

General
Pharmaceutical
Council



Practitioner Health

A memorandum of understanding between NHS Practitioner Health
and the General Pharmaceutical Council

February 2021

Purpose

The purpose of this memorandum of understanding is to set out a framework between the General Pharmaceutical Council (GPhC), and NHS Practitioner Health (NHSPH) to ensure that effective channels of communication are maintained between the GPhC and NHSPH.

1. This memorandum relates to the areas of interface between the GPhC and NHSPH, clarifies respective roles and responsibilities and outlines mechanisms in place to promote effective liaison.
2. The agreement does not affect existing statutory functions or amend any other policies or agreements relating to the activities of the GPhC and NHSPH.

Functions of the GPhC and NHSPH

The General Pharmaceutical Council

The GPhC is the independent regulator for pharmacists, pharmacy technicians and pharmacy premises in England, Scotland and Wales. Its role is to protect, promote and maintain the health, safety and wellbeing of patients and the public who use pharmacy services in England, Scotland and Wales by upholding standards and public trust in pharmacy. The functions of the GPhC are set out in the Pharmacy Order 2010 and include:

- a. **setting standards for the education and training** of pharmacists, pharmacy technicians and pharmacy support staff, and approving and accrediting their qualifications and training
- b. **maintaining a register** of pharmacists, pharmacy technicians and pharmacies
- c. **setting the standards that pharmacy professionals have to meet** throughout their careers
- d. **investigating concerns that pharmacy professionals are not meeting our standards**, and taking action to restrict their ability to practise when this is necessary to protect patients and the public or to uphold public confidence in pharmacy
- e. **setting standards for registered pharmacies** which require them to provide a safe and effective service to patients
- f. **inspecting registered pharmacies** to check if they are meeting our standards.

In addition, the GPhC has enforcement powers and duties under the Poisons Act 1972, the Medicines Act 1968, the Humans Medicines Regulations 2012 and the Veterinary Medicines Regulations. These enforcement duties/powers mainly relate to the sale and supply of medicines from registered pharmacies.

NHS Practitioner Health

1. NHS Practitioner Health is a free, confidential NHS service based in England. Acting on behalf of Scottish government NHS Practitioner Health will also be providing a treatment

service for regulated staff working in NHS Scotland and social care in Scotland. Where necessary, they will arrange onward referral to specialist services. Pharmacy professionals accessing NHSPH will have health concerns that relate to:

- a mental health or addiction problem (at any level of severity).

2. NHS Practitioner Health is a national NHS service, commissioned by NHS England and by the Scottish Government and is a self-referral service. Health care organisations may seek advice or make referrals.

Confidentiality

3. The GPhC is enabled by Article 50 of the Pharmacy Order 2010 to publish information relating to the fitness to practise of pharmacists and pharmacy technicians. It has discretion to withhold any information concerning the physical or mental health of a person which it considers to be confidential. They have their Publication and Disclosure Policy that sets out the principles they apply in their approach to publishing and disclosing information about pharmacy professionals, registered pharmacies and pharmacy education institutions that they regulate.
4. The GPhC does not publish information relating solely to a pharmacy professional's health. It treats this information as confidential. This means it does not publish the details of conditions or undertakings that directly relate to a pharmacy professional's health. Where details regarding a pharmacy professional's health are disclosed during any part of a hearing which is held in public, by any party, this information is redacted from the published decisions.
5. Pharmacy professionals approaching NHSPH for help need to be assured that they have the same rights to confidentiality as any other patient. To this end, NHSPH has devised a confidentiality policy for regulated professionals which will be found on NHSPH's website.

Potential areas of communication

6. Communication between the GPhC and NHSPH is based on an overriding duty to protect patients while, as far as possible, being fair to pharmacy professionals and protecting confidential health information about individual pharmacy professionals. Areas of potential communication between the GPhC and NHSPH include the following (the list is not intended to be exhaustive):

a. Pre-referral discussion:

- i. 'in principle' about how best to manage concerns about a pharmacy professional and whether or not the GPhC would need to be informed on an anonymised basis, or
- ii. discussions about individuals who have been referred to either organisation, where there are concerns about public protection or the safety of patients under the care of the pharmacy professional, on a named basis.

b. Post-referral discussion – to coordinate activity where appropriate.

7. Each of these areas is further explored in the following paragraphs.

Pre-referral discussions 'in principle' or about named pharmacy professionals.

8. Both NHSPH and the GPhC are approached for advice by organisations which have concerns about the health of particular pharmacy professionals; the purpose of these discussions is to determine whether the organisation should take further steps locally, refer to the GPhC, or refer to NHSPH.
9. Although in most cases it will be clear what advice should be given to the enquiring organisation at this stage, it may sometimes be appropriate for the GPhC and NHSPH to liaise in order to clarify the issues raised.

10. In these cases the GPhC or NHSPH will discuss the matters raised by the enquiring organisation. Consent should be sought before doing so and if not provided there should be an assessment of whether the risk is such that the information should be disclosed without consent. If the nature of the risk is not such that it would be appropriate to disclose the information without consent, the enquiring organisation should be offered appropriate contact details for both bodies so they may conduct their own discussions. Should NHSPH need to provide contact details for the GPhC, they should give the enquiring organisation the details for the operational contact identified at Annex A.

Post-referral discussions about individual pharmacy professionals

11. The GPhC and NHSPH recognise that there will be times where they both have a case open about a named pharmacy professional. They will work together to ensure that appropriate channels of communication exist.

Disclosure of concerns

12. Disclosure should be made to the GPhC where the pharmacy professional's health raises concerns regarding the possibility of impaired fitness to practise. This will normally be limited to those cases where the pharmacy professional's condition may affect patient safety and/or the pharmacy professional is not complying with assessment, treatment or monitoring, or heeding advice to remain on sick leave.

13. Disclosure should also be made to the GPhC where there are allegations (at initial assessment or emerging during assessment or treatment) about a pharmacy professional's performance or conduct which may call into question their fitness to practise.

Cases under investigation/monitoring by the GPhC

14. Whenever the GPhC receives a concern about a pharmacy professional an initial assessment is conducted. The concerns may include information which indicates the pharmacy professional may be unwell.

15. Where the concerns raise issues which call the pharmacy professional's fitness to practise into question, the GPhC's fitness to practise procedures are engaged and an investigation will follow. In these cases, for pharmacy professionals who appear to have a mental or physical

health concern, the GPhC will ask the pharmacy professional if they are currently undergoing assessment or treatment by NHSPH. If so, it will, with the pharmacy professional's consent, seek relevant information from NHSPH.

16. Any information provided by NHSPH will be considered by GPhC decision makers and, if needed, the fitness to practise committee in relation to the pharmacy professional's fitness to practise.

17. Where a pharmacy professional is under investigation/being monitored by the GPhC and is also under the care of NHSPH, NHSPH will inform the GPhC whether they are acting in a treating capacity or as a support group. If the Scottish Workforce Specialist Service is acting in a treating capacity they will provide a named person with whom the GPhC can liaise.

18. The Scottish Workforce Specialist Service will ensure that any information arising from the monitoring of the health of a pharmacy professional being investigated or monitored by the GPhC that indicates they have breached restriction(s) imposed on their registration and/or are not complying with advice on managing their health problem, and/or their condition appears to pose a risk to their patients, will be shared with the GPhC as soon as possible.

Pharmacy professionals being treated/monitored by NHSPH

19. When NHSPH receives a referral (self-referrals or referrals from an employer/contracting organisation) they will ask the pharmacy professional /referring organisation if the pharmacy professional is currently under investigation/being monitored by the GPhC and perform a registration check to ascertain if restrictions are in place.

20. If the pharmacy professional or referring organisation indicates that the GPhC is currently investigating / monitoring, NHSPH will seek the pharmacy professional's consent to contact the GPhC to explain that the pharmacy professional has NHSPH's intervention. If consent is not forthcoming, NHSPH will consider whether or not disclosure to the GPhC is required, without consent, using the criteria set out in paragraph 13, 14 and 19.

Referral

21. The GPhC would encourage all employers of Pharmacy Professionals to consult their published guidance, [Reporting a concern to us - a guide for employers and locum agencies](#), to establish if there are grounds for referral in the first instance. NHSPH should access the operational contact for the GPhC identified at Annex A in order to seek advice on referral on an 'in principle' or a named pharmacy professional basis.

Lawful exchange

22. The GPhC and NHSPH are subject to a range of legislative duties in relation to information governance, including the Data Protection Act 2018, Human Rights Act 1998, and the Freedom of Information Act 2000. This document sets out the approach to the routine exchange of information between the two organisations within this legal framework.

- Both organisations hold and use information about organisations and individuals to perform their core functions. The GPhC and NHSPH will share information where it is necessary in order to perform these functions effectively and where it is in the public interest.
- The organisations recognise that this exchange of information needs to be carried out responsibly and within the guidelines set out in this MoU.
- It is understood by both organisations that statutory and other constraints on the exchange of information will be fully respected, including the requirements of data protection legislation (including the Data Protection Act 2018 and the General Data Protection Regulation ((EU 2016/679) as applied in the UK), the Human Rights Act 1998 and the common law duty of confidentiality.
- Where information shared under this MoU falls within the scope of a request for information under either the Freedom of Information Act 2000 (FOIA) or data protection legislation, the organisation receiving the request will consult the other party before any disclosure is made. This is so that they are aware of the potential impact of any disclosure on the work of the other party. Both organisations recognise that the final decision on disclosure will rest with the organisation that receives the request.

Data protection

- Both organisations recognise their respective responsibilities as data controllers under data protection legislation (including the Data Protection Act 2018 and the General Data Protection Regulation ((EU 2016/679) as applied in the UK). Both will comply with any data sharing code published by the Information Commissioner under that legislation.
- The following principles will apply to the sharing of personal information:
 - a. There must be a fair and lawful basis for sharing information.
 - b. Information must only be used for the purpose stated at the time it is shared.
 - c. Information to be shared will be limited to what is necessary for the purpose and will be anonymised or pseudonymised where appropriate.
 - d. Shared information that is not in the public domain must be treated as confidential and must not be shared with other parties without the written agreement of the organisation that provided the information.
 - e. Information must be transmitted securely, for example by secure email or other agreed method.
 - f. Information must be stored and processed securely and in a manner that reflects its sensitivity for example, where shared information includes special category and/or criminal information.
 - g. Shared information must not be stored or shared outside the UK or European Economic Area without prior written agreement and appropriate assurances in place.
 - h. The organisation receiving personal data will apply a reasonable retention period based on the purpose for which it was shared

- i. Each organisation will act as an independent data controller and take appropriate steps to protect the confidential nature of documents and information that the other may provide.

Resolution of disagreement

23. Where any issues arise which cannot be resolved at an operational level, the matter will be referred to the policy leads identified at Annex A to ensure a satisfactory resolution.

Review and Governance arrangements

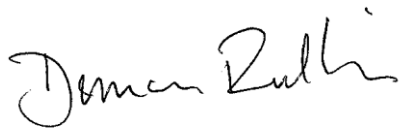
24. This MoU will have effect for a period of 36 months commencing on the date which it is signed by the Chief Executive of the GPhC and the Medical Director of NHSPH.

25. Both bodies have identified a MoU manager at Annex A, and these will liaise as required to ensure this MoU is kept up to date and to identify any emerging issues in the working relationship between the two bodies.

26. The MoU managers may coordinate a formal review of this MoU at any time for the duration of this MoU. The purpose of such a review will be to consider the operational effectiveness of this agreement in enabling both bodies to fulfil their functions.

On behalf of GPhC

Name: Duncan Rudkin



Signature
Chief Executive & Registrar, GPhC

Date: 18th February 2021

On behalf of NHSPH

Name: Dame Clare Gerada



Signature
NHSPH Medical Director

Date: 17th February 2021

