

The Scottish Government
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PVGReviewConsultation2018@gov.scot

Monday, 16 July 2018

Dear Sir/Madam

Protection of vulnerable groups and the disclosure of criminal information

We welcome the opportunity to respond to the consultation on the protection of vulnerable groups and the disclosure of criminal information in Scotland. The consultation document as a whole is of interest to us, however, we have limited our response to comments where we feel our work is directly relevant to the proposals.

About the GPhC

The General Pharmaceutical Council (GPhC) is the independent regulator for pharmacists, pharmacy technicians and pharmacy premises in Great Britain. It is our job to protect, promote and maintain the health, safety and wellbeing of members of the public by upholding standards and public trust in pharmacy. Our principal functions include:

- approving qualifications for pharmacists and pharmacy technicians and accrediting education and training providers;
- maintaining a register of pharmacists, pharmacy technicians and pharmacy premises;
- setting standards for conduct, ethics, proficiency, education and training, and continuing professional development (CPD);
- establishing and promoting standards for the safe and effective practice of pharmacy at registered pharmacies;
- establishing fitness to practise requirements, monitoring pharmacy professionals' fitness to practise and dealing fairly and proportionately with complaints and concerns.

Disclosure Products

In the interest of public safety, and to ensure ongoing public confidence in the disclosure system, it is essential that the appropriate disclosure and monitoring tools are used in the correct circumstances. The GPhC supports the proposals to reduce the complexity of the disclosure system in Scotland and believes that a reduction in the number of disclosure products, together with clear guidance, will help improve people's understanding of the system.

Reforming the policy underpinning the PVG Scheme

The GPhC notes plans to make the PVG Scheme mandatory for people who work in sensitive roles with children and protected adults. The GPhC is supportive of this and believes it is essential that any mandatory scheme provides robust public protection whilst avoiding unintended consequences or unnecessary regulatory burdens.

We are aware that the current concept of 'regulated work' has been the subject of much confusion and agree that there is a need for greater clarity and consistency around which roles require PVG scheme membership. However, we do have concerns about the potential implications of replacing the concept of regulated work with a list of protected roles and believe this requires further consideration.

As acknowledged in the consultation document, a list of protected roles will require ongoing review to ensure PVG scheme membership requirements appropriately reflect the changing landscape in Scotland. Given the continuing developments in health and care service delivery models, and the evolving roles and responsibilities of multi-disciplinary teams, we have concerns about the practicalities of regularly reviewing and amending a legislative list of protected roles. There is potential for gaps to emerge, and indeed for roles to continue to be subject to mandatory scheme membership when there is no longer a public interest in doing so. To ensure effective ongoing public protection it will therefore be essential to have robust timely processes for the maintenance and upkeep of such a list.

We are also concerned about the potential unintended consequences of a list of protected roles. In the absence of supporting criteria or exceptions a list of protected roles will capture all registered health and care professionals, even if an individual's day to day work does not involve regular contact with or the provision of services to children or protected adults. For example, some registered pharmacists and pharmacy technicians work in research, industry or other roles that do not require them to be members of the PVG scheme under the concept of regulated work. We believe it would be disproportionate to require such registered health and care professionals whose normal duties result in only limited or fleeting contact with children or protected adults to be part of a mandatory ongoing monitoring scheme.

Conversely the proposed list of protected roles could result in some individuals who provide treatment or care to children or protected adults being ineligible for PVG scheme membership. For instance, the proposals would mean members of the pharmacy team who are not subject to statutory professional

regulation (e.g. healthcare assistants and delivery drivers) and who work in community pharmacies or other settings that are not protected establishments, will not be eligible for PVG Scheme membership. Under the proposed changes to disclosure systems these individuals will only be eligible for basic disclosure, even though they may have more regular ongoing contact with children and protected adults than some registered health professionals.

To achieve proportionate safeguards and consistency of approach we suggest that clear criteria be formalised for determining which roles and places of work require PVG scheme membership, and where exceptions to mandatory scheme memberships may be appropriate. We suggest that guiding factors in determining which roles require PVG scheme membership could include:

- the extent to which an individual's day to day responsibilities involve regular contact with, or the provision of services to, children or protected adults;
- the potential risks to the public if the individual is not a member of the PVG scheme; and
- whether the risk (s) can be mitigated in other ways.

Powers to make a referral- Regulatory organisations

We support the powers for regulatory organisations such as the GPhC to make a referral to Scottish Ministers regarding individuals who fall within the scope of our regulatory functions. However, we would ask that the current reference to the GPhC's functions be amended. The legislation currently refers to the 'registrar of pharmacists'. The GPhC registers and regulates pharmacists and pharmacy technicians and request that the legislation be amended to reflect this.

Offences lists and removal of spent convictions from a disclosure

The GPhC responded to previous consultation on the schedule 8A and 8B offence list in relation to our regulatory functions and have no further comments to make in respect of these lists.

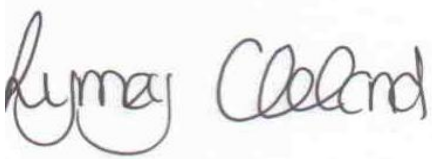
The GPhC also responded to the recent consultation on the process for applying to a sheriff for removal of spent convictions. We have no specific views on the alternative options set out in this consultation, other than to propose that whichever model is adopted should be supported by clear decision-making guidance and provide applicants with a route of appeal.

Disclosure periods

We note that the proposed amendments to disclosure periods are consistent with proposed changes to rehabilitation legislation. Provided there is a clear and reasoned rationale for the proposed reductions we have no comment on these proposals in relation to our work to regulate pharmacy professionals.

We look forward to continuing to work with Disclosure Scotland on areas of mutual interest to our respective functions and would be happy to discuss the points raised in this response, or any other aspects of the GPhC's work. If this would be of help to you please do not hesitate to contact me on the details below.

Yours sincerely

A handwritten signature in black ink that reads "Lynsey Cleland". The signature is written in a cursive style with a large initial 'L'.

Lynsey Cleland
Director for Scotland
Lynsey.Cleland@pharmacyregulation.org