



# GPhC publication and disclosure policy

Effective from July 2018

## Publication and disclosure policy

### 1 About the GPhC

#### Who we are

We regulate pharmacists, pharmacy technicians and pharmacies in Great Britain. We work to assure and improve standards of care for people using pharmacy services.

#### What we do

Our role is to protect the public and give them assurance that they will receive safe and effective care when using pharmacy services.

We set standards for pharmacy professionals and pharmacies to enter and remain on our register. We ask pharmacy professionals and pharmacies for evidence that they are continuing to meet our standards, and this includes inspecting pharmacies.

We act to protect the public and to uphold public confidence in pharmacy if there are concerns about a pharmacy professional or pharmacy on our register.

Through our work we help to promote professionalism, support continuous improvement and assure the quality and safety of pharmacy.

### 2 About this policy

As part of our regulatory work we publish and disclose material. This policy sets out the principles we apply in our approach to publishing and disclosing information about pharmacy professionals, registered pharmacies and pharmacy education institutions that we regulate. We publish and disclose this information so that we:

- meet our statutory objectives
- effectively carry out our tasks in line with our role and in the public interest
- meet relevant legal requirements

## GPhC publication and disclosure policy

The policy covers:

- information we publish on our website and online register
- information we disclose to third parties in carrying out our regulatory work, and
- how we deal with individual requests for information

We are committed to being open and transparent about our processes and how we make our decisions. We also aim to be open about the action we take in response to concerns about registered pharmacies and pharmacy professionals, so that the public can have trust in the standard of pharmacy care.

This policy explains how we balance our need to be open and transparent against the rights and freedoms of individuals, so that what we publish or disclose is proportionate.

The policy includes:

- an overall policy setting out our principles for publication and disclosure, including what we mean by 'disclosure in the public interest'
- Annex A, setting out the information we publish, disclose routinely and disclose on a case-by-case basis about the pharmacy professionals we regulate

We intend to produce other annexes that explain in more detail what we publish and disclose about registered pharmacies and pharmacy education.

### 3 Information we use

To carry out our regulatory work under the law, we need to collect and use information<sup>1</sup> about:

- pharmacy professionals who:
  - are registered with us (registrants)
  - apply for an annotation to their entry on the register
  - apply to register, including those trying to return to the register
  - own or run registered pharmacies
- people training to become pharmacy professionals, including those who:
  - apply to or take part in the pre-registration training scheme

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<sup>1</sup> With reference to pharmacy professionals and trainees this information includes contact details; information about qualifications, training and experience; and registration history. Some registrants may also provide information about their health or criminal records.

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- apply to take the registration assessment
- are students on a GPhC-approved course of study
- registered pharmacies, and owners applying to register premises. This may include commercially confidential information shared with us as part of our role as the regulator
- registered pharmacies, as part of our inspection process
- concerns raised about the quality of care in registered pharmacies, or the fitness to practise of registrants or people applying to become registered. This will include information to help us look into concerns which is given to us by patients, users of pharmacy services and pharmacy employees
- universities and other providers of accredited courses, and their employees; and pre-registration training sites
- concerns raised about pharmacy education and training

You can find out more about the information we use in our [privacy policy](#).

## 4 Legal background

### The Pharmacy Order 2010

In some situations, the law says we have to publish or disclose information. The [Pharmacy Order 2010 and Rules made under the Order](#) set out the information we must publish.

Information we must publish includes:

- public registers of pharmacies, pharmacists and pharmacy technicians
- our standards
- lists of pre-registration training sites
- lists of education and training providers
- reports of accreditation visits

Under the legislation, we can publish or disclose other information in the public interest.

Article 6 of the Pharmacy Order says that the GPhC has a duty to cooperate with other organisations involved in:

- the employment of registrants (whether or not the employment is under a contract of service)
- the education or training of registrants, prospective registrants or other health or social care professionals
- the regulation of, or the co-ordination of the regulation of, other health or social care professionals
- the regulation of health services

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- the provision, supervision or management of health services

For this reason, we work with a wide variety of people, groups and organisations and may share information in the public interest. For more information on this see:

<https://www.pharmacyregulation.org/about-us/who-we-work>

### Other legislation

We may need to publish or disclose information under other laws. These include:

- Medicines Act 1968
- Freedom of Information Act 2000
- data protection legislation, both domestic and European
- Human Rights Act 1998
- Environmental Information Regulations 2004
- laws that allow other authorities to make official requests for information
- others – including the Equalities Act 2010 and health and safety legislation, where we have certain reporting duties

We may also need to disclose information in line with judicial or court processes.

### We also consider:

- Misuse of Drugs Act 1971 and Misuse of Drugs Regulations 2001
- Poisons Act 1972
- Veterinary Medicines Regulations 2013

### Freedom of Information

As part of our duties under the Freedom of Information (FOI) Act 2000, we have adopted the **model publication scheme** approved by the Information Commissioner for all health regulators. Our *Guide to Information* covers the information that we make routinely available. The scheme also sets out the circumstances under which we are not required to make information routinely available.

We must also disclose information if we receive requests for information from members of the public and others. But we do not have to do this if that information is 'exempt' from disclosure. This may be, for example, because it is personal information about someone else, was provided in confidence or would adversely affect our ability to effectively carry out our regulatory work.

### 5 How we make decisions about publication or disclosure

In other circumstances, we will decide whether or not to publish or disclose the information. In doing this, we consider our objectives and the public interest alongside the interests of the individual concerned. Because our overall objective under the Pharmacy Order is public protection, more often than not the public interest will outweigh the interests of the individual.

When making decisions on what information to publish or disclose we are committed to:

- being open, transparent and fair about the processes we use and the decisions we make to disclose information lawfully and proportionately
- meeting our legal duties to protect personal data, and meeting the common-law duty of confidentiality
- treating legitimate, commercially sensitive information confidentially (if FOI and other legal requirements allow us to)
- publishing information in an easily accessible format when possible

### 6 The public interest

Throughout this policy and the annex, we talk about publication or disclosure in the public interest. We consider the public interest in relation to publishing or disclosing personal information and commercially sensitive information. We consider our main objective and the relevant law, when this is appropriate, to decide whether information should be published or disclosed.

As a regulator, there is a public interest in the GPhC's meeting its objectives and promoting and maintaining:

- the health, safety and wellbeing of the public
- public confidence in the pharmacy professions
- the GPhC regulatory standards

When we are considering disclosing personal information, we must keep to data protection legislation and human rights legislation.

In deciding whether or not to disclose, we must be satisfied that disclosure is:

- lawful, and meets one of the conditions for processing given in data protection legislation, and including if it is necessary
- needed to allow us to carry out our statutory and regulatory work under the Pharmacy Order, Rules or other relevant legislation

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If it is, we then need to consider whether disclosure is justifiable. Is it in the public interest to disclose, compared to and balanced with the individual's right to privacy under data protection legislation, human rights legislation and the common-law duty of confidentiality? When considering this, we take into account:

- any specific or implied legal power allowing us to disclose or publish
- the nature, purpose and quality of the information
- how appropriate and necessary it is to disclose or publish the information
- the impact of disclosure, including the potential for damage or distress to the individual
- the potential harm that may be caused if we do not disclose the information

We must make sure we keep to the data protection principles – for example, the information we disclose must be limited to what is needed to achieve the overriding lawful purpose of the disclosure.

We consider the public interest when:

- employers of pharmacy professionals, or other agencies involved in recruitment, ask us for personal information about their employees, and
- other public authorities ask us to disclose personal information. For example, NHS organisations may ask us for information to establish the professional standing of a registrant

When we consider disclosing commercially sensitive information, we also consider the public interest against the commercial interests of the business concerned. The provider may point out or highlight commercially sensitive material to us. However, we have the final decision on whether to publish or disclose, and the information may be covered by FOI or other legal requirements.

We do not usually publish or disclose information about ongoing investigations, unless we consider it to be in the public interest and proportionate in the circumstances. This is because we would not want to publish or disclose information when there is a risk that it might prejudice or adversely affect an investigation by the GPhC or another organisation.

## 7 More information and contact details

The GPhC is the data controller for the personal information it collects about registrants and other individuals. Our [privacy policy](#) gives more details about how we use information and about your rights under data protection legislation. If you have any questions or concerns about your information, please contact:

Data Protection Officer  
General Pharmaceutical Council  
25 Canada Square  
London  
E14 5LQ

Email: [foi@pharmacyregulation.org](mailto:foi@pharmacyregulation.org)  
Phone: 020 3713 8000

### Annex A: Publication and disclosure guidance – individuals (fitness to practise)

#### A.1 Introduction and purpose

This annex sets out our approach to the publication and disclosure of fitness to practise information about individuals. This includes:

- individuals who are registered as a pharmacy professional (known as ‘registrants’)
- other individuals, including people who raise a concern, witnesses, employers, patients and pharmacy users

The annex is concerned with what we publish online on our public register and website, and what we may disclose at different stages of the fitness to practise process. It should be read and considered alongside the main policy.

#### About our fitness to practise process

We carefully review and assess all concerns that are raised with us, and we consider whether we need to begin an investigation. We investigate concerns only if they could suggest there is a risk to patient safety or could affect public confidence in pharmacy professionals. The concerns we investigate may also, depending on the nature of the concern, be considered by an independent committee. You can find **more information** on our website.

#### About the legal background

We publish information throughout the fitness to practise process when it is lawful, proportionate, in the public interest to do so and our own legislation allows us to. Examples of this information are the decisions made by our statutory committees. Also, under Article 50 of the Pharmacy Order 2010 we may disclose fitness to practise information about individual registrants in the public interest. For example, we may disclose information in response to a request from an employer about a registrant.

#### About making sure a disclosure is in the public interest

There may be cases when we believe disclosure of information is necessary in the public interest, and we will be guided by the overall policy when deciding this. If we are considering making a disclosure in the public interest, we will balance the public interest in favour of disclosure with the individual’s right to privacy under the data protection legislation, human rights legislation and the common-law confidentiality duty.

#### About requests for personal information

We receive requests for information under various legislation including:

- Freedom of Information Act 2000

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- data protection legislation (both domestic and European)
- laws that allow other authorities to make official requests for information

Any response to a request for personal information must keep to the data protection legislation. Principles that we apply to all requests are:

- fairness – is the disclosure fair to the individual?
- lawfulness – any disclosure must be lawful
- relevance – is the information we have been asked for, or are proposing to share, proportionate and strictly relevant to the purpose of the request?

## A.2 How we publish fitness to practise information

### Our online register

Under Article 19(7) of the Pharmacy Order we have to publish information from our register. We publish this information as an online register, which contains details of pharmacists, pharmacy technicians and pharmacy premises. It also includes current and historical fitness to practise information. The nature of this information and the length of time it is published for are set out in table 1 below.

The online register shows all current registrants and ones who are suspended or removed from the register by the Fitness to Practise Committee. It does not show the names of individuals whose registration we have administratively removed, or those who have voluntarily removed themselves from the register.

### Our website

As well as publishing the register, we use our website to ensure transparency around fitness to practise hearings and decisions. How we use the website to publish this information and what information we publish is set out below.

We publish a **searchable list of hearing determinations** of principal hearings. A determination document includes the committee's decision on the sanction given, and their reasons for the decision. This stays on our website for 12 months in any case where a registrant's fitness to practise is impaired. We list the most recent decisions of the Fitness to Practise Committee, except when the matter relates to a registrant's health or an interim order. We also publish decisions on the online register for the periods set out in the table below. We also publish the outcomes of recent fitness to practise hearings in our regular publication '**Regulate**'.

We will also include the most recent decisions of the Appeals Committee in the list. You can find more information on **the Appeals Committee** on our website.

We publish decisions in all cases where a registrant's fitness to practise is impaired. If the committee decides that the registrant's fitness to practise is not impaired, and a warning has not been given, the decision will be

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published for a period of three months (but only if the registrant asks for or consents to publication under Article 54 (5)).

We do not publish full transcripts from hearings. We will consider any requests for these under the terms of the Freedom of Information Act (FoI) or the subject access provisions of data protection legislation. We may make a charge, in line with the FoI fees rules.

### The hearings schedule

For the most serious concerns there may be a hearing. You can find more details on [what happens at a hearing](#) on our website. We put the details of a hearing on the public schedule, on our website, once the date is agreed and the notice has been issued. The schedule shows the name of the registrant, their registration number and postal town, and a summary of the concern or the nature of the hearing. The details are published at least 28 days before the hearing, and stay on the schedule until the end of the month the hearing takes place. Cancelled or postponed hearings are removed from the schedule.

## A.3 Publication and disclosure of fitness to practise information about individuals

We publish and disclose information throughout the fitness to practise process when it is lawful, proportionate, in the public interest to do so and our own legislation allows us to.

### During an investigation

We do not routinely publish information about ongoing investigations, unless we consider it to be in the public interest.

We tell the registrant that we have received a concern about their fitness to practise. We may also tell their employer if it is in the public interest to do so. Unless the person that raised the concern agrees to be identified, we may not share information with the employer or registrant that would identify them.

We will not tell the registrant we have received a concern if doing this would prejudice or adversely affect our, or another organisation's investigation.

We will not routinely disclose, to the person that raised the concern, the registrant's response to any request for information. However, we may disclose this on a 'case-by-case' basis if we feel it is correct under the general principles of 'procedural fairness'<sup>2</sup>. If a third party asks to see the registrant's response to allegations, we will consider this also on a case-by-case basis. Before we disclose this information we will ask for the registrant's consent to disclose it. However, in some cases we may still disclose it when we have not been able to get consent. This may happen if there is a public interest, especially if it is concerning public safety.

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<sup>2</sup> *Henshall v General Medical Council* [2005] EWCA Civ 1520 – panels should generally not consider evidence where complainants should have had the opportunity to respond but have not been given that opportunity.

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We will not disclose information or personal details not relevant to the case.

We make sure that everyone relevant to the case is updated as the case progresses: that is, the person who reported the concern, and the registrant and their employers.

We tell the registrant and the people who reported the concern what the outcome of the investigation was. We also tell all known present employers, and the other relevant agencies that we told about the investigation.

Once a case has been referred to the Investigating Committee (IC), we will disclose this to:

- the individual or organisation who made the allegation
- the registrant's employer
- anyone else who has engaged the registrant to provide services
- the Secretary of State, the Scottish Ministers, and the Welsh Ministers<sup>3</sup>
- the Department of Health, Social Services and Public Safety in Northern Ireland, if the registrant is also registered with the Pharmaceutical Society of Northern Ireland<sup>4</sup>, and
- any other health or social care regulator who we know the registrant has dual registration with

We tell the registrant and those listed above about the outcome of the IC meeting.

We disclose information about an investigation to employers, and when appropriate, employment (or locum) agencies, if we consider this to be in the public interest. We would do this, for example, when the issues being investigated give rise to immediate concerns about patient or public safety. We do not disclose information to employers or employment (locum) agencies without the registrant's consent, unless it is in the public interest.

### The Investigating Committee (IC)

The IC is an independent statutory committee. All members of the IC are bound by confidentiality provisions.

The IC meets in private. You can find [more information about the IC and IC meetings](#) on our website. We do not publish a record of the meeting, or the details of and reasons for a decision. We only publish certain outcomes of the IC, including:

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<sup>3</sup> Article 52 Pharmacy Order 2010

<sup>4</sup> Article 52 Pharmacy Order 2010

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- when the outcome is a warning – the fact that a registrant has been given a warning by the IC will appear on the online register<sup>5</sup>
- when undertakings have been agreed – the fact that a registrant has agreed undertakings will appear on the online register

Once the IC has decided to close a case we tell the registrant and the people or groups we told about the IC meeting.

If an allegation is to be considered by the Fitness to Practise Committee we tell the registrant and the people or groups we told about the IC meeting. We also tell them the date of the meeting.

### The Fitness to Practise Committee (FtPC)

The committee usually meets in public. However, there are some occasions when it meets in private or will go into private session – for example, to consider health matters. We will generally publish information on our website and online register about all FtPC outcomes. However, if any private matters or sensitive information are involved, these decisions will not be published or will be published in redacted (edited) form. You can find **more information about the FtPC and its meetings** on our website.

After the FtPC has met, we will tell the people or groups that we have kept updated throughout the process about the outcome.

The Registrar will tell the registrant, and when applicable the person who reported the concern, about the outcome<sup>6</sup>.

As well as the information we publish on the register and our website, we may give more information to employers and a limited number of relevant bodies such as other regulators.

If we do not publish the details of a finding, we may disclose these on a case-by-case basis taking account of the public interest and data protection legislation.

We will consider any requests by interested parties for fitness to practise information that is not, or is no longer, published, in the context of the public interest as described above.

### Publication of information on the online register

What is published, the level of detail published and the length of time it remains publicly available must be proportionate. It must strike a reasonable balance between the public interest and fairness to everyone

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<sup>5</sup> The length of time that this, and other sanctions mentioned throughout the guidance, will remain on the online register is set out in table 1

<sup>6</sup> Article 54(5)(b) Pharmacy Order

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involved in the process. For that reason, the information set out above will usually be removed from the GPhC website within the timescales shown below.

If a registrant receives a sanction, their status on the register will be amended for the duration of the sanction. The accompanying information will remain on the register for an extra period after the end of the sanction. Each sanction will remain on the register for a specific time in line with the seriousness of the sanction.

There may be circumstances when a registrant has conditions imposed on their registration at a review hearing, before returning to the register after a period of suspension. If so, each outcome will be treated individually using the publication periods set out in the table below.

<b>Outcome</b>	<b>How 'status' will appear on the online register for the duration of the sanction</b>	<b>How the accompanying information will be presented</b>	<b>Length of time 'fitness to practise' information will remain on the online register</b>
Warning from the IC	'Registered'	Fact of warning published	1 year
Warning from the FtPC	'Registered'	With the determination or summary attached	1 year
Undertaking from the IC	'Registered'	Fact of undertaking	Duration of the undertaking plus 1 year
Undertaking from the FtPC	'Registered'	With the determination or summary published	Duration of the undertaking plus 1 year
Conditions	'Registered'	With the determination or summary published	Duration of the condition plus 1 year
Suspension	'Suspended'	With the determination or summary attached	Duration of the suspension plus 2 years
Removed by the FtPC	'Erased'	The determination or summary is published, including details of any interim measures	10 years from when the decision comes into effect
Restoration (or re-admittance*) to the register following removal by the FtPC	'Registered'	With the determination or summary attached	5 years from the date of restoration
Interim order from the FtPC	'Suspended'	With the summary attached	Duration of the order

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Interim order with conditions from the FtPC	'Registered'	With the summary attached	Duration of the order
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\*Re-admittance to the register only applies to people who were removed by a committee of the Royal Pharmaceutical Society.

The Fitness to Practise Committee may impose interim measures if it has made a direction for removal from the register, suspension or conditional entry on the register. It may impose interim measures if it is satisfied they are needed to protect the public, or are otherwise in the public interest or in the interests of the registrant. Any interim measures will take effect immediately and can cover the 28-day 'appeal period'. If the registrant appeals against the decision, they will stay in force until that appeal is decided.

If an appeal is successful, we will remove all reference to the case from the register and our website.

If a restoration application, made within 10 years of removal, is unsuccessful – that is, the registrant is not restored – their status on the register remains as 'Erased'. We only publish the determination in the searchable determinations list. If an application is made after 10 years of removal and is unsuccessful we only publish the determination in the searchable determinations list.

If a restoration application is successful, we will publish the determination or summary from the restoration hearing. This will replace the published determination from the original hearing that resulted in removal, if applicable.

Once 10 years have passed since the date of removal the entire online entry will be taken from the register.

All determinations or summaries published on the register may be redacted to remove sensitive information – for example, a registrant's address or the health-related aspects of the case.

## A.4 Sharing information with other bodies

### Disclosure to European member state competent authorities and other regulators

We are a designated authority for disclosing information about fitness to practise matters to other European member states' competent authorities. As such, we will circulate relevant information on the sanctions applied after the outcome of a committee hearing. We may disclose relevant information to requests from other competent authorities if it is in the public interest.

We use the European Commission's Internal Market Information System (IMI) 'Alert' mechanism to tell all European competent authorities about the sanctions following FtP hearings. In some circumstances, we may also use the IMI to share registrants' personal data with relevant competent authorities in other European member states. This would usually be when we need to clarify information we have received against records held by other authorities. Registrants have the right to ask for a copy of any records held on them in the IMI and to have their data corrected. (Schedule 3 of the Pharmacy Order describes our role as a Competent

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Authority under Directive 2005/36/EC & Articles 4e, 8(1), 8(2), 50(3a), 56(2) and 56a.) For contact details and other information about IMI, see the [IMI website](#).

We also email other regulators worldwide with whom there has been previous contact.

### Barring authorities

We notify the Disclosure and Barring Service (DBS) or Disclosure Scotland (DS), and other relevant bodies, about relevant cases and in line with the established legal framework. You can find more information about [what we refer and disclose to DBS and DS](#) on our website. We do not disclose information about whether the registrant is on any barred list.

## A.5 Others involved in the process

### The person raising a concern and witnesses

When a person raises a concern we usually give details of the concern and the person who raised it to the following (unless there are reasons not to disclose):

- the person, people or company the concern is about
- their employer
- their legal representatives
- other relevant agencies or public bodies

We will never give the contact details of the person raising the concern to the person, people or organisation the concern is about.

We redact (edit) information about vulnerable witnesses and minors unless there are compelling reasons to publish or disclose. The names of other witnesses, including professional witnesses, are not usually redacted.

### Patient information

In line with NHS confidentiality guidance, we remove patient-identifiable data from information that is published or disclosed unless there is a particular need to include it. When sharing information, we will disclose data that can be linked to a patient who can be identified only when there is a specific or necessary reason, in line with data protection legislation. In other circumstances, patient information will be:

- made anonymous, or
- pseudonymised (individuals cannot reasonably be identified from the information, but it allows information about different people to be distinguished – for example, to identify several witnesses at a time)

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If we consider it necessary to share data that can be linked to an identifiable patient we will contact the other organisation to discuss the matter before the data is shared. We will usually only share patient-identifiable information once we have got the consent of the patient or their representative, when it is reasonable to get this. This is to make sure we keep to data protection legislation and the common-law duty of confidentiality.

### A.6 Evaluation, review and sign-off

<b>Policy author:</b>	Jerome Mallon/Annette Ashley
<b>Job title:</b>	Fitness to Practise Policy Manager/Policy Manager (Standards)
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