

# Identifying underlying health issues policy: Fitness to practise cases which include drugs or alcohol as an active component

## Introduction

1. Identifying and addressing underlying health issues as a result of alcohol or drugs misuse among pharmacy professionals is an important element of protecting the public. An underlying health issue involving drug or alcohol misuse which impairs a pharmacy professional's fitness to practise puts patients and the public at risk of harm. A pharmacy professional's fitness to practise is regarded as impaired when there is an 'adverse physical or mental health which impairs their ability to practise safely and effectively or which otherwise impairs their ability to carry out the duties of a pharmacy professional in a safe and effective manner'.<sup>1</sup> A concern relating to drug or alcohol misuse which is not being treated or managed effectively is therefore a potential area of risk. These concerns require appropriate assessment to mitigate any potential public or patient protection issues.
2. A key element of the operation of this policy will be the continual assessment of its effectiveness, including the proportionality of decisions made based on the application of the policy. We will continue to gather evidence to assess whether requesting medical reports and carrying out medical assessments, in the circumstances described below, helps to identify any public protection risks.

## Purpose of this document

3. This document sets out how we will identify whether there is an underlying health issue in fitness to practise cases which include drugs or alcohol as an active component. It explains when we will require a pharmacy professional to submit or consent to a medical report or medical report and medical assessment.
4. It will help ensure that our approach to identifying underlying health issues is consistent with the principles of 'Right-touch regulation' and that our statutory responsibility to protect the public is properly balanced against protecting potentially vulnerable pharmacy professionals involved in fitness to practise investigations.

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<sup>1</sup> Article 51(1)(c) Pharmacy Order 2010

## Policy statement

5. This policy applies to all fitness to practise cases where drugs or alcohol are an active component. This means that alcohol or drugs are a significant and relevant factor in the misconduct or offence. Cases where drugs or alcohol are simply a contextual factor do not fall under the scope of this policy.
6. The groups of offences or possible misconducts set out below fall under the scope of this policy. This is not an exhaustive list, and case officers should exercise their judgement when deciding whether drugs or alcohol are an active component of the case.
  - a. unfit through drugs (including whilst driving, attempting to drive, in charge of a vehicle, or in charge of a child)
  - b. possession or manufacture of illegal drugs
  - c. theft of medication from a pharmacy
  - d. offences in which the consumption of alcohol or drugs is thought to have played a significant role in the committing of the offence (e.g. assault, sexual misconduct, breach of the peace, criminal damage and other public order offences)
  - e. under the influence of alcohol or drugs whilst acting in the capacity of a pharmacist/pharmacy technician or attempting to work in the capacity of a pharmacist/pharmacy technician.

## Deciding whether a medical report and/or medical assessment is required

7. A medical report or medical report and medical assessment (see paragraphs 12 and 13 for definitions) will be required for all cases where drugs or alcohol are an active component, to determine whether or not there is an underlying health issue that would call into question a pharmacy professional's fitness to practise to remain on the register.
8. A medical report is the minimum requirement for cases that fall under the scope of this policy. It will be requested in the first instance and used to decide whether a medical assessment is necessary and proportionate.
9. Decisions on whether or not a medical assessment is requested will be based upon the circumstances of each individual case, considered against a series of factors (see below) and whether the GPhC decides it is necessary assurance for the protection of the public.
10. The GPhC will act proportionately when deciding whether a medical assessment is required. When making this decision it will take into account, but is not restricted to, the following factors:
  - a. the existence and/or number of related concerns
  - b. the length of time that has passed since the conduct occurred
  - c. whether there are any alcohol or drug related concerns in the workplace
  - d. the presence of other factors which may indicate an underlying health issue
  - e. the presence of significant relevant evidence that may mean an assessment is not required
  - f. evidence of serious professional misconduct which negates or lessens the need to investigate the pharmacy professional's health.

11. Once the factors above have been considered against the facts of the case and there is sufficient reason to consider referral for a medical assessment then, if it is necessary assurance for the protection of the public, a referral should be made.
12. A **medical report** will be obtained from the pharmacy professional's General Practitioner (GP) or a registered health professional who is aware of the relevant history. The GPhC will ask the GP, or registered health professional, to fill out a Health Information Form (HIF). We will seek consent from the professional to obtain a HIF or it may be obtained by professional themselves. If the HIF indicates that the professional has an underlying health issue which has the potential to impair the pharmacy professional's ability to practise safely and effectively, or which otherwise impairs their ability to carry out the duties of a pharmacy professional in a safe and effective manner, they will be asked to undergo a medical assessment.
13. A **medical assessment** will be undertaken by an independent practitioner, with appropriate expertise, nominated by the GPhC. We will seek consent for an assessment. Medical assessors will be required to examine the pharmacy professional and provide a written report indicating their opinion regarding their health and whether the professional is able to carry out their duties safely and effectively. Where appropriate the GPhC will also ask the professional to undergo toxicology testing, which will inform the medical assessor's report. The GPhC will meet the cost of a medical assessment and any associated testing.
14. The GPhC may seek a medical assessment in any case if it considers it necessary for public protection. Failure by a pharmacy professional to engage in the process will be taken into consideration when making decisions about the fitness to practise case and may result in a referral to the fitness to practise committee. This action will only be necessary if we decide that the pharmacy professional has not provided a reasonable explanation for not consenting or because their health condition is in itself preventing them from consenting.

## Application of policy

15. This policy updates and replaces the policy that was introduced in September 2016. This policy applies to all fitness to practise cases received on or after 4 October 2021.
16. The Head of Professions Regulation (Fitness to Practise) is responsible for the implementation of, and decisions taken within, the policy. The Quality Assurance and Consistency Manager is responsible for the quality assurance and audit of decisions related to this policy and for implementing a process to do so.

## Measurement and evaluation

17. This policy will be subject to regular, periodic review. These reviews will assess the effectiveness of the policy and guidance, and will include an audit of the decisions made. The next review will commence in October 2023.
18. To ensure consistent and quality decision-making, regular quality assurance will take place. Decisions will be quality-assured to ensure the process is effective and that appropriate cases are being referred for an assessment. The details of each decision must be recorded including the case number, the offence or reason it is within the scope of the policy, the outcome and the reasons for that outcome.

## Appendix A – Guidance on when to request a Medical Report and/or Medical Assessment

19. The GPhC will require pharmacy professionals subject to fitness to practise proceedings which include drugs or alcohol as an active component to submit or consent to a medical report or, subject to considering certain factors, to a medical report and medical assessment. Decisions on whether or not a medical assessment is required will depend upon the circumstances of each individual case.
20. When assessing whether there is an underlying health issue present the decision to refer for a medical assessment will be based on, but not restricted to, the factors set out in the table under paragraph 21.
21. If it is decided a medical assessment is not necessary assurance for the protection of the public then the reasons for this decision should be fully recorded.

Factors which may highlight a potential underlying health issue	What to consider when deciding on whether to refer for a health assessment
The length of time that has passed since the conduct occurred	If the conduct took place more than 3 years since the date of the fitness to practise referral, or a subsequent offence, then in the absence of any other indicating factors (see below), it should not be referred for a medical assessment.
The existence and number of related concerns	If the issue is isolated or a 'one off' then, in the absence of any other factors, it should not be referred for a medical assessment. For example, an isolated drink driving incident or possession of cannabis.
Whether there are any alcohol or drug related concerns in the workplace	If the conduct took place in the workplace, or concerns have been raised in the workplace, then it should be referred for a medical assessment. For example: <ul style="list-style-type: none"> <li>• theft of medication</li> <li>• pharmacy professional was under the influence of alcohol or drugs in the workplace</li> <li>• concerns have been raised by the employer and/or colleagues to indicate alcohol or drug dependency</li> <li>• the conduct took place to, or from, the workplace.</li> </ul>
The presence of other indicating factors which may highlight a potential underlying health issue	The presence of any other factor, that occurred as a result of alcohol or drugs misuse, which may highlight a potential health issue. For example: <ul style="list-style-type: none"> <li>• injury to persons or damage to property</li> <li>• lack of insight into incident or consequences of behaviour/actions</li> <li>• absence of remorse or apology following actions</li> <li>• the level of alcohol in the bloodstream</li> <li>• quantity of drugs stolen, possessed or consumed</li> <li>• type of drug stolen, possessed or consumed</li> </ul>

Factors which may highlight a potential underlying health issue	What to consider when deciding on whether to refer for a health assessment
	<ul style="list-style-type: none"> <li>the pharmacy professional has failed to seek appropriate treatment and/or has ceased to engage with support.</li> </ul> <p>If one, or several, of these indicators are present alongside other factors then it should be referred for a medical assessment.</p>
<p>The presence of significant relevant evidence that may mean an assessment is not required</p>	<p>The presence of significant relevant evidence may eliminate the need for an assessment. For example, the pharmacy professional drove a vehicle while under the influence during a medical emergency or the professional has been deemed fit to practise by university fitness to practise proceedings after a drug or alcohol issue.</p> <p>If one, or several, significant relevant factors are present then a medical assessment will not normally be required.</p>
<p>Evidence of serious professional misconduct which negates or lessens the need to investigate the pharmacy professional's health.</p>	<p>If the pharmacy professional's misconduct is so serious that it is likely they will be removed from the register then, despite clear evidence of a serious health condition, the focus of our investigation should be on the misconduct. In such cases, a medical assessment will not normally be required.</p>