

Restoration to the  
register:  
Guidance for  
applicants and  
committees

August 2017

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# About us

The General Pharmaceutical Council (GPhC) is the regulator for pharmacists, pharmacy technicians and registered pharmacy premises in England, Scotland and Wales. 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 main work includes:

- setting standards for the education and training of pharmacists and pharmacy technicians, and approving and accrediting their qualifications and training
- maintaining a register of pharmacists, pharmacy technicians and pharmacies
- setting the standards that pharmacy professionals have to meet throughout their careers
- 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
- setting standards for registered pharmacies which require them to provide a safe and effective service to patients
- inspecting registered pharmacies to check if they are meeting our standards

We are committed to protecting, promoting and improving the health and safety of people who use pharmacy services in England, Scotland and Wales. An important part of that role is ensuring those that are on the register are fit to practise.



# 1. Introduction

## What this guidance is about

1.1 This guidance explains how to apply for restoration to the register after being removed by a fitness to practise committee. It also includes information about restoration hearings, how decisions are made and the outcomes which committees can decide on.

## Who this guidance is for

1.2 This guidance is for people considering applying for restoration to the register after having been removed from the register by a fitness to practise committee. You can only apply for restoration after at least five years have passed since you were removed.

1.3 This guidance is also aimed at anyone who is involved in, or has an interest in, a restoration hearing. This includes:

- the representatives of people applying for restoration
- defence organisations
- representative bodies
- pharmacy professionals
- other regulatory bodies, including the Professional Standards Authority (PSA)
- fitness to practise committees
- patients and the public
- the courts

1.4 This guidance does not apply to you if you have been removed from the register for any other reason: for example, if your

registration has lapsed or you have been removed voluntarily. In these situations, you can get more information on applying to have your registration restored on our website:

- if you are **applying less than 12 months since your most recent registration**, or
- if you are **applying more than 12 months since your most recent registration**

1.5 We will regularly review this guidance to:

- take account of changes to legislation and case law
- make sure it is consistent with other guidance documents covering this area
- make sure it continues to provide effective advice and guidance, taking into account feedback from relevant stakeholders and those involved in restoration hearings

## Equality and diversity

1.6 The GPhC is committed to promoting equality, diversity and inclusion when it does its work. We value diversity and individuality in our staff, the profession and our council. Our aim is to make sure that our processes are fair, objective, transparent and free from discrimination, and that all stakeholders receive a high level of service. We keep to the principles set out in the Equality Act 2010

and have developed an **equality, diversity and inclusion scheme**.

- 1.7 All GPhC staff are expected to demonstrate our values and to work towards these aims at all times during the fitness to practise process. The GPhC will act in accordance with the rights set out in the European Convention on Human Rights (ECHR) as incorporated into domestic law by the Human Rights Act 1998.

## 2. About restoration

- 2.1 Anyone who has been removed from the register by a fitness to practise committee and wants to be restored to the register must apply to the registrar, using the **application form**<sup>1</sup>.
- 2.2 You must not practise as a pharmacist or pharmacy technician (or use the title 'pharmacist' or 'pharmacy technician') before the GPhC tells you that your application has been successful and that your name has been restored to the relevant register. To do so is a criminal offence. We can prosecute people in the criminal courts for these offences.

### Before applying for restoration

- 2.3 Before you apply for restoration to the register it may be helpful to know the following:
- you can only apply for restoration to the register five years or more after the date of your removal by a committee<sup>2</sup>
  - an application for restoration is not an appeal against, or a review of, the original fitness to practise committee decision
  - there is no automatic right to restoration

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<sup>1</sup> Rule 8 – The General Pharmaceutical Council (Fitness to Practise and Disqualification etc Rules) Order of Council 2010

<sup>2</sup> This is the date from when the order takes effect

- when applying for restoration, the 'burden of proof' is on the applicant (see 3.3)
  - applicants must provide sufficient evidence to demonstrate their fitness to practise
  - your application for restoration will be heard by the fitness to practise committee, which will consider whether you can be restored with unrestricted practice or with conditions<sup>3</sup>
  - if your application for restoration is refused you must wait 12 months from the date of the application before you can make another one<sup>4</sup>
  - the committee may direct that you cannot make any further applications for restoration<sup>5</sup>
  - if the committee allows the application, your name will not be restored to the register until you have paid the appropriate registration fee
  - the registrar can decide whether the application is valid, and if so
  - a committee can decide whether you are fit to practise
- 2.5 Please go to our website for:
- details of **the application form and the information we need**, and
  - advice on **filling in the application form and providing the supporting information**
- 2.6 Under the law, all registrants and applicants must have the necessary knowledge of English for safe and effective practice as a condition of their registration with the GPhC. This means that applicants for restoration may need to provide evidence to show they meet this requirement.
- 2.7 When we receive an application, we will review it to make sure it includes the information needed for it to be considered by a committee. The registrar will then refer it to a fitness to practise committee (FtPC).

## Applying for restoration

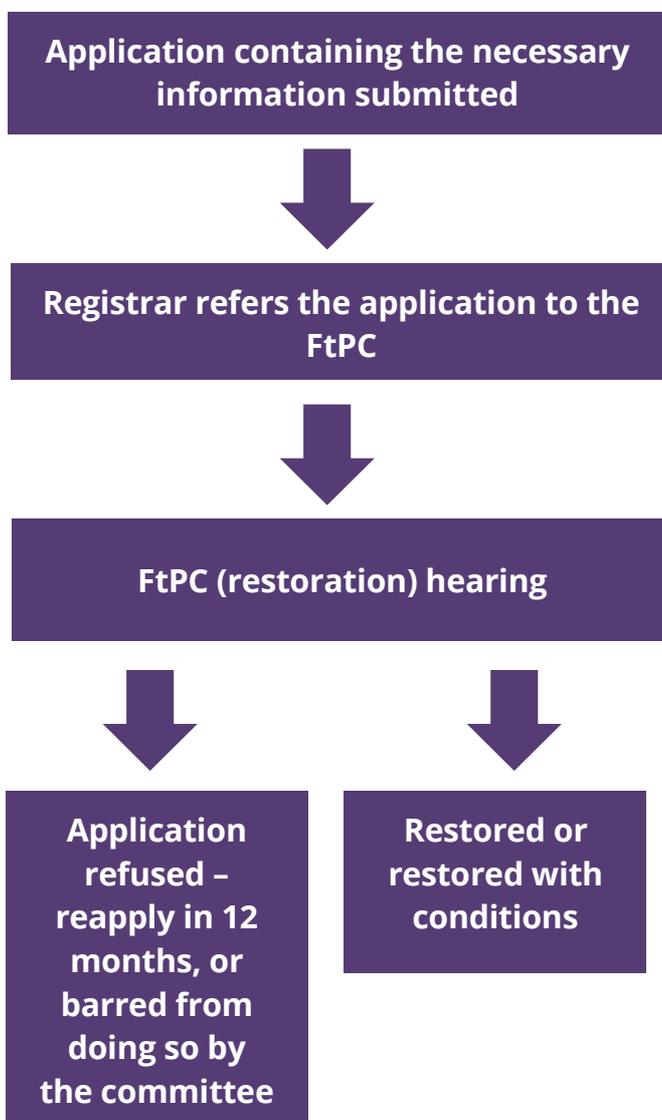
2.4 When applying for restoration you must provide a range of information with your completed application form. We need this information so that:

<sup>3</sup> Article 57(6) of the Pharmacy Order

<sup>4</sup> Article 57(2)(b) of the Pharmacy Order

<sup>5</sup> See paragraphs 3.21 and 3.22

## The restoration process and outcomes



## 3. Restoration hearings

- 3.1 This section tells you what happens at a restoration hearing and how the committee reaches a decision.
- 3.2 Restoration hearings will usually take place in public. The hearing is held by a panel of three people (a chair, a registrant member and a lay member). Other people may also be at the hearing, including a legal adviser, a medical adviser, GPhC staff and registrant representatives. The applicant may bring a representative, but does not have to. The committee will consider if they can restore an applicant's name to the register. It is for the committee to decide whether, at the time of the hearing, the applicant is fit to practise.
- 3.3 When you apply for restoration, you must provide sufficient evidence to demonstrate your fitness to practise. The 'burden of proof' is upon you. This means that it is for you to satisfy the committee that you should be restored to the register – it is not for the GPhC to prove or to provide evidence to show that you should or should not be restored. Committees should always make this aspect clear to applicants.
- 3.4 The committee may ask for a performance, health or English language assessment before considering the application<sup>6</sup>. The committee must be satisfied that an

<sup>6</sup> Rule 8 – The General Pharmaceutical Council (Fitness to Practise and Disqualification etc Rules) Order of Council 2010

applicant has the necessary knowledge of English before they can be restored to the register.

- 3.5 The restoration hearing is not an opportunity to challenge the findings of the fitness to practise committee which removed the applicant's name from the register, or about the severity of that original decision. A committee considering an application for restoration is bound by the original findings and decision. It will not examine the findings of the original committee or the sanction it imposed.

## Reaching a decision

- 3.6 Unless the committee decides otherwise the restoration hearing will usually follow this order:

### Preliminary arguments

- 3.7 The chair must – if the applicant is present – require the applicant to confirm their name, or the person presenting their case to confirm the applicant's name.
- 3.8 The committee must hear and consider any preliminary legal arguments. Unlike fitness to practise proceedings, restoration hearings do not have a separate stage at the beginning where the facts of an allegation are considered.

### The GPhC presenter

- 3.9 The GPhC presenter is invited to speak to the committee on the background of the case and the circumstances in which the applicant's name was removed from the register. This is important, because the committee will need to understand what happened which led to registration being removed. The presenter must direct the attention of the committee to any relevant evidence, including transcripts of previous hearings. They may provide evidence (including calling witnesses) which relates to the applicant's fitness to practise.
- 3.10 The presenter will need to remind the committee and the applicant that the applicant's name will not be restored to the register until payment of the appropriate registration fee has been made, even if the committee allows the application.

### The applicant

- 3.11 The applicant may speak to the committee, present evidence and call witnesses in relation to any relevant matter, including their suitability for restoration to the register. Applicants will have to demonstrate the following to the committee:
- how they have kept their professional knowledge and skills up to date

- how they have learnt from the circumstances that led to their removal, and demonstrated insight<sup>7</sup>

### The committee

3.12 Committees may ask questions if these are supported by adequate reasoning<sup>8</sup>. But they must always bear in mind that they must act (and appear to act) impartially. The committee should explain the purpose of their questions and use language that is appropriate for the applicant and the context.

3.13 The chair may refuse to allow a witness to give oral evidence if they are<sup>9</sup>:

- not satisfied that the witness is in a position to provide relevant testimony, or
- satisfied that all or part of the evidence that the witness is to provide, or is to provide on a certain matter, should have been disclosed at an earlier stage in the proceedings to the party not calling the witness

3.14 The committee may receive further evidence and hear any further submissions from the applicant or the GPhC about whether it should grant or refuse the application. Before reaching a decision on the application, the committee may adjourn and give any directions that it sees fit. This would include requiring the applicant to have performance, health and English language assessments.

3.15 If the committee adjourns before reaching a decision, it will:

- consider any assessment reports and any other relevant evidence and reports, and
- invite further representations and evidence from the applicant and the GPhC

### Making a decision

3.16 The committee will consider whether the applicant is fit to practise without any restrictions. In doing this they will take a range of factors into consideration<sup>10</sup>. One important factor is taking into account the GPhC's main objective which is the protection of the public.

3.17 Other factors include<sup>11</sup>:

- the circumstances that led to their removal
- the reasons given by the original committee for the decision to remove
- the registrant's response to the findings of the committee at the original hearing
- evidence demonstrating insight into the seriousness of the allegation which resulted in their removal from the register
- evidence of activities which the applicant has undertaken designed to address the original allegation or to help them learn from it
- evidence of learning activities designed to keep their skills and knowledge up to date, and to keep up with developments

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<sup>7</sup> **Our hearings guidance** explains what we mean by insight

<sup>8</sup> *Banerjee v General Medical Council* [2017] EWCA Civ 78

<sup>9</sup> Rule 35(11) – The General Pharmaceutical Council (Fitness to Practise and Disqualification etc Rules) Order of Council 2010

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<sup>10</sup> Article 6 – The Pharmacy Order 2010

<sup>11</sup> This is not an complete list

in practice (accepting that they must not have practised during that time)

- relevant evidence to demonstrate that the applicant is fit to practise – for example, health or performance assessments
- the impact on the applicant of not having his or her name restored to the register
- proportionality
- any relevant character evidence – for example references or testimonials – in support of the applicant

3.18 The committee must announce whether to grant or refuse the application and give its reasons for that decision<sup>12</sup>.

## Available outcomes

3.19 The committee may:

- grant the application, and direct that the applicant should be restored to the register without conditions
- grant the application, and direct that the applicant should be restored to the register with conditions<sup>13</sup> for a period of up to 3 years<sup>14</sup>
- refuse the application

3.20 The committee will impose conditions which it considers are appropriate to protect the public, or which are otherwise in the public interest or in the interests of the applicant. The conditions may be drawn from the published **conditions bank**.

3.21 If the committee announces that the applicant should not be restored to the register, and the applicant has now applied for restoration two or more times, it may then consider whether or not to direct that no further applications for restoration can be made<sup>15</sup>.

3.22 Before deciding whether or not to direct this, the committee will consider any representations made and evidence received. If the applicant is present, it will invite further representations and evidence from the applicant specifically on that issue.

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<sup>12</sup> Rule 35 (7) – The General Pharmaceutical Council (Fitness to Practise and Disqualification etc Rules) Order of Council 2010

<sup>13</sup> Article 57(6) of the Pharmacy Order

<sup>14</sup> Article 57(6) of the Pharmacy Order

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<sup>15</sup> Article 57(9) of the Pharmacy Order

## 4. After the decision has been made

- 4.1 If the committee decides to allow the application, the applicant will be restored to the register as soon as possible. The register will show that the applicant is registered. The record from the hearing will also be displayed on the register as will the details of any conditions imposed. Details of the hearing will appear on our website and the **online register** in line with our **publication and disclosure policy**.
- 4.2 If the committee decides that a person should be restored to the register, the committee secretary must tell the registrar about this. The applicant should be reminded that they must not practise until the GPhC tells them formally that they have been restored.

### Appealing against the decision

- 4.3 If the application for restoration is the first that an applicant has made, they cannot appeal against a decision by the committee to refuse restoration. However, they can appeal against a committee decision that no further applications can be made<sup>16</sup>. This type of appeal can be made to the High Court (or the Court of Session in Scotland) within 28 days of the written reasons for the decision being given.

- 4.4 The Professional Standards Authority (PSA) can appeal against decisions made by the committee, including those to restore pharmacy professionals to the register. The appeal would be to the High Court (or the Court of Session in Scotland) if it considers that the decision to restore a person is not sufficient for the protection of the public, taking into account:
- protecting the health, safety and wellbeing of the public
  - maintaining public confidence in the professions, and
  - maintaining proper professional standards and conduct for members of the professions
- 4.5 The court may:
- dismiss the PSA appeal
  - allow the appeal and quash the decision of the committee
  - make a different decision than the committee made, or
  - send the case back to the committee for reconsideration

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<sup>16</sup> Article 58(1)(d) of the Pharmacy Order





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