provide to the registrar information in respect of that examination or assessment, including evidence of the result (proposed Regulation 15(1)(aa)(ii) of the Fitness to Practise Regulations).

Draft Regulation 9 (amending Regulation 26 of the Fitness to Practise Regulations) would allow the Statutory Committee, when determining whether a person's fitness to practise is impaired by reason of not having the necessary knowledge of English, to take into account any failure by that person to undertake an examination or assessment of their knowledge of English and/or to provide to the registrar information in respect of any examination or assessment, including evidence of the result (proposed Regulation 26(12) of the Fitness to Practise Regulations).

- *Do you agree with the proposed changes to the Fitness to Practise Regulations to reflect the inclusion of a person not having the necessary knowledge of English as a new category of impairment for fitness to practise purposes?*

Draft Regulation 10 (amending the Continuing Professional Development Regulations¹³)

Question 5

In order to bring continuing professional development restoration in line with the general restoration provisions outlined at draft Regulation 2 (discussed at Question 3 above), draft Regulation 10 (amending Regulation 10 of the Continuing Professional Development Regulations) would require applicants for restoration following continuing professional development removal from the register to provide a written declaration that they hold evidence to satisfy the registrar that they have the necessary knowledge of English (proposed Regulation 10(3)(a)(iia) of the Continuing Professional Development Regulations) and may require applicants to provide evidence to satisfy the registrar that they have the necessary knowledge of English (proposed Regulation 10(3)(a)(v) of the Continuing Professional

¹³ The 'Continuing Professional Development Regulations' means the [Council of the Pharmaceutical Society of Northern Ireland \(Continuing Professional Development\) Regulations \(Northern Ireland\) 2012 No. 312](#) as amended by SR 2013 No 147 and S.I. 2019/585

Development Regulations). Applicants for restoration following continuing professional development removal must already provide to the registrar such additional documents, information or evidence as the registrar may reasonably require for the purposes of verifying the information in, or determining, the application (Regulation 10(4) of the Continuing Professional Development Regulations).

- *Do you agree with the proposed changes to the Continuing Professional Development Regulations in order to bring restoration following continuing professional development removal in line with the general rules regarding restoration in relation to knowledge of English?*

Equality Impact Assessment

Question 6

In accordance with the Pharmacy (Northern Ireland) Order 1976, regulations made by the Council must be approved by the Department of Health. The Department has undertaken an Equality Screening exercise to consider any potential impacts on equality of opportunity for any group referred to in section 75 of the Northern Ireland Act 1998. The Department considers that the proposed changes may have some minor impacts on certain groups. However, it has concluded that the changes are a necessary, proportionate and legitimate means of achieving an important policy aim to ensure that all those who practise pharmacy in Northern Ireland have the necessary knowledge of English to do so safely and effectively. The Department has concluded that a full Equality Impact Assessment is not required. The Department's Equality Screening exercise can be found at Appendix B to this document.

- *Are there any considerations and evidence that you think the Department should take into account when assessing the extent of the likely impact of the policy on groups of people within each of the Section 75 categories of the Northern Ireland Act 1998 or The Human Rights Act 1998 arising as a result of the proposed changes ?*

* Any comments provided in response to this question will be provided in full to the Department for its consideration. Please confirm you are content for your response to be provided to the Department.

I am content for my response to Q6 to be provided to the Department.

I am not content for my response to Q6 to be provided to the Department.

Rural Needs Impact Assessment

Question 7

In 2016, the government commitment to rural proofing was strengthened with the introduction of the Rural Needs Act (Northern Ireland) 2016.¹⁴ Accordingly, the Department of Health has undertaken a Rural Needs Screening exercise to ensure rural needs are considered. The Department considers that the proposed changes should have a neutral impact on rural areas and communities and has, therefore, concluded that a full Rural Needs Impact Assessment is not required. The Department's Rural Needs Screening exercise can be found at Appendix C to this document.

- *Are the proposed changes likely to have an adverse impact on rural areas? If yes, please provide comment on how these adverse impacts could be reduced or alleviated.*

* Any comments provided in response to this question will be provided in full to the Department for its consideration. Please confirm you are content for your response to be provided to the Department.

I am content for my response to Q7 to be provided to the Department.

I am not content for my response to Q7 to be provided to the Department.

¹⁴ See <http://www.legislation.gov.uk/nia/2016/19/contents>