

## GPhC Publication and Disclosure Policy

### What is the purpose of this policy?

The purpose of this policy is to set out how the GPhC will be transparent about the information it holds and how it will be fair when considering what information it publishes and discloses.

This policy sets out the GPhC's approach to the publication and disclosure of information that it holds about registrants and registered pharmacies. It outlines the policy in relation to the routine publication of information, the routine disclosure of information to interested parties and how the GPhC deals with individual requests for information.

### What version is this document?

The GPhC produces a range of documents as part of upholding standards and public trust in pharmacy. Some of these are documents that change over time, being updated on a regular basis or as required. In order to make sure that you have the most up to date versions we have created the simple table below. It lets you know the web page where the document can be found, the version of the document you have so you can check to see if newer versions have been made, and also the date of publishing.

<b>Website address</b>	<a href="http://www.pharmacyregulation.org/policy/">http://www.pharmacyregulation.org/policy/</a>
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1.0	First Published Version	14 May 2012	1 May 2013
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2.1	Amendment to publication period table	September 2014	December 2015

## Publication and Disclosure Policy

### Introduction

- 1.1 The role of the General Pharmaceutical Council ('the GPhC') is to protect, promote and maintain the health, safety and wellbeing of patients and the public and in particular the users of pharmacy services.
- 1.2 This is achieved by maintaining an on-line register of individuals registered with the GPhC, setting standards and by ensuring that appropriate action is taken in a timely manner when a registrant's current fitness to practise is called into question. The GPhC also regulates registered pharmacies by establishing and upholding standards for the safe and effective practice of pharmacy at registered pharmacies.
- 1.3 The Council has publicly set out its commitment to regulating in a way which is consistent with the principles of good regulation identified by the Better Regulation Executive<sup>1</sup> namely proportionate; accountable; consistent; transparent and targeted.

### Purpose of this Policy

- 2.1 The purpose of this policy is to set out how the GPhC will be transparent about the information it holds and how it will be fair when considering what information it publishes and discloses.
- 2.2 This policy sets out the approach to the publication and disclosure of information that the GPhC holds about registrants and registered pharmacies. It outlines the policy in relation to the routine publication of information, the routine disclosure of information to interested parties and how the GPhC deals with individual requests for information. It also sets out what we will not publish or disclose.

### Policy Statement

- 3.1 Information relating to an individual can be published routinely, through the GPhC website; shared proactively, by writing to certain parties; or reactively, following a request from a third party individual or organisation. When making decisions on what information to publish the GPhC is committed to adhering to the following principles:
  - being open and transparent about the processes it adopts and the decisions it makes while protecting confidentiality;
  - ensuring that commercially sensitive information is treated confidentially;

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<sup>1</sup> Better Regulation Executive, 2000

- ensuring that it complies with the legal duties placed upon it with regard to data protection and the common law duty of confidentiality;
- that any disclosure of information is lawful and proportionate in all of the circumstances; and
- to publishing information in an easily accessible format where possible.

3.2 This policy statement below applies to all guidance included within the attached annexes.

### **Legislative Framework**

4.1 The GPhC will take into account the following non exhaustive list when it makes decisions about disclosing the information that it holds:

- the Pharmacy Order 2010;
- the General Pharmaceutical Council (Fitness to Practise and Disqualification etc. Rules) Order of Council 2010;
- the General Pharmaceutical Council (Appeals Committee Rules) Order of Council 2010;
- the General Pharmaceutical Council (Continuing Professional Development and Consequential Amendments) Rules Order of Council 2011;
- the relevant provisions of other legislation, such as the Freedom of Information Act 2000, Data Protection Act 1998 and the Human Rights Act 1998; and,
- relevant case law.

### **Approval and application of the Policy**

5.1 The Chief Executive and Registrar has approved this policy in accordance with the Council's Scheme of Delegation, paragraphs 4.2(i), (Ivi), (Ixii) and (I xv).

5.2 The Chief Executive and Registrar is responsible for the application of this policy. Further information about the practical application and implementation of this policy will be published in the form of guidance for specific functions, as appropriate.

## Annex A: Publication and Disclosure Guidance – Fitness to Practise

### 1. Introduction

- 1.1 The GPhC aims to ensure that pharmacy professionals are fit to practise and public confidence in the professions is maintained. One part of achieving this is to investigate complaints and concerns that indicate that a pharmacy professional's fitness to practise may be impaired.
- 1.2 This guidance explains how the GPhC will apply the publication and disclosure policy to fitness to practise and incorporates relevant legislative requirements<sup>2</sup>. It explains, at each key stage in the process and where appropriate, the information it will:
- routinely disclose;
  - disclose on a case by case basis;
  - not disclose/publish;
  - routinely publish on the online extract of the register<sup>3</sup>
- 1.3 This guidance applies to requests for information in relation to:
- allegations, complaints or concerns about a registrant;
  - a registrant's fitness to practise; and
  - outcomes at all stages, including non-referral, and those considered by Investigating and Fitness to Practise committees.

### 2. Sharing information during an investigation

- 2.1 The GPhC investigates complaints and concerns that may indicate that a registrant's fitness to practise may be impaired. It does not usually publish information about investigations that are underway.

#### *Routine Disclosure*

- 2.2 The GPhC will notify the registrant concerned that it has received information subject to consent being obtained from the complainant, as appropriate. The GPhC will not notify the registrant where to do so would unduly prejudice the GPhC's or another organisation's investigation.

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<sup>2</sup> Article 50 of the Pharmacy Order 2010/s 29 of the NHS Reform and Healthcare Profession Act 2002

<sup>3</sup> Throughout this guidance where reference is made to the 'online register' this relates to the publicly available extract of the register that appears online

- 2.3 The GPhC will disclose information about an investigation to employers where the issues being investigated give rise to immediate concerns about patient or public safety.
- 2.4 The GPhC will not disclose information to employment/locum agencies without the registrant's consent, unless there is an immediate and serious risk to patient or public safety.

*Routine Publication*

- 2.5 The GPhC will not routinely publish information on its website about an investigation.

*Case by Case Basis*

- 2.6 The GPhC will not disclose information about an ongoing investigation unless it considers it to be proportionate, in the public interest or there are exceptional circumstances.
- 2.7 Where no immediate concerns about patient or public safety exist the GPhC will provide information to employers, on a case by case basis, appropriate to the circumstances of the case.
- 2.8 If issues concerning the investigation are already in the public domain, the GPhC may confirm publicly that an investigation is continuing and/or the fact of an interim suspension or interim conditions order.
- 2.9 The registrant's response to any request for information will not be disclosed to the complainant. However, in accordance with the general principles of procedural fairness derived from public law<sup>4</sup>, we may share the registrant's response on a case by case basis.

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<sup>4</sup> Hensall v General Medical Council [2005] - panels should generally not consider evidence where complainants should have had the opportunity to respond but have not been provided with that opportunity.  
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### **3. Once an investigation has concluded**

3.1 Once an investigation has concluded the possible outcomes include:

- closed with no further action;
- issue advice as to how a registrant can improve their practice;
- registrant accepts undertakings; or,
- referred to an Investigation Committee.

#### *Routine Disclosure*

3.2 The GPhC will notify the registrant and the complainant of the outcome of the case. It will also notify employers, and other relevant agencies notified of the investigation at the outset, of the outcome.

#### *Routine Publication*

3.3 The GPhC will not publish information on its website. No information will be included on the online register.

#### *Case by Case Basis*

3.4 Information will not be disclosed at this stage unless the GPhC considers it to be proportionate, in the public interest or there are exceptional circumstances.

### **4. Referral to the Investigating Committee**

4.1 If a complaint is investigated and a registrant's fitness to practise may be impaired, it will be considered by the Investigating Committee (IC). All IC meetings are held in private<sup>5</sup>. The committee can make decisions which may result in sanctions. IC is required to consider all cases referred to it and decide whether the allegation ought to be considered by the Fitness to Practise Committee.

4.2 In certain circumstances a case can be referred directly to the Fitness to Practise Committee. If this occurs the GPhC will publish and disclose information in accordance with the relevant sections<sup>6</sup> relating to the Fitness to Practise Committee in this guidance.

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<sup>5</sup> General Pharmaceutical Council (Fitness to Practise and Disqualification etc. Rules) Order of Council 2010

<sup>6</sup> Sections 6 & 7

### *Routine Disclosure*

- 4.3 Once a case has been referred to the IC the GPhC will disclose this to:
- the individual (s) or organisation who initially made the allegation;
  - the registrant's employer;
  - any other person with whom the registrant is engaged to provide services;
  - the Secretary of State, the Scottish Ministers, and the Welsh Ministers;
  - the Department of Health, Social Services and Public Safety in Northern Ireland, where the registrant is also registered with the Pharmaceutical Society of Northern Ireland<sup>7</sup>; and
  - any other health or social care regulator where we are aware the registrant has dual registration.

### *Routine Publication*

- 4.4 The GPhC will not publish any information following a decision to refer an allegation to the Investigating Committee. As the meetings of the Investigating Committee are held in private no information is published about forthcoming committee meetings or about the cases that the committee are due to consider.

### *Case by Case Basis*

- 4.5 If another regulator, employer, agency or NHS body, requires more information, they will need to request the information from the GPhC in writing. Although the aim is to provide as much information as possible, disclosure will be considered on a case-by-case basis in accordance with the relevant legal information sharing pathways and the publication and disclosure policy.

## **5. Outcomes of the Investigating Committee**

- 5.1 The possible outcomes from the Investigating Committee are:
- no further action;
  - issue advice to the registrant, or any other person or organisation involved in the investigation;
  - issue a warning to the registrant;
  - agree undertakings with the registrant;
  - referral to a fitness to practise committee; or,
  - notify the Registrar that they consider the council should initiate a prosecution<sup>8</sup>.

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<sup>7</sup> Sec. 52 Pharmacy Order 2010

### *Routine Disclosure*

- 5.2 The registrant will be notified of the outcome of the meeting. The GPhC will also notify those set out in 4.3 above with one exception - the employer will only be notified if the case has been concluded at this stage.
- 5.3 The GPhC will notify the Disclosure & Barring Service, and other relevant groups such as Disclosure Scotland, about relevant cases and in accordance with the established legal framework and memoranda of understanding where relevant.

### *Routine Publication*

- 5.4 The GPhC will not publish the outcomes of the IC except where the outcome is a warning or, undertakings have been agreed. Where 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>9</sup>.
- 5.5 If a registrant, in a health related case, has entered into undertakings the outcome will be published but the details of the undertakings will not be disclosed.

### *Case by Case Basis*

- 5.6 Further information in relation to health undertakings can be requested from the GPhC and will be considered on a case-by-case basis taking into account the rights of the registrant, if it is in the public interest or if there is a risk to patient safety.
- 5.7 The GPhC will disclose enhanced information to employers where not to do so would give rise to immediate concerns about patient or public safety.

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<sup>8</sup> Article 53(4)Pharmacy Order 2010

<sup>9</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



## 6. Referral to Fitness to Practise Committee

- 6.1 Fitness to Practise Committee (FtPC) hearings are normally held in public<sup>10</sup>, except where the matter relates to the health of a registrant, it is an interim order hearing or there are procedural reasons for confidentiality<sup>11</sup>. It can also be held in private where the committee is satisfied, due to the circumstances of the case, that the interest of the person concerned or the third party in maintaining their privacy outweighs the public interest in holding the hearing (or part of the hearing) in public.

### *Routine Disclosure*

- 6.2 Once a decision has been taken to refer an allegation from the IC to the Fitness to Practise Committee, the GPhC will notify those persons or groups set out in 4.3 above that an allegation is to be considered by the Fitness to Practise Committee and will also inform them of the date of the meeting.
- 6.3 The GPhC will disclose information to employers where the issues being investigated give rise to immediate concerns about patient or public safety. In other cases, the GPhC will provide enhanced information to employers, appropriate to the circumstances of the case.

### *Routine Publication*

- 6.4 The GPhC will publish, as soon as possible after it has served the 'notice of hearing' letter, the following information on its website:
- The registrants name;
  - The registrant's registration number;
  - The postal town of the registrant;
  - The date of the hearing and where it is due to take place;
  - The summary of allegation(s).

### *Case by Case Basis*

- 6.5 Any other requests for information at this stage of the process will be considered on a case by case basis in accordance with this guidance.

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<sup>10</sup> General Pharmaceutical Council (Fitness to Practise and Disqualification etc. Rules) Order of Council 2010

<sup>11</sup> E.g. cases relating to Disclosure & Barring Service/Disclosure Scotland referrals

## 7. Outcomes of the Fitness to Practise Committee

- 7.1 Should the FtPC find that a registrant's fitness to practise is impaired, the committee may impose any of the following sanctions:
- issue a warning to the registrant;
  - issue advice to the registrant and/or to any other person or organisation involved in the matter;
  - place conditions on the registrant's registration for up to three years;
  - the registrant may accept undertakings;
  - suspend the registrant from the Register for up to 12 months; or
  - remove the registrant from the Register.
- 7.2 The FtPC may determine that a registrant's fitness to practise is not impaired. In those circumstances, the FtPC may decide either that no sanction is appropriate, or:
- to issue a warning to the registrant; or
  - to issue advice to the registrant, or any other person or organisation involved in the investigation.

### *Routine Disclosure*

- 7.3 After the FtPC has met the GPhC will notify those set out in 4.3 above of the outcome.
- 7.4 The GPhC will notify the Disclosure & Barring Service, and other relevant groups such as Disclosure Scotland, about relevant cases and in accordance with the established legal framework and memoranda of understanding where relevant.
- 7.5 Other than at the request of the registrant, the GPhC will not make any disclosures in any case where the facts have not been proved, there is no impairment or no sanction has been applied.

### *Routine Publication*

- 7.6 The GPhC will publish hearing determinations in any case where a registrant's fitness to practise is impaired, these will remain on the website for a period of 12 months. We will not publish determinations where the matter relates to the health of the registrant or the hearing has been held in private.
- 7.7 If the committee does not find that the registrant's fitness to practise is impaired but considers it is necessary to issue a warning then the warning will be published on the register and the determination will be published online. A

finding of no impairment with no accompanying warning will not be routinely published or disclosed.

- 7.8 Further publication provisions for the online register are set out in table 1.
- 7.9 The GPhC will not publish full transcripts from the hearings. These are available on request, will be considered within established FoI disclosure procedures, and are subject to the cost for copying and postage.

*Case by Case Basis*

- 7.10 In addition to the information published about the hearing outcome the GPhC may provide employers and other regulatory bodies or agencies, including the police, with a summary of any fitness to practise concerns that are currently under investigation.
- 7.11 Where the committee finds no impairment of fitness to practise, and no warning has been issued, the GPhC will only publish the outcome of a hearing at the request of the registrant, or where consent has been sought by GPhC and received from the registrant concerned<sup>12</sup>. If the registrant requests publication, or GPhC receives consent, then the determination will be published on the GPhC website for a period of 12 weeks<sup>13</sup>. We will routinely ask registrants if they wish the determination to be published in such cases.
- 7.12 In the event that the registrant does not wish the outcome of the hearing be published, then all reference to the hearing will be removed from the website. All requests for information relating to cases where there was a finding of no impairment will be considered under established FoI disclosure procedures. This approach is both fair to the registrant and adheres to our legislative provisions.
- 7.13 Any fitness to practise determination, notwithstanding those relating to health cases or that were held in private, that is no longer published on the on-line register will be made available to employers, other agencies or interested parties, on request. Such requests will be considered under established FoI disclosure procedures.

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<sup>12</sup> Sec. 54 (5)(c) of the Pharmacy Order 2010

<sup>13</sup> The determination will appear on the website only and not on the online register

## **8. Review Hearings**

- 8.1 Review hearing decisions are published on the GPhC website regardless of the outcome of the hearing.

## **9. Confidential Information & Public Interest Disclosure**

### **Information about a registrant's health**

- 9.1 The GPhC does not publish any information relating solely to the health of a registrant. This information is treated as confidential regardless of whether the case is held in public or private. Where information regarding a registrant's health is disclosed during any part of a hearing held in public, this information will be redacted from the transcript before it is placed in the public domain.
- 9.2 The GPhC will provide employers with further details of the sanctions imposed, on written request.

### **Multi-factorial cases**

- 9.3 Some cases involve a number of different issues, for example conduct, convictions and health. These are described as multi-factorial cases. In these cases, committees will hold as much of the hearing as possible in public, and will hold the hearing in private when considering matters either relating to the registrant's health, or any other matters, at the discretion of the Chair.
- 9.4 Information relating to a registrant's health will be managed in accordance with the principles set out above and throughout this guidance.

### **Employer checks**

- 9.5 Employers of registrants are required to check that a registrant is registered with the GPhC before employing them. Employers can check the registration status of a registrant using the on-line register.
- 9.6 The register will indicate any current fitness to practise sanctions about registrants. It will also provide a link to further information about the sanctions save for information that relates solely to a registrant's health, where the fact that a sanction exists, but no further details will be displayed. The GPhC will provide employers with further details of the sanctions imposed, on written request. Information relating to whether the registrant is on any barred list will not be disclosed by GPhC.

- 9.7 In addition to the information published on the register and the hearings outcomes, the GPhC may provide employers, and a limited number of relevant bodies such as other regulators, with a summary of any fitness to practise concerns that are currently under investigation and any relevant fitness to practise history that is no longer published on the on-line register.

#### **Witnesses**

- 9.8 In documents setting out the charge or allegation, the hearing bundle and any determination placed on the website the names of all patients and other vulnerable witnesses and minors will be redacted unless there are compelling reasons for this information to be provided to the requestor. The names of other witnesses, including professional witnesses, are not normally redacted.

#### **European Authority Disclosure**

- 9.9 As a designated authority,<sup>14</sup> for disclosing information to other Member State competent authorities regarding fitness to practise matters, the GPhC will circulate relevant information on sanctions applied subsequent to the outcome of a formal committee.

#### **Public Interest Disclosure – disclosures on a *case by case* basis**

- 9.10 The GPhC has the discretion to publish or disclose information about a registrant's fitness to practise where it considers this to be in the public interest. It currently publishes fitness to practise history for a period of five years. Also, once a sanction has expired, the fact that a sanction existed will be available on our on-line register for a period as set out in table 1.
- 9.11 The GPhC sometimes receives requests to share information about previous cases and current investigations with a range of public authorities, such as the Crown Prosecution Service, the police and other regulatory bodies, (for example the General Medical Council or Health & Care Professions Council etc).
- 9.12 The GPhC will seek to fully cooperate with other public authorities/organisations where we determine that the request is lawful, proportionate and it is in the public interest to do so. Public interest disclosure may be appropriate to protect the public, protect the registrant or protect confidence in the profession. We will keep a copy of any such requests for disclosure of information together with our reasons for disclosing the information or not.

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<sup>14</sup> Schedule 3 of the Pharmacy Order describes our role as a Competent Authority for the purposes of Directive 2005/36/EC & Article 8(1), 8(2) and 56(2) of this Directive 2005/36/EC

## 10. GPhC Routine Publications

### The online register

- 10.1 The on-line register (the publicly available extract of the register that appears online) is an important tool for members of the public and employers to identify registrants that are appropriately qualified and fit to practise. It is a, searchable online list of all pharmacists, pharmacy technicians and registered pharmacies.
- 10.2 The online register will not include the names of individuals whose registration has been removed by GPhC or those who have voluntarily removed themselves from the register. The register will not contain personal details held by the GPhC, such as home address or date of birth, gender and ethnicity.
- 10.3 The online register will indicate current fitness to practise sanctions about registrants. The sanctions that a registrant may receive, how this will appear on the online register and the length of time that it will remain visible, are set out in table 1 below<sup>15</sup>.

**Table 1: Sanction Publication Details**

<b>Sanction</b>	<b>How <i>status</i> will appear on the online register for the duration of the sanction</b>	<b>Accompanying information</b>	<b>Length of time <i>determination</i> will remain on the online register</b>
Warning (from IC or FtPC)	'registered'	with determination or summary attached	2 years
Undertaking	'registered'	with the undertakings, determination or summary attached	Duration of the undertaking plus 2 years
Conditions	'registered'	with determination or summary attached	Duration of the condition plus 2 years
Suspension	'suspended from the register'	with determination or summary	Duration of the suspension plus 5 years

<sup>15</sup> Findings of GPhC committees remain a matter of public record indefinitely. Any organisation or person may request details of any findings against a specific pharmacy professional even after the period where these findings are removed from the website or online register.

		attached	
Removed	'Erased by statutory committee'	with determination or summary attached	Indefinitely
Interim Order	'suspended from the register'	with details attached	Duration of the order
No impairment found but a warning necessary	'registered'	with determination or summary attached	2 years

#### **GPhC website 'Hearings Schedule'**

- 10.4 The GPhC will list forthcoming Fitness to Practise Committee hearings and Appeals Committee hearings on the relevant section of the GPhC website.
- 10.5 This page will set out the forthcoming hearings to be heard in that particular month, and will show:
- The date of the hearing;
  - The name of the registrant;
  - The registrant's registration number
  - The registrant's postal town
  - A summary of the allegation, except where the hearing is held in private.

#### **GPhC website 'Decisions and Determinations Search'**

- 10.6 The GPhC will list the most recent decisions of the Fitness to Practise Committees, except where the matter relates to a registrant's health or an interim order; the most recent decisions of the Appeals Committee are also listed on its website.

#### **Accessibility of Past Hearings**

- 10.7 The GPhC will publish transcripts of hearing determinations in any case where a registrant's fitness to practise is impaired, these will remain on the website for a period of 12 months. Information relating to hearings that were heard more than 12 months ago may be obtained in writing.

### **GPhC Publication 'Regula+e' & Decision Circulars**

- 10.8 The GPhC publishes online a bulletin for all registrants entitled Regula+e. It includes a section titled *Fitness to Practise – Determinations* that sets out the outcomes from recent fitness to practise hearings.
- 10.9 This section includes the name of the registrant, their registration number, the date of the hearing and the outcome of the hearing (excluding information about a registrant's health), including interim orders, warnings and removals from the register. Regula+e is also available on the GPhC website.
- 10.10 The Communications team discloses all FtPC determinations where impairment has been found and a sanction imposed to media and stakeholders by way of a weekly press notice. This is also published on the website and each case in that press notice is linked to a copy of the determination.
- 10.11 A decision circular is regularly distributed. The circular is issued on a monthly basis to the Directors of the NHS Area Teams, including Glasgow and NHS National Services Scotland, and it is also sent to pharmacy regulators in some of the EU member states. It gives details of the registrant, the type of sanction and the duration period of that sanction.

### **Media Enquiries**

- 10.12 All media enquiries are managed by the Media and Public Affairs Manager in the Policy & Communications Directorate. All disclosures of information to the media follow this policy. Information on the GPhC's Fitness to Practise process, policies and procedures is available on the website.