

ROYAL PHARMACEUTICAL SOCIETY OF GREAT BRITAIN GUIDANCE ON MAKING COMPLAINTS AGAINST REGISTRANTS AND OWNERS OF PHARMACIES

WHAT IS THE ROLE OF THE SOCIETY IN RELATION TO COMPLAINTS?

The Royal Pharmaceutical Society of Great Britain is the regulatory and professional body for pharmacy. All pharmacists who practise in Great Britain have to be registered with the Society. In January 2005, the Society opened a voluntary register for those pharmacy technicians who wish to be registered with the Society. All pharmacists and technicians registered with the Society are known as “registrants.”

By law, all pharmacies must be registered with the Society. The Society inspects all pharmacies on its register of pharmacy premises on a regular basis. The Society is also responsible for ensuring that all registrants and pharmacy owners act in accordance with the Code of Ethics and mandatory practice guidance produced by the Society, and that they comply with the laws relating to medicines and poisons.

The prime concern of any registrant, irrespective of their type of work, must be for the well being and safety of patients and the public.

WHO SHOULD I COMPLAIN TO?

The Society has three Statutory Committees that deal with complaints about registrants or pharmacy owners. These are the —

- Investigating Committee
- Disciplinary Committee
- Health Committee

However, all complaints are initially considered by the staff within the Society’s Fitness to Practise and Legal Affairs Directorate. You should make your complaint in writing and send it —

- By post to the Director of Fitness to Practise and Legal Affairs, Royal Pharmaceutical Society of Great Britain, 1 Lambeth High Street, London, SE1 7JN
- By fax to 0207 572 2510
- By email to complaintsaboutpharmacists@rpsgb.org

WHAT MATTERS CAN I COMPLAIN ABOUT?

If you believe that a registrant’s fitness to practise is impaired, you should notify the Society.

However, please note that the Society can not consider complaints involving the matters set out below:

- Claims for compensation
- Complaints about health professionals who are not registered with the Society
- Employment issues e.g. hours of work, employment contracts
- Non-medicinal products, e.g. faulty hair sprays etc
- Contractual issues, e.g. hours of opening, charges for private prescriptions

HOW SHOULD I MAKE MY COMPLAINT?

In order to enable us to investigate your complaint as efficiently as possible, we ask you to fill in the Society’s complaint form. A copy of the complaint form may be downloaded from the Society’s website, or can be obtained by telephoning 0207 572 2308.

The complaints form has been specifically designed to provide us with the information we require to begin our investigation. However, if you are unable to complete the complaint form, please provide us with the following information —

- your full name and address
- a daytime telephone number at which we can contact you
- the name and address of the pharmacy/pharmacist concerned.
- a description of your complaint.

The Society is not usually able to investigate complaints made by anyone who wishes to remain anonymous. In order to investigate the complaint properly, we will need your assistance and we may ask you to act as a witness. Without your full co-operation, the Society would find it very difficult to investigate the matter. However, where concerns have been raised, and the public may be at risk, the Society may decide to investigate the matter itself. The outcome of that investigation may be that the Society obtains sufficient evidence to act as the complainant. In such circumstances, you will not be notified of the outcome of the investigation.

WHAT HAPPENS AFTER I HAVE MADE MY COMPLAINT?

- We will write to you, within five working days of receiving your complaint form, to confirm that we have received your complaint, and are investigating the matter.
- A copy of your complaint form will be sent to the registrant and/or the owner of the pharmacy and they will be asked to give us their comments on your complaint.
- You **may** be shown these comments and asked to give your further views.
- A member of the Society's Inspectorate may contact you and make arrangements to discuss your complaint fully with you, and to obtain any necessary further information or evidence. Members of the Inspectorate are usually pharmacists themselves, and have been specially trained in gathering evidence and investigating complaints.
- Every complaint received by the Society is investigated. Cases that do not meet the criteria for referral to the Society's Disciplinary or Health Committee may eventually be dealt with by way of correspondence. Where the Inspector considers that the complaint discloses even low level grounds for concern, he will arrange a visit to the pharmacy and make a point of giving advice and recommendations to the registrant concerned.
- In cases that do meet the referral criteria, the pharmacist may be formally interviewed under caution (in accordance with the provisions of the Police and Criminal Evidence Act 1984, and relevant codes). The Inspectorate are empowered under section 9 of the Poisons Act 1972 to enter the premises of a registered pharmacy and any premises in which they have reasonable cause to suspect a breach of certain medicines legislation has been committed. Under Sections 111 and 112 of the Medicines Act 1968, the Inspectorate is empowered to seize goods and documents. In addition, the Society is authorised to undertake directed surveillance within the meaning of s26 (2) of the Regulation of Investigatory Powers Act 2000.
- Some cases are so serious that they will be immediately referred to a hearing before the Society's Disciplinary or Health Committees. However, the normal procedure is for complaints to be considered initially by the Society's Investigating Committee. The Investigating Committee will consider your complaint form, any available and relevant evidence, the representations from the registrant or pharmacy owner, and any views you may have expressed on these comments.

THE INVESTIGATING COMMITTEE

The Investigating Committee will decide whether to —

- Inform the person concerned that it will take no further action on this occasion, but, that should any fresh complaint be made against the person concerned within 5 years from the date of the Committee's decision, the Committee may consider the original complaint together with the new complaint;
- Write a letter of advice to the person concerned, and to such other person or body as the Committee considers appropriate in the circumstances of the case;
- Where the facts of the complaint are admitted, issue a warning to the registrant/pharmacy owner concerned;
- Where the complaint relates to the registrant's health or performance, and the registrant admits that his fitness to practise is impaired, accept written undertakings from the registrant;
- Where there has been a breach of the medicines legislation, and the Society is given responsibility for enforcing this legislation, instruct the Society to issue criminal proceedings against the registrant or pharmacy owner concerned; or
- Refer the case to the Society's Disciplinary or Health Committees;
- The Investigating Committee operates under rules of procedure. In deciding whether or not to refer your complaint to the Disciplinary or Health Committees, it will consider the matters set out in its "Referral Criteria" and the "Decisions Flowchart". The Investigating Committee will not refer a case unless there is a real prospect that Disciplinary or Health Committees will make a finding that a registrant's fitness to practise is impaired, or that a pharmacy owner has committed misconduct.

THE DISCIPLINARY AND HEALTH COMMITTEES

If the case is referred to the Disciplinary Committee —

- The registrant/pharmacy owner will be required to attend a formal disciplinary hearing.
- You may be asked to be a witness at that hearing.
- The Disciplinary Committee will consider the evidence available and decide whether or not the registrant's fitness to practise is impaired or whether the pharmacy owner has committed misconduct.
- If the registrant's fitness to practise is found to be impaired, or if the pharmacy owner is found to have committed misconduct, the Disciplinary Committee will decide whether a sanction should be imposed. The Disciplinary Committee may take no further action; issue a warning; impose conditions on a registrant's practice; suspend the registrant; or remove his name from the register.
- The Disciplinary Committee operates under rules of procedure. When deciding whether to impose a sanction, and if so, what sanction to impose it will take into account its "Indicative Sanctions Guidance".
- The registrant/pharmacy owner may challenge the decision of the Disciplinary Committee by appealing to the High Court (or in Scotland, to the Court of Session) or by seeking a judicial review of the decision.

The Disciplinary Committee hears cases in public. On occasion, it may hold certain parts of the hearing in private. The Society's lawyer will present the case before the Disciplinary Committee. You may be called

as a witness. After you have given your evidence and been formally released by the Committee, you will be entitled to attend those parts of the hearing that are in public.

If the case is referred to the Health Committee —

- The registrant will be required to attend a formal hearing (the Health Committee does not consider cases against pharmacy owners).
- The Health Committee will consider the evidence available, and decide whether or not the registrant's fitness to practise is impaired.
- If the registrant's fitness to practise is found to be impaired, the Health Committee will decide whether or not a sanction should be imposed. The Health Committee may take no further action; issue a warning; impose conditions on a registrant's practice, or suspend the registrant. The Health Committee has no power to remove a registrant from the register.
- The Health Committee operates under rules of procedure. In deciding whether or not to impose a sanction, the Health Committee will take into account its "Indicative Sanctions Guidance".
- The registrant may challenge the decision of the Health Committee by appealing to the High Court (or in Scotland, to the Court of Session) or by seeking a judicial review of the decision.

Procedures before the Health Committee are held in private. The Society's lawyer will present the case before the Health Committee. Evidence is usually limited to medical reports and confidential matters about the registrant's health. It is therefore unlikely that you will be called as a witness or be allowed to attend the hearing. You will, however, be notified of the outcome of the hearing.

INTERIM ORDERS

Very serious cases may be referred directly to the Disciplinary or Health Committees in order that they should consider whether or not to impose an interim order. Interim orders may be made while the investigation into your complaint is still ongoing, and pending the outcome of any formal hearing.

There are two types of interim order. These are an order imposing conditions on a registrant's practice for a specified period, or an order suspending the registrant from practice, for a specified period. Interim orders may have very severe consequences on a registrant's practice and therefore are only used in cases where it is believed that such an order is —

- Necessary for the protection of the public
- Otherwise necessary in the public interest
- In the interests of the registrant.

HOW LONG WILL IT TAKE FOR MY COMPLAINT TO BE INVESTIGATED?

The amount of time it takes to investigate your complaint depends on how complicated the matter is. During the investigation, we may have to obtain original prescription forms and other medical records, interview witnesses (including you) and interview the registrant and any other pharmacy staff involved. We may also have to get medicines analysed, or obtain expert evidence on particular issues. This all takes time. However, in less complex cases, our aim is to try and complete our investigation within three months from the date on which we received your complaint form.

Where the complaint is to be considered by the Investigating Committee, we aim to get the matter considered by the Investigating Committee as soon as possible after the completion of the investigation.

WILL I BE KEPT INFORMED OF THE PROGRESS OF MY COMPLAINT?

We will write to you confirming receipt of your complaint and informing you that the investigation has begun.

We will notify you when our investigation is concluded, and will inform you of the date on which your complaint will be considered by the Investigating Committee.

If our investigation has not been concluded within 3 months from the receipt of your complaint form, we will write to you, providing an estimate of the date by which the investigation should be concluded.

We will write to you informing you of the decision made by the Investigating Committee.

If your complaint is referred to the Disciplinary or Health Committees, we will write to you informing you of the date on which your case will be heard. If your case has been referred to the Disciplinary Committee, it is likely that you will be required to attend that hearing to give oral evidence about your complaint directly to the Committee. If that is the case, we will write to you beforehand, to try and pick a date which is convenient to you. We will also send you a witness pack and a claim form to cover your reasonable expenses in attending the hearing.

THE COUNCIL FOR HEALTHCARE REGULATORY EXCELLENCE

The Council for Healthcare Regulatory Excellence ('CHRE') was set up in April 2003. Its main purpose is to promote the interests of patients and the general public by working with regulators in the health professions. The CHRE was set up under the NHS Reform and Healthcare Professions Act 2002. Under Section 29 of that act, the CHRE has the power to refer to the High Court, any decision taken by the Society's Disciplinary Committee which it considers to be "unduly lenient" or should not have been made. All decisions of the Society's Disciplinary Committee are automatically sent to the CHRE for information. The CHRE does not consider decisions of the Society's Investigating or Health Committees.

FEEDBACK ON OUR COMPLAINTS PROCESS

Our aim is to try and ensure that our complaints procedures are:

- Independent, and therefore fair to the complainant and pharmacist
- Consumer focused
- Clear, accessible and as informal as possible
- Transparent and open to scrutiny
- Timely
- Able to find out "what went wrong"
- Used as a tool for improvement

When you are notified of the outcome of the complaint, you will also be sent a feedback form. Do please take the time to fill in the form and return it. Your comments are important to us.