

# Scheme of delegation

GPhC0048 Version 1.2

The Scheme of Delegation sets out who has the authority to make decisions within the General Pharmaceutical Council, including the matters reserved to the Council or delegated to the Chief Executive and Registrar, or to other non-statutory committees or structures.





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## 1. Introduction

- 1.1 The Pharmacy Order 2010 imposes statutory functions on the Council of the General Pharmaceutical Council and on its Registrar. In practice, many of these functions will be carried out by the GPhC's employees, within the terms of the legislation and the policies set by the Council.
- 1.2 The Scheme of Delegation ('the Scheme') takes account of a number of factors relating to the GPhC's functions under the Pharmacy Order 2010 including:
- making Rules is a statutory responsibility of the Council itself and cannot be delegated<sup>1</sup>
  - some functions are expected to be discharged by the Council
  - some functions are the statutory responsibility of the Registrar (these are not covered in the Scheme, but are summarised in **Appendix A** for completeness)
  - some functions are carried out by statutory committees, while others are delegated to non-statutory committees (these are described in **Section 6** below)

## 2. Purpose

- 2.1 The Scheme is intended to facilitate the efficient and effective functioning of the GPhC. It is based on subsidiarity, so as to maximise effectiveness and efficiency, and to allow the GPhC to respond promptly to changes in circumstances.
- 2.2 This means that decisions are taken at the lowest level competent to take them, enabling the Council to focus on those tasks that only the Council can or should perform, such as
- approving vision, strategy and budget
  - reviewing corporate performance and holding the executive to account
  - approving regulatory policy
  - setting professional standards
  - taking the final decision on matters of strategic significance, or which pose a substantial risk to the organisation.
- 2.3 Other than where functions are delegated to committees or other structures, the Council regards the Chief Executive & Registrar (CE&R) as its single point of delegation and holds this position accountable for meeting the Council's expectations for organisational performance.
- 2.4 The CE&R may delegate functions further and will be held accountable by the Council for the discharge of all functions delegated under the Scheme. This accountability is demonstrated through monitoring reports submitted to the Council.

## 3. Scope

- 3.1 Overall, the Scheme sets out:

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<sup>1</sup> Under Article 18(3) of the Pharmacy Order 2010, the Council may delegate any of its functions to the Registrar **except** the power to make Rules.

- matters reserved to the Council;
- matters delegated to the CE&R (which may also be carried out by persons nominated by the CE&R)
- matters delegated to non-statutory committees or other structures

### **Exercise of delegated powers**

- 3.2 Where power is delegated under the Scheme, the power must be exercised in a manner which is consistent with relevant legislation, including the Pharmacy Order 2010, the General Pharmaceutical Council (Constitution) Order 2010 and with the Council's policies. References in the Scheme to powers under legislation are references to the Pharmacy Order 2010 unless otherwise stated.
- 3.3 In particular, the decision-maker must have regard to articles 6(1), 6(1A) and 6(2) of the Order which underlines that the GPhC's over-arching objective in exercising its functions is the protection of the public. In exercising its functions, the Council (including its staff and committees) must have proper regard to the interests of persons using or needing the services of registrants, the interests of all registrants and prospective registrants; and the interests of persons carrying on a retail pharmacy business at or from a registered pharmacy.
- 3.4 The decision-maker must also recognise that lawful exercise of a statutory power requires not only compliance with the conditions laid down for its performance but also with the principle that all statutory powers must be exercised in good faith, in a reasonable manner and for their proper purpose.

### **Withdrawal of delegated powers**

- 3.5 The Scheme remains in force unless and until it is amended or revoked by the Council.

## **4. Matters reserved to the Council**

- 4.1 The Council retains responsibility for determining the strategy of the GPhC and setting the GPhC's policy, to a level where the Council can accept any reasonable interpretation of its policy.
- 4.2 The power to make Rules under the Order is reserved to the Council by virtue of arts 4(7) and 18(3) of the Order and cannot be delegated.
- 4.3 In addition to making Rules, the Council retains responsibility for the following functions which, to the extent that it is lawful to do so, may only be delegated by means of a specific resolution of the Council:

### **Regulatory functions**

- Setting the standards to be met in connection with the carrying on of a retail pharmacy business at or from a registered pharmacy (art 7(1));
- Setting standards of proficiency for the safe and effective practice of pharmacy which it is necessary for a person to achieve in order to be entered in Part 1 or 2 of the register as a pharmacist or a pharmacy technician (art 42(1)(a));
- Setting standards of education, training & experience that providers must meet to enable a person to achieve the standards of proficiency set under art 42(1)(a) and any requirements to

- be satisfied for admission to and continued participation in education and training for prospective pharmacists or pharmacy technicians (art 42(1)(b));
- iv. Setting the criteria by reference to which the standards of education, training & experience that providers must meet to enable a person to achieve the standards of proficiency set under art 42(1)(a) are set (art 42(6)(a));
  - v. Setting standards of proficiency for the safe and effective practice of pharmacy which it is necessary for a registrant to maintain in order to have an entry in Part 1 or 2 of the register renewed (art 43(1)(a));
  - vi. Setting standards relating to the conduct, ethics and performance expected of registrants (art 48(1)(a));
  - vii. Setting standards of continuing professional development which it is necessary for a registrant to maintain in order to continue to meet the standards of proficiency set under art 43(1)(a) (art 43(1)(b));
  - viii. Consulting such persons as the Council considers appropriate on the development of criteria by reference to which compliance with the standards of continuing professional development (CPD) set under art 43(1)(b) is to be monitored (and under art 43(3)(b) publishing those criteria as it considers appropriate) (art 43(3)(a));
  - ix. Adopting and maintaining a framework relating to requirements and conditions to be met by registrants in respect of their CPD (arts 43(4)(a) & (5));
  - x. Requiring registrants to complete an annual declaration of compliance with the framework and to submit their CPD records to the Registrar for review (art 43(4)(b));
  - xi. Approving rules, standards and criteria for the purposes of consultation (arts 5(1), 36(6), 43(3)(a), 66(3));
  - xii. Setting the criteria to be taken into account in deciding whether to grant approvals of courses, qualifications, tests, providers or premises under art 42 (art 42(6)(b));
  - xiii. Refusing or withdrawing approval of a course, qualification, test, institution or other provider (art 47(2)(b));
  - xiv. Determining the programmes, courses and the amount and type of education, training or experience required to obtain an annotation in respect of a specialisation (art 44(1)(a)(i)-(ii));
  - xv. Approving qualifications outside Great Britain as attesting to a standard of proficiency that it is necessary to achieve in order to be entered in Part 1 or Part 2 of the register (arts 21(1)(d)(i) and 22(1)(c)(i));
  - xvi. Publishing or providing in such manner as it sees fit guidance to registrants, employers or others in respect of the standards for the education, training, supervision and performance of persons who are not registrants but who provide services in connection with those provided by registrants (Sch 1, para 6(2));
  - xvii. Determining threshold criteria stating types of allegations that should not be referred to the Investigating Committee (art 52(2)(a));

- xviii. Determining, in the light of advice from the Appointments Committee, the minimum competencies required for appointment as a chair, deputy chair or other member of a statutory committee (Sch 1, para 5(1) and Statutory Committees and their Advisers Rules, R9);
- xix. Approving the procedure for suspension or removal of a statutory committee member, or the removal of a person on a reserve list, by the Appointments Committee (Sch 1, para 5(1) and Statutory Committees and their Advisers Rules, R14);
- xx. Determining fees to be charged in connection with entry to the pre-registration scheme and registration assessment for prospective pharmacists, and the assessment of overseas-qualified pharmacists (art 65(1));

#### **Internal control, assurance and accountability**

- xxi. Approving the Council's standing orders and any other policies regulating the Council's own procedures (Sch 1, para 3(5));
- xxii. Approving the Council's standing financial instructions (Sch 1, para 3(1));
- xxiii. Appointing the external and internal auditors, following consideration of any recommendation of the Audit & Risk Committee (Sch 1, paras 3(1) and 7(3));
- xxiv. Approving the Council's annual budget and business plan (Sch 1, para 3(1));
- xxv. Approving any report, plan or accounts to be submitted to the Privy Council (Sch 1, paras 7(4) & 8(2));
- xxvi. Approving all borrowing of monies by the GPhC, with the exception of any overdraft which is offset against funds in other GPhC accounts (Sch 1, para 3(2)(a));
- xxvii. Acquiring or disposing of any freehold or leasehold interest in land and property, or other interest in land (Sch 1, para 3(1));
- xxviii. Determining and reviewing the organisation's overall investment policy, objectives, risk appetite and target returns (Sch 1, para 3(1));
- xxix. Determining the remuneration and expenses policies applying to members of the Council (Sch 1, sub-para 3(2)(g));
- xxx. Determining the organisation's approach to risk and monitoring strategic risks to the achievement of the Council's objectives (Sch 1, para 3(1));
- xxxi. Establishing or abolishing any non-statutory committee, sub-committee or working group of the Council and agreeing its remit, terms of reference and standing orders (art 4(7) and Sch 1, paras 3(2)(d)-(f));
- xxxii. Appointing, or agreeing arrangements for the appointment of, members to any non-statutory committee, sub-committee or working group (art 4(7) and Sch 1, paras 3(2)(d)-(f));
- xxxiii. Appointing an appointments team led by the Chair of Council and including two other Council members (one lay, one registrant), and an external assessor, advised by the Director of People, to define and oversee the recruitment process for the Chief Executive & Registrar and to make a recommendation to the Council on this appointment (art 18(1));
- xxxiv. Appointing or removing the Chief Executive & Registrar (art 18(1));

- xxxv. Suspending a member provisionally under standing orders, pending a decision of the Privy Council on whether or not to suspend that member under GPhC Constitution Order, para 7(4) (Standing Orders);
- xxxvi. Publishing, in such manner as it sees fit, reports of routine inspections, special inspections and other visits to registered pharmacies by inspectors, and the reports may include an account of the outcomes of those inspections and visits (art. 9(3))
- xxxvii. Approving the Council's scheme of delegation (Sch 1, para 3(1));

### **Equality, diversity and inclusion**

- xxxviii. Approving the GPhC's equality and diversity scheme (Sch 1, para 3(1)), including any equality, diversity and inclusion strategy.
- xxxix. Approving any report, plan or accounts to be submitted to the Privy Council, which includes a requirement to publish a "description of the arrangements that the Council has in place to ensure that it adheres good practice in relation to equality and diversity" (Sch 1, paras 8(1)(a))

Please note that in addition to the statutory reporting requirements in the Pharmacy Order, the Council remains responsible for overseeing the work that the GPhC carries out to demonstrate compliance with the Public Sector Equality Duty under Section 149 of the Equality Act 2010. This requires the GPhC, in the exercise of its functions, to have due regard to each of the statutory objectives, including the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 4.4 The Council is also responsible for making decisions in relation to any matter in which the person who would otherwise have delegated authority to act has an actual or potential interest.

## **5. Matters delegated to the Chief Executive & Registrar (CE&R) (art 18(3))**

- 5.1 The remit of the CE&R is to direct the affairs and manage the resources of the GPhC within the framework established by the Council. In exercising their remit, the CE&R has delegated authority to act in any matter that is not expressly reserved to the Council.
- 5.2 The CE&R is accountable to the Council for their decisions and must provide such reports as the Council may require in order to carry out its role effectively.
- 5.3 The CE&R has a responsibility to inform the Council at the earliest opportunity of any matters which may represent a significant regulatory, strategic, legal, financial or reputational risk or issue for the Council.

The CE&R is responsible, within the Council's policies, for:



### Regulatory functions

- i. Determining the information to be contained in lists derived from the register (art 19(6));
- ii. Establishing arrangements for the publication and inspection of lists derived from the register (art 19(7));
- iii. Notifying all GB providers concerned with the education and training of prospective registrants of the standards and requirements set by the Council under art 42(1)(b) (art 42(3)(a));
- iv. Taking steps to satisfy the Council that the standards and requirements it has set under art 42(1)(b) are being met (art 42(3)(b));
- v. Publishing the criteria by reference to which the standards of education, training & experience that providers must meet to enable a person to achieve the standards of proficiency set under art 42(1)(a) are set (art 42(6)(a));
- vi. Publishing the criteria to be taken into account in deciding whether to grant approvals of courses, qualifications, tests, providers or premises under art 42 (art 42(6)(b));
- vii. Maintaining and publishing the Council's list of approved courses, qualifications, institutions, providers and tutors, and those which were approved but are no longer approved, together with the periods for which approval was given (art 42(7));
- viii. Approving, or arranging with others to approve:
  - courses of education or training which would confer the standards of proficiency for the safe and effective practice of pharmacy set by the Council (art 42(4)(a));
  - such other courses of education or training as the Council considers appropriate (art 42(4)(b));
  - qualifications granted following success in an assessment taken as part of an approved course (art 42(4)(c));
  - such tests of competence, or of proficiency in the knowledge and use of English, as the Council may require (art 42(4)(d));
  - institutions or other providers, including tutors, of postgraduate education and training leading to an approved qualification, including determining that such providers are properly organised and equipped for conducting the whole or part of an approved course (art 42(4)(e));
  - premises as suitable for postgraduate education & training leading to an approved qualification (art 42(4)(f));
  - a course of education or training run outside GB which is intended to lead to an approved qualification, or an institution or other provider of such a course of education or training (art 42(5)(a)-(b));
- ix. Imposing probationary or remedial arrangements or conditions on an institution or other provider in relation to a course, qualification or test (art 47(2)(a)), subject to the Registrar notifying the Council of the use of this delegated power;
- x. Establishing, maintaining and publishing lists of premises to be used as training

- establishments (art 44(1)(d));
- xi. Appointing visitors from those appointed under the governance arrangements for associates to visit any particular place, institution or other provider for the purposes of the Order relating to education, training, assessments or tests (art 45(4) & (6));
  - xii. Sending visitors' reports to the institution or other provider concerned and notifying it of the period within which it may comment on the report (art 45(9));
  - xiii. Publishing visitors' reports and any responses to such reports, where the respondent has asked for this to be published (art 45(12));
  - xiv. Notifying an institution or other provider when the GPhC is considering imposing probationary or remedial arrangements or conditions, or is considering refusing or withdrawing approval of a course, qualification, test, institution or provider, and informing it of the period within which it may make observations on the matters raised (art 47(4));
  - xv. Notifying an institution or other provider of a decision to impose probationary or remedial arrangements or conditions, or to refuse or withdraw approval of a course, qualification, test, institution or provider, and of the right of appeal (art 47(6));
  - xvi. Using best endeavours, when approval of a course, institution or provider is withdrawn, to secure that any person undertaking that course or studying with that institution or provider at the time is given the opportunity to attend an approved course conducted by an approved institution or provider (art 47(8));
  - xvii. Determining the education, training or experience required to address fitness to practise matters (art 44(1)(a)(iii));
  - xviii. Issuing confirmation of good standing to registrants (Sch 1, para 3(1));
  - xix. Determining whether an exempt person is 'appropriately qualified' as a pharmacist or as a pharmacy technician under the General Systems Regulations (arts 21(1)(c) and 22(1)(b));
  - xx. Determining whether an exempt person is 'appropriately qualified' as a pharmacist where that person does not have a qualification in pharmacy which has been designated by the Privy Council as an approved qualification and who does not fall under the General Systems Regulations (art 21(1)(d)(ii)(aa));
  - xxi. Determining whether an exempt or non-exempt person is 'appropriately qualified' as a pharmacist where that person holds a qualification in pharmacy obtained outside Great Britain which has not been approved by the Council as attesting to the standard set by the Council (art 21(1)(d)(ii)(bb));
  - xxii. Determining whether an exempt person is 'appropriately qualified' as a pharmacy technician where that person does not fall under the General Systems Regulations (art 22(1)(c)(ii)(aa));
  - xxiii. Determining whether an exempt or non-exempt person is 'appropriately qualified' as a pharmacy technician where that person holds a qualification in pharmacy obtained outside Great Britain which has not been approved by the Council as attesting to the standard set by the Council (art 22(1)(c)(ii)(bb));
  - xxiv. Determining whether an applicant for registration should meet additional education, training or experience requirements and determining the nature of those requirements (art

- 20(1)(a)(iii)),
- xxv. Determining whether an applicant has the necessary knowledge of English and requesting further evidence, information or documents or requiring the applicant to undergo an examination or other assessment (art 23A(4) and (6));
  - xxvi. Determining the form and manner of application for registration (including annotation of the register), renewal of registration, voluntary removal from and restoration to the register and the information to be provided. (arts 23(1)(a), 27(1)(b), 31(1)(a), 37(3)(a) This also includes determining the form and manner of applications relating to premises under the Medicines Act 1968);
  - xxvii. Determining the form of notices of registration (art 26(2));
  - xxviii. Consulting upon rules, standards and criteria approved for consultation by the Council (arts 5(1), 36(6), 43(3)(a), 66(3));
  - xxix. Publishing the standards or criteria set and rules made by the Council (arts 36(2), 42(2), 43(2), 43(3)(b), 48(2));
  - xxx. Publishing the CPD framework adopted by the Council (art 43(6));
  - xxxi. Publishing or providing information about the regulation of pharmacists, pharmacy technicians and pharmacy premises (Sch 1, para 3(1));
  - xxxii. Publishing or providing guidance agreed by the Council to registrants, employers or others in respect of the standards for the education, training, supervision and performance of persons who are not registrants but who provide services in connection with those provided by registrants (Sch 1, para 6(2));
  - xxxiii. Appointing, from members appointed by the Appointments Committee, the members of panels to hear appeals or conduct particular fitness to practise proceedings, in line with any decisions on the composition of panels made by the chair of the Fitness to Practise Committee under the Statutory Committees and their Advisers Rules (Sch 1, para 5);
  - xxxiv. Determining the form of documents provided for in rules covering the procedures and rules of evidence of the statutory committees (art 61(6));
  - xxxv. Making arrangements for the GPhC to be represented at any appeal or fitness to practise proceedings (art 61(2));
  - xxxvi. Publishing the particulars of orders and decisions made by the Investigating, Fitness to Practise and Appeals committees, and the reasons for them (arts 40(11)-(12), 54(5)(c), Sch 1, para 3(1));
  - xxxvii. Requiring information or documentation from a registrant or a third party to assist the GPhC in carrying out functions under the Order (art 49(1));
  - xxxviii. Seeking a court order where a person has failed to provide information or documentation required under art 49(1) from a registrant or a third party to assist the GPhC in carrying out functions under the Order (art 49(4));
  - xxxix. Disclosing information relating to the fitness to practise of particular registrants, of all registrants or of groups of registrants, in the public interest (art 50(1)-(2));
  - xl. Seeking an extension by a court of an interim order made by the Fitness to Practise

committee (art 56(5));

- xli. Approving fees to be charged under art 65(1) of the Pharmacy Order other than charges in connection with entry to the pre-registration scheme and registration assessment for prospective pharmacists, and the assessment of overseas-qualified pharmacists (art 65(1));

#### **Governance, finance and organisational management**

- xlii. Conducting and defending all proceedings (other than criminal prosecutions brought under Sch 1 para 3(2)(b)) brought by or against the GPhC in any court, tribunal or arbitration (Sch 1, para 3(1));
- xliv. Instituting criminal prosecutions under any enactment (Sch 1, para 3(2)(b));
- xlv. Advising the Privy Council that a person has ceased to be a member of the Council (Constitution Order, para 6);
- xlv. Notifying the Privy Council if the Council has suspended a member provisionally under standing orders, pending a decision of the Privy Council on whether or not to suspend that member under the Constitution Order, para 7(5);
- xlvi. Terminating a provisional suspension of a Council member under standing orders if the Privy Council decides not to suspend that member (Constitution Order, para 7(6));
- xlvii. Maintaining and publishing the register of members' interests, including gifts and hospitality (Sch 1, para 4);
- xlvi. Keeping the accounts and preparing the annual accounts of the GPhC (Sch 1, para 7(1));
- xlix. Administering the GPhC's finances including, but not limited to, the day to day control of those finances (Sch 1, para 3(1));
  - I. Approving guidance on expenses for witnesses (Sch 1, para 3(1));
  - li. Arranging any insurance on behalf of the GPhC (Sch 1, para 3(1));
  - lii. Tendering, awarding and varying contracts (Sch 1, para 3(1));
  - liii. Approving the terms of any other agreements or transaction (Sch 1, para 3(1));
  - liv. Approving the Council's bank mandates (Sch 1, para 3(1));
  - lv. Managing any property owned by the GPhC, or in which the GPhC has an interest, including the submission of planning and building consent applications (Sch 1, para 3(1));
  - lvi. Determining and administering the GPhC's employment procedures and processes (Sch 1, para 3(2)(c));
  - lvii. Appointing or removing all other employees of the GPhC (Sch 1, sub-para 3(2)(c)), including inspectors (art 8(1)) and any Deputy Registrar (art 18(4));
- lviii. Determining the remuneration packages and terms & conditions for employees of the GPhC, within the overall remuneration framework agreed by the Remuneration Committee (Sch 1, para 3(2)(i));
- lix. Determining the remuneration packages and terms & conditions for non-employees who are not covered by the Remuneration Committee's remit (such as CPD reviewers, medical assessors, adjustments panel, European pharmacy professional application evaluators, return

- to the register application evaluators, question writers) (Sch 1, para 3(2)(i));
- ix. Approving the GPhC's Publication Scheme under the Freedom of Information Act 2000 (Sch 1, para 3(1));
  - lxi. Publishing the GPhC's reports, plans and accounts approved by the Council for submission to the Privy Council (Sch 1, paras 7(4)(a) & 8(1));
  - lxii. Approving the GPhC's Welsh Language Scheme (Sch 1, para 3(1));
  - lxiii. Approving the annual report to the Welsh Language Commissioner on how we have met our obligations under the Welsh Language Scheme (Sch 1, para 3(1));
  - lxiv. Approving the procedure for dealing with organisational complaints (Sch 1, para 3(1));
  - lxv. Approving submissions to the Professional Standards Authority for the purpose of the annual performance review (Sch 1, para 3(1));

## 6. Matters delegated to non-statutory committees or structures

### Non statutory committees

- 6.1 The following non-statutory committees and structures have delegated responsibilities within the Council's policies:
- **Audit & Risk Committee** (art 4(7) and Sch 1, para 3(1))  
The Audit & Risk committee reviews internal and external audit arrangements and advises the council on the implications of assurances provided in respect of risk and control.
  - **Finance & Planning Committee** (art 4(7) and Sch 1, para 3(1))  
The Finance & Planning Committee is responsible for providing the Council with assurance on the continuing efficiency and effectiveness of the organisation. This includes overseeing business and financial planning, to ensure that they align with the with the overall strategy set by the Council as well as overseeing and monitoring the implementation of the GPhC's investment strategy and policy, and other investment activities.
  - **Remuneration Committee** (art 4(7) and Sch 1, para 3(1)(g)-(j))  
The Remuneration Committee ensures there are appropriate systems in place for remuneration for council members, employees and others.
  - **Assurance and Appointments Committee** (art 4(7) and Statutory Committees and their Advisers Rules, Rules 6, 9 & 14)  
The assurance and appointments committee is accountable, but operates at arm's-length from the Council, and is responsible for the selection and recruitment of statutory committee members.
- 6.2 The delegated responsibilities for each Committee are set out in more detail in their respective Terms of Reference, as approved by the Council.

### Board of Assessors

- 6.3 The Board of Assessors has responsibility, within the Council's policies, for:
- Developing and holding, or causing to be held, registration assessments (art 44(1)(b))
  - Determining the arrangements under which assessments under art 44(1)(b) will be held including: dealing with disciplinary matters relating to candidates or prospective candidates; agreeing adjustments for candidates with specific needs related to any protected characteristic; considering candidate appeals and awarding results (art 44(1)(b)(iii)).

## 7. Application of the Scheme

- 7.1 The Chief Executive & Registrar will be responsible for the application of the Scheme and will be accountable to the Council for ensuring that:
- decisions on matters reserved to the Council are referred to the Council;
  - decisions on matters delegated to a non-statutory committee or other structure are referred to that committee or structure; and
  - decisions on matters delegated to the CE&R are consistent with relevant legislation and with the Council's policies.

## 8. Monitoring and compliance

- 8.1 The Council is responsible for the Scheme of Delegation and will review the Scheme every two years, or in line with relevant legislative or other change.
- 8.2 Compliance with the scheme, or specific aspects of the scheme, is monitored in a number of different ways, including through performance monitoring and other assurance mechanisms such as internal audit and review.
- 8.3 If you have any questions about the Scheme, please contact the Executive Office and Governance Team.

## 9. Supporting documents

- 9.1 The core legislation including the Pharmacy Order 2010, associated procedural rules and key governance policies and procedures are available on the GPhC website.

## 10. Appendices

- 10.1 **Appendix A** below sets out the statutory functions of the Registrar.

## Appendix A: Statutory duties and powers of the Registrar under the Pharmacy Order 2010

The main duties and powers of the Registrar under the Pharmacy Order 2010 are summarised below. These are not included in the Scheme of Delegation as they are statutory functions of the Registrar and are shown here for ease of reference. The Registrar also has a number of statutory functions under procedural rules and other legislation such as the Medicines Act 1968.

### Establishment, maintenance of and access to the Register

The Registrar must:

- establish and maintain the Register of pharmacist, pharmacy technicians and pharmacy premises (art 19(1))
- in such manner as the Registrar sees fit, compile lists comprising information in or derived from entries in the Register (art 19(5)).

### Entitlement to entry in Part 1 or Part 2 of the Register

The Registrar is to determine whether applicants are entitled to be entered in Part 1 or, as the case may be, Part 2 of the Register (art 20(1)) and to determine whether such entries may be renewed (art 20(2)).

The Registrar may, in certain circumstances, require an applicant for registration to undertake additional education, training or experience (art 20(1)(a)(iii)).

### Pre-entry requirements in respect of qualifications and additional education, training or experience: pharmacists

The Registrar may require:

- certain applicants for registration holding overseas qualifications to undertake additional education, training or experience (art 21(1)(d)(ii)(bb));
- certain exempt applicants for restoration to the Register to undertake additional education, training or experience but only where this is consistent with the EU Treaties and Directive 2005/36/EC (art 21(4));
- applicants for registration to meet requirements as to additional education which comprise or include reaching an adequate standard of proficiency in the knowledge and use of English (art 23A).

### Pre-entry requirements in respect of qualifications and additional education, training or experience: pharmacy technicians

The Registrar may require:

- certain applicants for registration holding overseas qualifications to undertake additional education, training or experience (art 22(1)(c)(ii)(bb));
- certain exempt applicants for restoration to the Register to undertake additional education, training or experience but only where this is consistent with the EU Treaties and Directive 2005/36/EC (art 22(2));

- applicants for registration to meet requirements as to additional education which comprise or include reaching an adequate standard of proficiency in the knowledge and use of English (art 23A)

### **Form, manner and content of applications for entry or for renewal of an entry in the Register: pharmacists and pharmacy technicians**

The Registrar may refuse to enter an applicant in the Register or refuse to renew the entry of an applicant in the Register, if the applicant fails to comply with, or if in respect of the applicant there is a failure to comply with registration rules (art 23(2)).

If a registrant fails to comply with registration rules relating to a renewal application, the failure may be treated as misconduct and the Registrar must consider whether or not to refer the matter to the Investigating Committee or the Fitness to Practise Committee (art 23(3)).

#### **Notification by the Registrar: entry & renewal**

The Registrar must, within one month, acknowledge an application for registration in Part 1 or Part 2 of the Register and inform the applicant of any missing document required.

The Registrar must, within three or four months (depending on the basis of the application) of receiving all the documents required for a registration application, notify the applicant of the result of the application.

The Registrar must, within one month, acknowledge an application for renewal of registration in Part 1 or Part 2 of the Register and inform the applicant of any missing document required.

The Registrar must, within one month of receiving all the documents required for a renewal application, notify the applicant of the result of the application.

#### **Duration of entry**

The Registrar must remove entries from Parts 1 & 2 of the Register when they cease to be valid (art 25(3)) and must send the person concerned a statement of the reasons for the removal (art 25(4)).

#### **Notice of entry in the Register**

The Registrar must send registrants written notice of their entries in the Register (arts 26(1)-(3)).

#### **Specialisations: registrants and registered pharmacies**

Where the Registrar decides not to enter, renew or restore an annotation in respect of a specialisation of an entry in the Register of a registrant or a registered pharmacy, or to remove such an annotation from the Register, the Registrar must send a notice to the person concerned stating the reasons for the decision and the right of appeal to the Appeals Committee (arts 27(2)-(3)).

#### **Registrants' duties with regard to their entries**

If the Registrar sends two notices to a registrant in Part 1 or Part 2 of the Register and, in each case, receives no reply within a specified time, the Registrar may remove the registrant from the Register (art 28(2)).

If a registrant in Part 1 or Part 2 of the Register fails to comply with rules about information to be provided by registrants, the Registrar may remove the registrant from the Register (art 28(3)).



The Registrar must send a notice to any person removed from the Register under art 28(2)-(3) stating the reasons for the removal and the right of appeal to the Appeals Committee (art 28(4)).

### **Corrections to the Register**

The Registrar must keep the Register correct and up to date (art 29(1)).

If the Registrar determines that an entry of a registrant or pharmacy in the Register has been fraudulently procured or incorrectly made, the Registrar may, subject to any provisions in rules, remove the registrant or registered pharmacy from that part of the Register (art 29(3)). The Registrar must then send a notice to the person concerned stating the reasons for the removal and the right of appeal to the Appeals Committee (arts 29(5)-(6)).

### **Fitness to practise matters before entry or renewal of an entry**

The Registrar may, subject to any provisions in rules, remove a registrant from Part 1 or 2 of the Register if the Registrar is satisfied that:

(a) the registrant's fitness to practise was impaired as a result of prescribed circumstances or because of a health problem at the time of the registrant's entry in the Register or at the time of a renewal application; and

(b) the registrant had not informed the Registrar of those circumstances or that problem in advance (arts 30(1)-(2)).

If a registrant in Part 1 or Part 2 of the Register fails to comply with rules about fitness to practise matters before entry or renewal of an entry, the Registrar may remove the registrant from the Register (art 30(3)).

The Registrar must send a notice to the person concerned stating the reasons for the removal and the right of appeal to the Appeals Committee (art 30(5)).

### **Voluntary removal from the Register**

Where the Registrar refuses an application for voluntary removal from the Register, the Registrar must send the applicant a statement giving notice of the refusal and the reasons for it (art 31(2)).

### **Indemnity arrangements**

The Registrar may, subject to any provisions in rules, refuse to enter a person in, or to restore a person's entry in, the Register where that person has failed to comply with rules concerning information to be provided to the Registrar on indemnity arrangements (art 32(8)).

The Registrar may remove a registrant from the Register where that person is in breach of requirements in rules or the Order relating to the requirement to have in force an indemnity arrangement which provides appropriate cover, or may refer the matter as an allegation of misconduct (art 32(9)).

Where the Registrar refuses to enter a person in, or restore a person to, the Register, or removes a person from the Register, the Registrar must send a notice to the person concerned stating the reasons for the decision and the right of appeal to the Appeals Committee (art 32(10)).

### **Temporary entry with regard to emergencies involving loss of human life or human illness etc.**

If the Secretary of State advises the Registrar of a state of emergency, the Registrar may:

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- enter appropriate persons in Part 1 or Part 2 of the Register during the emergency and may make such entries subject to conditions (arts 34(1)-(4))
- remove a person registered under this article from the Register if the Registrar has grounds for suspecting that the person's fitness to practise is impaired, and must remove such persons from the Register when the Secretary of State advises that the emergency no longer exists (art 34(5))
- make available information to assist with the identification of persons entered in the Register under this article in such manner as the Registrar sees fit (art 34(9)).

### **Temporary annotations with regard to emergencies involving loss of human life or human illness etc.**

If the Secretary of State advises the Registrar of a state of emergency, the Registrar may:

- annotate entries in Part 1 or Part 2 of the Register to allow such persons to order drugs, medicines & appliances during the emergency (art 35(1))
- remove such an annotation if the Registrar has grounds for suspecting that the person's fitness to order drugs, medicines & appliances is impaired, and must remove such annotations when the Secretary of State advises that the emergency no longer exists (art 35(3)).

### **Restoration to the Register of persons or premises removed from the Register**

The Registrar may restore a person or a registered pharmacy to the Register in accordance with rules (arts 37(1)-(2)).

Where restoration of a person is granted subject to compliance with an undertaking with regard to CPD and the person breaches that undertaking, that breach may be treated as misconduct and the Registrar must consider whether or not to refer the matter to the Investigating Committee or the Fitness to Practise Committee (art 37(4)).

Where the Registrar refuses an application for restoration to Part 1, 2, 4 or 5 of the Register, the Registrar must send the applicant a notice stating the reasons for the refusal and the right of appeal to the Appeals Committee (art 37(5)).

Where the Registrar refuses an application for restoration to Part 3 of the Register, the Registrar must send the person concerned a notice stating the reasons for the refusal and the right of appeal to the Appeals Committee (art 37(6)).

### **Appeals to the Appeals Committee**

The Registrar may extend the deadline for giving notice of an appeal where he is satisfied that the person did not receive the statement of the reasons for the appealable decision within 14 days of it being sent (art 40(4)).

### **Continuing Professional Development**

The Registrar may, in accordance with rules, remove a registrant from the Register or impose other remedial measures where the registrant has failed to comply with the CPD framework or made a false declaration about his compliance (art 43(8)(a)).

Where the Registrar removes a registrant from the Register as above, he must send the person concerned a notice stating the reasons for the decision and the right of appeal to the Appeals Committee (art 43(8)(c)).

### **Impairment of fitness to practise**

If a registrant fails to comply with rules about information to be provided to the Registrar on fitness to practise matters that arise while registered, the failure may be treated as misconduct and the Registrar must consider whether or not to refer the matter to the Investigating Committee or the Fitness to Practise Committee (art 51(6)).

### **Initial action in respect of allegations**

Except in such cases as are provided for in rules, the Registrar must refer all fitness to practise allegations to the Investigating Committee or, as appropriate, the Fitness to Practise Committee and must inform the registrant concerned and the person, if any, who made the allegation accordingly (art 52(1)-(4)).

Once a decision has been taken to refer the allegation to the Investigating Committee or the Fitness to Practise Committee, the Registrar must:

- require from the registrant concerned details of any person by whom the registrant is employed or engaged to provide services relating to pharmacy, or with whom the registrant has arrangements to provide such services;
- notify any such persons of the investigation;
- notify the Secretary of State, Scottish Ministers and Welsh Ministers of the investigation; and
- notify the Department of Health, Social Services and Public Safety in Northern Ireland of the investigation where the registrant is also registered in Northern Ireland (art 52(5)).

Where a registrant fails to provide details as above, the failure may be treated as misconduct and the Registrar may refer the matter to the Committee that is considering the allegation, the Registrar may seek an order of the relevant court requiring the requested details to be supplied (art 52(6)).

### **Consideration by the Investigating Committee**

If the Investigating Committee closes a case without referring it to the Fitness to Practise Committee, the Registrar must inform the person concerned and the person who made the allegation, if any, of the Investigating Committee's decision and any action it is taking (art 53(2)).

If the Investigating Committee refers an allegation to the Fitness to Practise Committee, the Registrar must inform the person concerned and the person who made the allegation, if any, of the referral and, where relevant, of the Investigating Committee's opinion that the Fitness to Practise Committee should consider making an interim order (art 53(3)).

### **Consideration by the Fitness to Practise Committee**

If the Fitness to Practise Committee determines that the fitness to practise of the person concerned is not impaired, the Registrar must inform the person concerned and the person who made the allegation, if any, of the Committee's decision and any warning or advice given by the Committee (art 54(5)).

If the Fitness to Practise Committee gives a warning or a direction, the Registrar must send the person concerned a notice of the reasons for the warning or direction and of any right of appeal (art 54(8)).

### **Professional performance assessments**

If the Registrar has, in accordance with rules, ordered an assessment of a registrant's professional performance (art 55(1)) and the registrant fails to produce any records required by an individual assessor or an assessment team, the Registrar may seek a court order requiring the records to be produced (art 55(7)).

### **Interim orders**

If an interim order is made, revoked or varied, the Registrar must send the person concerned a notice of the order, revocation or variation (art 56(4)).

### **Restoration of names to the Register: fitness to practise**

If a person who has been removed from the Register by the Fitness to Practise Committee applies for restoration, the Registrar must refer the application to the Fitness to Practise Committee (art 57(1)).

The Registrar may, if the rules so provide, determine whether any, and if so what, additional education, training or CPD is required before an applicant may be restored to the Register (art 57(3)(c)).

Where the Fitness to Practise Committee refuses an application for restoration, the Registrar must send the applicant a notice stating the reasons for the refusal (art 57(5)).

If the Fitness to Practise Committee directs that an applicant's restoration to the Register shall be conditional on them complying with specified requirements, or directs that a person may make no further applications for restoration, the Registrar must send that person a notice stating the reasons for the decision and, in the case of a direction that a person may make no further applications for restoration, their right of appeal (art 57(10)).

### **Interim measures pending a direction taking effect**

If the Fitness to Practise Committee makes an order to suspend a registrant's registration forthwith or to impose conditions on their registration forthwith, pending the coming into force of a direction, the Registrar must send that person a notice stating the contents of the order and their right of appeal (art 60(6)).

### **Rules in respect of proceedings**

The Registrar may, if the rules so provide, request a review of a direction for suspension or conditional entry in the Register (art 61(2)(e)(iii)(aa)).

### **Registration in respect of provision of occasional pharmacy services (pharmacists)**

Where a visiting practitioner is entitled to be entered in Part 4 of the Register, the Registrar must give effect to that entitlement (Sch 2, Pt 1, para 2(1)).

The Registrar may refuse to enter a visiting practitioner in Part 4 of the Register if, in the Registrar's opinion, that person is not so entitled. If the Registrar refuses to enter a visiting practitioner in Part 4 of the Register, the Registrar must send the practitioner a notice stating the reasons for the decision and the right of appeal (Sch 2, Pt 1, paras 2(3)-(4)).

If a person ceases to be entitled to provide occasional pharmacy services, the Registrar may remove them from Part 4 of the Register (Sch 2, Pt 1, paras 2(5)-(6)).

### **Entitlement to provide occasional pharmacy services after the first year: renewals (pharmacists)**

If a visiting practitioner has been removed from Part 4 of the Register for reasons other than the cessation of his entitlement, and that person applies to have his entitlement renewed, the renewal will only be granted if the Registrar decides, after having regard to the fact of the removal and the reasons for it, that the entitlement should be renewed (Sch 2, Pt 1, para 6(4)).

If the Registrar refuses to renew the entry of a visiting practitioner in the Register, the Registrar must send the practitioner a notice stating the reasons for the refusal and the right of appeal (Sch 2, Pt 1, para 6(9)).

### **Registration in respect of provision of occasional pharmacy services (pharmacy technicians)**

Where a visiting practitioner is entitled to be entered in Part 5 of the Register, the Registrar must give effect to that entitlement (Sch 2, Pt 2, para 10(1)).

The Registrar may refuse to enter a visiting practitioner in Part 5 of the Register if, in the Registrar's opinion, that person is not so entitled. If the Registrar refuses to enter a visiting practitioner in Part 5 of the Register, the Registrar must send the practitioner a notice stating the reasons for the decision and the right of appeal (Sch 2, Pt 2, paras 10(3)-(4)).

If a person ceases to be entitled to provide occasional pharmacy services, the Registrar may remove them from Part 5 of the Register (Sch 2, Pt 2, paras 10(5)-(6)).

### **Entitlement to provide occasional pharmacy services after the first year: renewals (pharmacy technicians)**

If a visiting practitioner has been removed from Part 5 of the Register for reasons other than the cessation of his entitlement, and that person applies to have his entitlement renewed, the renewal will only be granted if the Registrar decides, after having regard to the fact of the removal and the reasons for it, that the entitlement should be renewed (Sch 2, Pt 2, para 14(4)).

If the Registrar refuses to renew the entry of a visiting practitioner in the Register, the Registrar must send the practitioner a notice stating the reasons for the refusal and the right of appeal (Sch 2, Pt 2, para 14(9)).

### **Imposing, revoking or varying conditions on registered pharmacy premises**

The Registrar may make the entry of premises entered in Part 3 of the Register of pharmacist, pharmacy technicians and pharmacy premises subject to such conditions as the Registrar considers it necessary to impose for the purpose of securing the safe and effective practice of pharmacy at those premises; and may vary or revoke any such conditions (section 74D of the Medicines Act 1968).

### **Non-compliance with improvement notices**

The Registrar must refer certain cases of non-compliance with Improvement Notices to the Fitness to Practise Committee under section 80(1)(c) or (1A) of the Medicines Act 1968 (grounds for disqualification in certain cases) (art 14 (4A)). (Improvement notices may be issued where there is a failure to meet standards or conditions relating to standards)

Please note that you should always refer to the relevant legislation for full details of the Registrar's statutory functions and powers.

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For GPhC staff, please also refer to the Authority Framework for detailed guidance and information about delegated authority to act for the Registrar, including the exceptions list.



