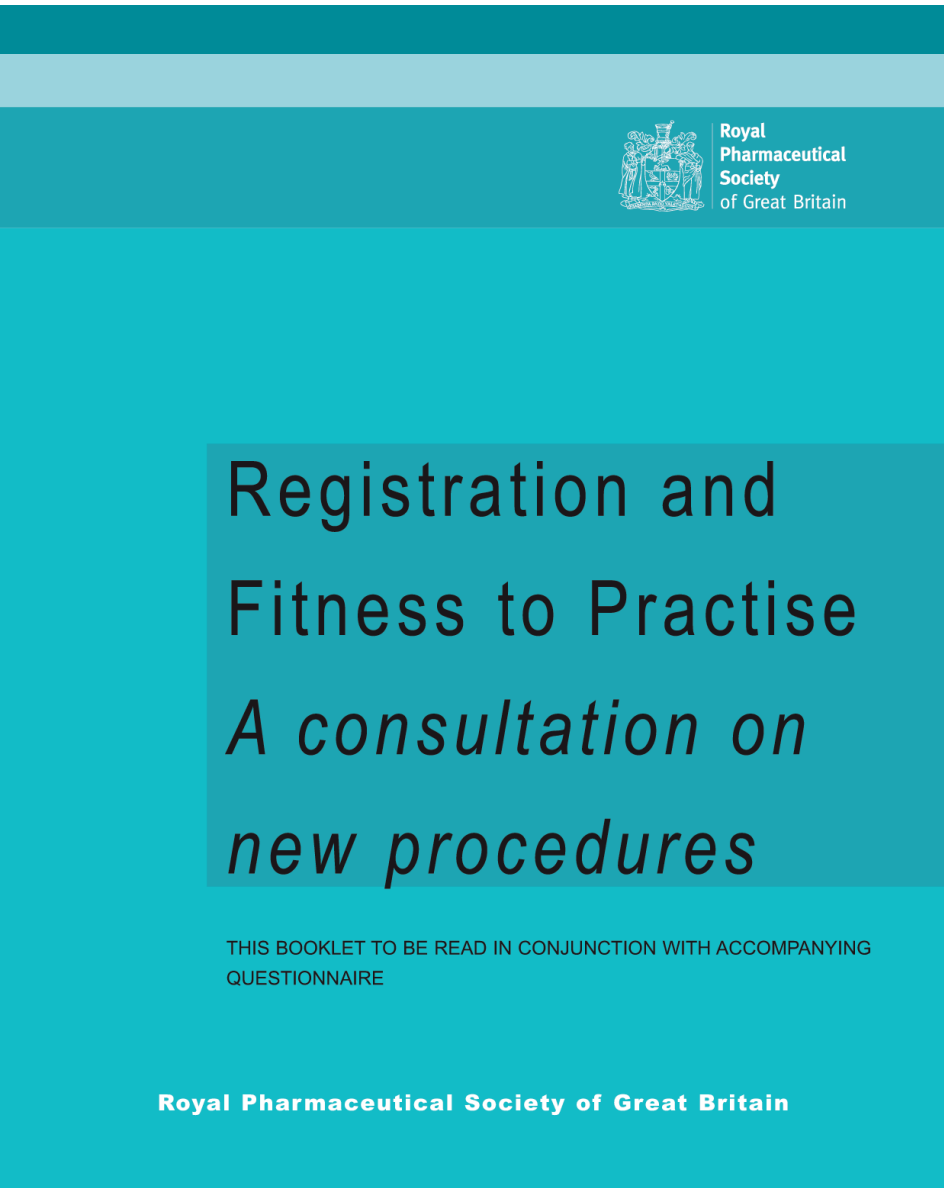
Rules consultation a response…

by the Pharmacists' Defence Association.



Response

to Rules consultation, June 2006: Registration and Fitness to Practise.

September 2006

www.the-pda.org

A document answering questions posed by the RPSGB Fitness to Practise consultation document

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the pharmacists' defence association

Response to Rules consultation, June 2006: Registration and Fitness to Practise (FtP).

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About the Pharmacists' Defence Association (PDA)

The Pharmacists' Defence Association (PDA) is a not-for-profit organisation which aims is to act upon and support the needs of individual pharmacists and, where necessary, to defend their reputation. PDA currently has more than 11,000 members.

The primary aims of the PDA are to:

- Support pharmacists in their legal, practice and employment needs
- Provide insurance cover to safeguard and defend the reputation of the individual pharmacist
- Seek to influence proactively the professional, practice and employment agenda to support members
- Lead and support initiatives designed to improve the knowledge and skills of pharmacists in managing risk and safe practices, so improving patient care
- Work with like-minded organisations to improve further the membership benefits to individual pharmacists

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The FtP rules consultation– a premature initiative

The PDA welcomed the potential of the Section 60 (S60) order to modernise the Pharmacy regulatory framework and make it fit for purpose. It was hoped that the S60 Order could be substantially used to underpin and support the provision of a safer pharmaceutical service in the UK as this would be to the benefit of the public.

However, when the Draft S60 order was published it proved to be a large disappointment. It failed to appreciate the wider ethos of modern regulation and particularly the careful balance between discipline, support and learning which has subsequently been alluded to in further reports such as Foster. Moreover, the Draft Order also failed to appreciate the wider legal picture and in particular Human Rights issues. In an astonishing lack of insight, it failed to appreciate that genuine mistakes do occur in all healthcare professions and there will not be a single healthcare practitioner in the world who has not made mistakes at various times in their career. The effect of the Section 60 as proposed is that it now makes it inevitable that all public facing healthcare practitioners will probably be involved in a disciplinary episode at one or more stages in their career.

Consequently, in the Consultation exercise that followed, numerous organisations and individuals brought these and other concerns to the attention of the government. Although the final version has not yet been released, government officials have indicated that at least eight changes to the Draft have been made in light of the consultation. This means that the final version of the S60 Order will not be the same as the draft and yet the RPSGB has seen fit to consult on its draft rules which are based on the initial (and merely provisional)Draft S60 Order. This means that the exercise that the Society has invited interested parties to participate in, is premature. Counsel sought by the PDA is based on rules which seek to implement the draft S60 Order and not the final S60 Order. For the Society to comply with its obligation to consult, it will need to repeat the exercise once the final version of the S60 order has been published. PDA and others will need to seek fresh Counsel opinion and then report its new position. We seek to emphasise that the responses provided by the PDA are therefore merely provisional and to a greater or lesser extent depending on the final S60 Order are therefore merely academic.

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Response of the PDA to the initial FTP rules

Since the Draft took an overtly narrow view of the role of a regulator, it naturally follows that the rules appear to have been drawn up in the same narrow way.

The PDA views modern regulation sitting within the wider strategic goal of public safety and professional development. This process needs to be fit for purpose for the both public it seeks to protect and also the professionals it seeks to regulate and develop. The process must not result in a regime which merely insulates and isolates the regulatory body from both the public and its professional registrants.

As both Foster and Donaldson confirm, regulation needs to be based on assessed risk. Foster goes as far as stating " any new regulatory activities must be as simple and light touch as is consistent with their patient safety goals." As Foster clearly acknowledges, the Better Regulation Executive expects all statutory regulation to be (PACTT):

Proportionate :	Regulators should only intervene when necessary. Remedies should be appropriate to the risk posed, and costs identified and minimised.
Accountable :	Regulators must be able to justify decisions, and be subject to public scrutiny.
Consistent :	Government rules and standards must be joined up and implemented fairly.
Transparent :	Regulators should be open, and keep regulations simple and user friendly.
Targeted :	Regulation should be focused on the problems, and minimise side effects.

Applying this **PACTT** acronym, it is apparent that the proposed Rules fall short of the standards expected from a modern regulator that is fit for purpose.

Moreover, noting that regulation should be consistent, it is useful to consider the Fitness to Practice rules of other healthcare regulators which are also in the process of undergoing similar modernisation.

In undertaking this exercise, it is worthy of note that the RPSGB is both a regulator AND membership body. Other healthcare regulators are SOLELY regulators, and yet it would appear that despite this, some of the 'pure' regulators have managed to produce rules which manage to balance public protection issues with being able to treat their registrants with courtesy and fairness. The draft rules produced by the RPSGB to a greater extent fail to achieve this and hence fail to deliver the Foster recommendation of being simple and user friendly.

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A comparison of the RPSGB and General Dental Council (GDC)rules

Committee names

This difference in mindset manifests itself even in the basic issue of Committee Names.

Committee Purpose	GDC committee	RPSGB committee
Preliminary Investigation	Investigating Committee	Investigating Committee
When registrants health impairs FtP	Health	Health
To consider serious conduct issues	Professional Conduct	Disciplinary
To assess performance issues	Professional Performance	NONE
To expedite interim suspensions	Interim Orders Committee	NONE

The name proposed by the RPSGB for the committee is confrontational and pre-supposes guilt. The focus being on blame and retribution rather than learning and rehabilitation.

Procedural issues.

A significantly different approach is taken to registrants by the GDC.

GDC Rules for servicing of Documents :

(2) Any notification required to be served on any person for the purpose of these rules may be served by an electronic communication which produces a text received in legible form but such notification may not be served by an electronic communication unless-

(a) the person consents in writing to the receipt of notifications under this Act by electronic communication: and

(b) the communication is sent to a number or address specified by that person when giving consent.

(5) The service of any notification under these Rules may be proved by-

(a) a confirmation of posting issued by or on behalf of the Post Office, or other postal operator or delivery service; or

(b) a signed statement from any person serving the notification by hand.

(6) References in this section to serving a notification include references to sending a notification

RPSGB Rules for servicing of Documents:

(1) Any notice or documents required to be served under these rules shall be delivered by sending it by a postal service or other delivery service (including by email) or by leaving it at ……..

(2) Where any Notice is served, it shall be treated as having on the day after it was posted…..

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There is clear inequity of the registrant having to send all documents by recorded delivery and yet the RPSGB sending documents in any manner it sees fit.

The GDC FtP rules consultation.

Healthcare professionals are not legal experts. Thus the GDC takes the time and trouble, in an accompanying explanatory note, to explain to their registrants during their FtP Rules consultation the meanings and implications of burden and standard of proof.

The RPSGB merely states in Rule 37 and 38 that the Disciplinary and Health committees shall employ the civil standard of proof in determining whether facts are proven.

Openness of the consultation

One final example demonstrating the difference between the GDC and RPSGB is that the GDC does not try to give a steer during its consultation.

Compare that to Q 29 of the RPSGB Consultation which states :

Q29. "Given that a person can only be restored to the register After the expiry of five years from the date of removal …. "

There is no such "Given" as the DoH is considering the responses to the S60 order and the premise of the RPSGB is misleading. The PDA in its response to the S60 order to the DoH specifically mentioned this term of 5 years and the DoH is duty bound to consider this.

There are several other issues where we can see the approach of a modern regulator as expressed by Foster, like the GDC being at odds with that of the RPSGB.

The RPSGB has been vociferous in attempting to preserve its **"*unique*"** dual role of regulator and membership body. Paradoxically, it makes no attempt at putting learning and rehabilitation at the heart of its FtP Rules. Its focus is punishment and retribution.

The Rules as constructed will undoubtedly lead to a vigorous debate within the profession to move to a separation of the dual membership and regulatory roles of the RPSGB.

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Fundemental concerns

It is important to consider issues that are of fundamental importance but that are not the subject of any questions found in the consultation.

Human Rights and Equality declaration:

We have not been able to find, in any section of the rules an explicit statement that the rules comply with Human Rights legislation and all applicable equality regulations.

Impact assessment

We are also concerned that no impact assessment has been undertaken, especially on specific groups of registrants – this is a common sense requirement placed on all regulators. Specific groups may include NHS employed, non-NHS employed and self-employed locums. Another group which will potentially be affected overtly by these rules will be mothers who are bringing up a family and need to spend time away from their profession.

NHS employees, for example would be entitled to full pay and benefits whilst being subject to a professional interim order, whereas non-NHS employees and self-employed locums are not. There appears to be no appreciation of these issues.

The pharmacy and pharmacy technicians professions are moving to a female majority. The current undergraduate cohorts are overwhelmingly female. This has significance especially with regards to registration following career breaks, CPD, part-time working and such-like.

Around 25 % of RPSGB registrants are non-white. The outgoing Chair of the statutory committee in 2000 observed the disproportionate number of non-white defendants coming in front of the statutory committee. He asked the RPSGB to investigate why to date the RPSGB has not:

a) commissioned any independent research into this matter

b) commissioned any independent enquiry into its own processes.

c) put into place an adequate and publicly declared policy of monitoring ethnicity data for all cases referred to the Fitness to Practice Directorate.

d) compared its record and published the findings against the record of other regulators like the GDC or GMC where non-white registrants form a substantial minority of registrants.

The Chairman of the Statutory Committee would have made his recommendations to ensure that the Society could be protected from allegations that it is biased or prejudiced in the area of racial discrimination. The Society's lack of action in light of these recommendations call into question more of the Foster tests namely accountability and transparency. These issues will ultimately affect the Society's ability to regulate.

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Interim Orders

Whilst an interim order can be useful in protecting patients from immediate danger, they could also have the effect of immediately terminating the income and livelihood of a registrant. One view recently expressed by the Secretary and Registrar in the letters columns of the Pharmaceutical Journal in response to a pharmacist who had concerns in this respect (and therefore one can only presuppose that this is the official position of the RPSGB on this subject), is that income that was suspended through an interim order would simply by recovered via a professional indemnity insurance policy. Such a mistakenly held belief indicates not only a lack of insight as to the realities of PI insurance, but also casts significant doubts as to whether the impact of an interim order on a pharmacist is truly understood by the RPSGB. Consequently, use of an interim order should only be made after a careful and thorough consideration has been made. Because of this, transparent and robust guidelines on the application of interim orders must be developed.

PDA has dealt with cases on behalf of its members where the Fitness to Practice Directorate has already sought to use the interim order suspension facility, before it has actually secured the powers so to do. What is alarming is that in some instances, it has sought to suspend pharmacists from their work in situations that could not in any way have posed a threat to the public. If this is indicative of how things will proceed in the future, then this is very alarming.

Recommendation

The use of interim orders to suspend a registrant can only ever be justified when there is a real and present risk to the public.

Rules for Case Assessment Staff

The approach taken by the RPSGB when contrasted with other regulators is again thrown into a less favourable light when one considers the operation of case assessment teams. The General Dental Council makes a clear commitment to fairness and equity by making its case assessment teams subject to clear and published policy guidance. This is a serious issue especially when one of the drivers for these new regulations is enhancing public confidence in regulatory bodies by using transparent processes. The proposed rules of the RPSGB make no such commitment.

The GDC also sets performance targets for its case assessment teams. The RPSGB would be wise to do so and also publish data as to how they are being met or failing to be met.

Recommendation

Publish rules and policy guidance and performance targets for RPSGB cases assessment teams and publicly state that they will be committed to fairness and equity. Publish data as to how the case assessment teams are performing.

Publishing the results of an independent audit

CHRE specifically commented in its 2005 review of the RPSGB's performance that it may want to consider independent external audits of its FTP processes and also that it should collect statistical information on complaints to help it identify problem issues as learning points. This suggestion personifies the very essence of good risk management.

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The RPSGB's failure to put into place an independent audit mechanism that would ensure that processes and procedures are duly followed as recommended by CHRE raises concerns. Mere reliance on producing an annual report to CHRE should not be seen as a substitute for an independent audit. CHRE will only act on cases that are unduly lenient and this means that unless an independent audit can be undertaken as proposed by CHRE, poor performance of the RPSGB will be difficult to identify. PDA is aware of numerous instances where poor decisions by the FTP directorate or poor administrative procedures have resulted in needless stress for registrants and a waste of limited RPSGB resources. An independent audit would provide an opportunity to learn lessons and resolve problems going forward. The absence of such an audit is neither in the publics nor in the professions interest. Furthermore, we are also concerned about a lack of a process which encourages learning from regulatory episodes.

Recommendation

We would urge the RPSGB to establish a truly independent audit process immediately. The findings of such an audit would need to be made available to all stakeholders ; registrants, the public and the government.

Statistical information

FtP Rule 10 merely allows for the barest of details to be given to RPSGB Council and we are unsure whether this is to be done in public or confidential session. This undermines the whole ethos of transparency in regulation and will not engender public or registrant confidence in the regulatory process. Consequently, full, open, relevant and timely publication of such statistics is very important in this respect. The main driver behind the current FtP reforms is to instil public confidence in healthcare regulatory bodies. Publishing clearly and in a transparent manner statistics with accompanying notes of what, how and why would instil confidence in registrants and the public.

We would welcome a policy document from the RPSGB that enshrines full and meaningful publication of statistical data relating to FTP and the commissioning by the RPSGB of serious independent research to monitor the implementation of the new FTP procedures.

Every allegation, even those that are outside the scope of the RPSGB must be logged and thereafter published (ideally in tabular format) with at least following details recorded on initial receipt of complaint:

- Details of Complainant (individual or corporate) or whether anonymous
- Is Complaint against Registrant or Company
- Nature of Complaint (broken into key areas eg dispensing error, conviction or code of ethics etc)
- Date of Complaint
- Ethnicity of Registrant against whom allegation made
- Gender of Registrant

All stakeholders should be consulted on the type of information that they would find helpful to be disclosed.

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Recommendation

Following a consultation with stakeholders, the RPSGB should publish statistics relevant to its regulatory activities.

Backlog of cases

The RPSGB has at present a huge backlog of "cases". It states in its Rules consultation that it "expects an increase in volume of cases" with its new powers.

However, what it has not provided is an explanation as to what steps it will take to clear the backlog or deal with this increase in volume. An important premise of justice delayed is justice denied does exist. Moreover, precedents do exist, where, due to human rights legislation, cases delayed unduly render themselves unsuitable for further processing or could even be rejected by a Statutory Committee because they are too old. In building such a backlog, in the absence of any remedy, the RPSGB is heading towards a human rights act conflict. This in stark contrast with the GDC where it makes explicit commitment to ensure that cases are heard in fair time. Its 2005 annual report states " The Council is committed to processing cases more quickly by holding more frequent hearings."

Recommendation.

The RPSGB must provide a full explanation as to how it will clear the backlog of cases and thus provide closure of cases for both the public and registrants alike.

Corporate Accountability

The majority of registrants work in community pharmacy. The majority are under large corporate ownership. The RPSGB has already indicated to CHRE that it would like to see a strengthening of corporate accountability. The failure of the S60 order to adequately address this matter means that the rules implicitly target individual registrants rather than a corporate entity that may have put into place systems that were inherently unsafe.

The S60 order did not adequately address this issue and therefore the FtP Rules are inadequate for issues surrounding corporate accountability.

As a mere example, the S60 order puts into place the powers for interim suspension for registrants. However, premises which the RPSGB inspectorate finds are a potential public health issue are not subject to such measures.

Examples where this inadequacy can cause problems is the closure of a pharmacy by a contractor, because they are unprepared to pay higher emergency fees to locums. Thus starving the local community of the pharmaceutical service purely because of a desire to keep locum costs under control.

Another example may include an employer who orders cheap generics from questionable sources leaving a pharmacist no option but to supply these to patients. The FtP rules have not adequately addressed these issues.

This is in stark contrast with the FtP rules used by the Genreral Optical Council (GoC). Their FtP 2005 rules expressly include powers that include sanctions against bodies corporate. We accept that an optician body corporate has a different structure to a pharmacy body corporate to discharge professional accountability. However, the DoH and Privy Council and the GoC recognised that bodies corporate needed to be subject to FtP rules.

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From The Opticians Act 1989 (Amendment) Order 2005 :

> **The Investigation Committee**
>
> 4. - (1) There shall be a committee of the Council known as the Investigation Committee for the purpose of investigating any allegation that -
>
> (a) a registered optometrist's or a registered dispensing optician's fitness to practise is impaired;
>
> (b) a business registrant's fitness to carry on business as an optometrist or a dispensing optician or both is impaired; or

Recommendation

Urgently deal with this inadequacy by incorporating measures which will enable the FtP rules to deal with corporates.

Standards and Burden of Proof.

We accept that regulatory bodies in general are moving to a civil standard of proof.

However, it would have been helpful to explicitly explain the implications to registrants of applying civil standards of proof and the nature of the sliding scale applied in courts.

By using a lower standard of proof, it will now be easier to prosecute a case against a registrant successfully. In the interests of fairness and justice, the RPSGB will need to counterbalance this by producing more robust and transparent procedures when investigating allegations against registrants than is currently the case. The fact that at the PDA we increasingly see mistakes being made by the FtP directorate indicates that currently such processes are inadequate. Until these FtP performance measures can be resolved, the prospect of a civil burden of proof becomes a dangerous and unwelcome proposition.

Recommendations

Undertake a root and branch review of current FtP procedures and additionally allow registrants the following;

a) **Initially, registrants will need to know the exact nature of the allegation being made against them prior to their participation in any investigation. This is not currently the case.**

b) **A registrant must be given full access to all of the paperwork involving his case. This is not currently the case.**

c) **Reports and recommendations made to the various committee's must be produced using objective templates so as to avoid the possibility of subjectivity. Any such reports or recommendations must also be provided to the registrant to assist with any defence or mitigation.**

If the FtP directorates systems and processes are fully robust and operationally sound, then it should have nothing to fear from the recommendations concerning registrant access to information and paperwork.

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Legal, Clinical and Specialist Advisers

As a point of good practice, any advice tendered by these advisers must be open to cross-examination. It is unsatisfactory that the rules merely allow for comment on the advice given by these advisers.

If a registrant wants to call his own independent adviser that adviser would be called as a witness and would be subject to cross-examination. Thus it is inequitable for the defendants specialist or health or legal adviser to be subject to cross-examination but the regulators not.

The issue of Clinical or Specialist advisors is particularly troublesome in the area of leading edge practice, where a registrant subject to an investigation could know more about their specific area of leading edge practice than would an advisor. Moreover, there could also be the possibility that the advisor and the leading edge practitioner could potentially be professional rivals in principle if not in actual specifics. Consequently, the opportunity for the advisor to the RPSGB to be cross-examined by the registrant could be a useful remedy in these situations.

Consequently, any advice given by these advisors to any deliberations of any FTP committee must be transcripted and minuted by an independent non-voting person and duly signed by the adviser and the Chair of the Committee. The transcript and minutes must be made available to all parties.

The advisor should only be present for that period when his advice is sought and not for the whole period of deliberations.

Recommendation

Registrants should have transcripted copies of any advice provided by advisors and if they so choose, they should be given the opportunity to cross-examine such advisors.

We are troubled at Advisers Rule 6 (1). We accept that the initial proceedings of the Investigating Committee (IC) take place on the basis of documents only. However, we believe that registrants (both those being judged and those in the larger registrant population) must be able to understand how and why decisions of the IC have been made. Such an understanding will enable learning and reduce repetition; this is both in the public and in the professions interest.

Recommendation

The advice upon which decisions are arrived at and the deliberations of the IC must be made available as part of the transcript (or appendices) of the proceedings of the IC. Furthermore, if the registrant refuses to accept a warning and decides to exercise his right to have a full hearing then the advisor must give or repeat his advice in public at that hearing. This approach is both transparent and equitable.

General Equity and Fairness

A striking example of inequity is FtP rule 24 (2)(j) which states that the Disciplinary committee need not give reasons for findings of fact. This is an unacceptable premise and flies in the face of the ethos of open and transparent regulation, equity and fairness.

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Recommendation:

We would expect a statement that the ethos of equity, fairness and good faith applies to all proceedings. In particular, we would like there to be an explicit provision that in such instances as where a registrant objects to a member of an assessment panel, he is able to do so without prejudice.

Likewise, if a registrant wishes to refuse a warning (based on mere documents) issued by the IC he must be able to ask for referral to a full hearing without prejudice. This allows for instances where the registrants behaviour, or conduct etc might merit further explanation which may only be made possible through a full hearing.

Service of Documents

We presume that the RPSGB suggestion to require all documents to be submitted to it by recorded delivery but that documents and notices served by it on registrants can be done by email or non-recorded means is an oversight. We expect that this erroneous recommendation will be corrected in the final draft.

Recommendation:

Service of hard copy documents should be by means of a service with signature at point of delivery. Documents may be sent to the registrant or his solicitor by electronic means only if he expressly confirms that he is happy to receive documents in this manner.

Timeframes:

We are concerned that the rules do not specify realistic time frames to submit documents or attend hearings. As a defence association we know how much time an appropriate preparation would take.

Rule 7 (g) of the registration appeals rules allows only 10 days.

Rule 6 (2) (c) and (e) of the FtP rules give 21 days.

Rule 22(4) of the FtP rules merely mentions a reasonable timeframe for a reply by the applicant/registrant.

We propose that at least 28 days is the minimum period for replies to notices.

Recommendation:

28 days is the standard period for replies to notices.

Powers for Registrar:

In these rules the Registrar has, in effect been appointed as the ***"screener"*** of all complaints. This should not be the role of the Secretary and Registrar. A screener should be someone, or ideally a group of persons, who are able to assess the merits of the complaint either criminally, professionally or from a health perspective before referring it to a disciplinary committee.

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Additionally, we do not believe that a decision as to whether the registrant needs to undergo medical or performance assessments should be left to one person alone.

The General Optical Council specifically recognises this and they state for their FtP 2005 Rules:

> ***Delegation of Investigation:***
>
> Where an allegation has been made against a registrant, an officer of the Council, other than the registrar, may, until such time as the Investigation Committee considers the allegation under rule 6, exercise the function of investigating allegations which is conferred on the Investigation Committee by section 13D(5) (investigation of allegation of impairment of fitness to practise).

The practical consequence of this would be that an independent process for all complaints, subject to published guidelines, would be put into place to take over this role. This process (entitled a preliminary complaints processing committee perhaps?) would be subject to published guidelines set by the investigations committee and would also be subject to specific performance targets that would need to be audited each year.

Rule 4 paragraph 7 specifically allows the registrar to specify the matters to be assessed and the composition of the assessment team. As stated above we do not believe that the registrar should be expected to have the requisite competency to discharge this responsibility. Schedule 2 (performance assessments) of the consultation fails to address the basis on which the registrar would decide the composition of the assessment team nor how the registrar would decide what matters were to be assessed.

We accept that certain allegations may need to be fast tracked, especially if the registrants Health is in question but procedures can be put into place to enable the Investigations Committee to consider these fast tracked cases and the need for assessments.

Recommendation:

1. **A suitably qualified preliminary complaints processing committee is established to undertake the preliminary screening role. They would also decide on whether fast tracking or assessments where needed.**
2. **We would anticipate that any guidance or criteria issued to any RPSGB staff, committee members or advisers should be published and be subject to the standard statutory consultation.**

Voluntary Removal from the Register

Any registrant must have a right to have his name voluntarily removed from the register by merely giving notice to the Society with the information under Rule 3 (2)(a) and (b) only. The Society cannot have any right to keep a registrants name on the register against their will should they no longer wish to practice in pharmacy. And how can this anachronistic rule sit comfortably with the issue of registrants struck off for non payment of fees? A significant section of Rule 3 is tantamount to a "fishing expedition".

What the Society is trying to achieve with this specific initiative it can more than easily achieve by dealing with an applicant when they subsequently wish to be restored to the register (including Rule 4).This also applies in a situation where a registrant wishes to join another healthcare profession

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Responses to consultation

We would expect all responses to the consultation to be reviewed by a working group formed by Council and not by the persons who have drafted the rules in the first place. The Council's S60 working group would be perfectly placed to undertake this work as it is already very familiar with the S60 order.

Questions posed by the RPSGB relating to FtP procedures

It is of some concern that the questions posed by the Society avoid fundamental issues and major policy areas, for example Human Rights Act considerations. Presumably this was because the RPSGB feels that they are **"*given*"** in the same manner as the ***"given"*** issue in question 29.

Equally, we are concerned that the process involved very significant cross-referencing against numerous sets of draft rules. Many of these draft rule booklets (from a set of seven) received no attention at all from the questions asked.

The overall consultation exercise

There is no doubt that the implications of the FtP rules on all pharmacists will be immeasurably greater than the implications involved in the RPSGB Charter changes that engaged the profession in 2003-04 and yet these two issues could hardly have been handled in a more different way. The Charter debate involved much coverage in the Journal, roadshows and plenty of debate within the profession. The RPSGB went to great lengths to raise awareness. In contrast, the FtP rules consultation has been positively low key and even the documentation provided to the more dedicated reviewers has been very hard to digest and work through. Consequently, it is likely that the consultation exercise will have passed many registrants by.

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Answers to questions

Question 1

Should the retention fee systems for pharmacists and pharmacy technicians be the same ?

We agree that the system for collecting fees from pharmacists and pharmacy technicians should be the same.

Should non-payers of the retention fee be automatically removed from the register?

We do not agree that non-payers should automatically be removed from the professional register. We have dealt with cases on behalf of our members where mistakes made by the RPSGB resulted in registrants being struck off the register for non-payment of fees through no fault of their own. Examples include where credit card details have been given to the RPSGB and staff have failed to operate the credit card systems properly. Subsequently, when no fees were collected, they have not informed registrants that this is the case. For the sake of common sense the registrar MUST send a reminder 60 days after the original retention fee notice has been sent reminding the registrant that they have a further and final 30 days to make a payment.

In addition, the Registrar MUST issue receipts within 14 days of receiving the payment from the registrant.

Removal for non-payment of fees should only occur in the event that the RPSGB is reasonably confident that registrants are actually aware of their missed payment and have still not paid their retention fee e.g. when the Society knows that a recorded delivery letter has been accepted at the address of the registrant. Alternatively, if the Society has had no contact whatsoever from a registrant despite reminders for a significant period after the renewal date e.g. three months.

Should people who have not paid their retention fee by January 1st be allowed a further two months to pay before being removed from the register?

Yes – for reasons described above.

Question 2

Should all applicants for registration provide a recent certificate of good health or should there be a self declaration with the option to require a medical certificate in some circumstances?

Self-declaration of good health should suffice for all prospective Pharmacist registrants entering the register through the pre-registration year and exam route. A medical certificate should only be required in some (defined) circumstances for all other Pharmacist prospective registrants.

Rule 9, (2) (b) (i) requires that a medical practitioner registered either in the EU or elsewhere certify that the person applying for registration is "fit to undertake the duties of a pharmacist … "

This is an inappropriate requirement as it pre-supposes that medical practitioners worldwide have at the foremost con-

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sideration the RPSGBs' definition of a Pharmacist's duties.

We are also aware that some medical defence unions are advising their members to avoid providing medical certification with such a strictly defined wording requirement.

Question 3

Are there any other UK qualifications for pharmacy technicians that you feel ought to be included in the Society's Registration Criteria?

None that we are aware of.

Question 4

Do you agree with the proposed definition of 'good character'?

We do not agree with the proposed definition of "good character".

If you disagree, what changes do you suggest?

The Bolam principles would apply to practitioners at the cutting edge of practice. The duty of care to provide the very latest or best treatment against "***published guidelines***" is erroneous, since by definition, these guidelines will be out of date as soon as they are published. Thus to assess character on the basis of "standards of conduct published" is deficient. We would advocate adding the wording highlighted below:

" ***.. that is inconsistent with the standards of conduct published by the Society or unjustifiable to ones professional peers or the exercise of the pharmacy profession.***"

Question 5

Do you agree with the proposal to use the Good Character Assessment Framework in determining whether or not a person is of 'good character'?

We agree with the principle of using a good character framework. However, there are certain factors listed in the table that need clarification.

If you disagree, what changes do you suggest?

"***Seriousness***" needs to be defined. A "***less serious***" crime committed repeatedly over a long period of time may in particular circumstances become a serious matter.

The term "***recency***" needs to be defined. A recent Statutory Committee hearing recently threw out a case in which the Society was trying to prosecute against a pharmacist who had been prosecuted eight years earlier. In his summing up, the Statutory Committee chairman suggested that he did not want to have any cases brought to him that were older than

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four years. Indeed he went further and suggested that in future under new powers, he would actually award costs against the Society if it were to repeat such a referral. This case has implications for the Society's reliance on recency in its deliberations on good character. Moreover, a ten year old motoring offence cannot be viewed in the same manner as a 10 year old conviction for criminal assault.

The term "***insight***" is very hard to judge. There may be particular cultural and subjective criteria that may demonstrate insight or lack of. The Rules need to ensure that the statutory committees including the Investigating Committee expressly takes this into account in formulating procedural criteria.

Finally, it is important to observe that no two cases will be the same, nor will all cases easily fit into a specific category in a table. Judgement and discretion will always have a role to play and to suggest that frameworks should be the final arbiter and replace this kind of objective judgement process would be a big mistake.

Question 6

Are there any other matters which you would like to see added to the Good Character Assessment Framework?

There are no specific areas that we feel should be added to the good character assessment framework. However, we need to accept that not all processes in pharmacy can be subjected to a Standard Operating Procedure and this particularly applies to leading edge practice. The RPSGB's regulatory processes must be flexible enough to allow for innovation.

Question 7

Do you agree that when considering the seriousness of the conduct or behaviour in question the list of aggravating factors on page 27 should automatically qualify the conduct or behaviour as serious?

We agree with most of the aggravating factors but make the following suggestions.

If you disagree, what changes do you suggest?

We question the use "***… a blatant disregard for the law or ..***" as an aggravating factor in considering good character.

Clearly, someone who parks on a yellow line or is caught speeding could be said to be blatantly disregarding the law. Moreover, some individuals will actively break the law as a protest in situations where they genuinely believe that the law should be changed. It has to be remembered that not so long ago, laws existed in some countries in Europe that most reasonable individuals would find utterly objectionable. We must not mistakenly suggest that simply because something is law it is correct and that therefore blatantly disregarding it is a slur on a good character.

We are troubled by the absence of any aggravating factor involving commercial gain. Clearly, any conduct that is motivated by the prospect of commercial gain above the interests of patients should automatically be an aggravating factor. This should especially apply to superintendent pharmacists who have the potential to set conditions that may place com-

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mercial interests over the interests of patients.

Do you agree with the referral criteria used by the Infringement Committee?

The Investigating Committee will take into account existing guidance together with the proposed new criteria for Health and performance cases. The current criteria used by the Infringements committee for referral to the current statutory committee is exhaustive.

We would expect to see a full consultation before any changes, substantive or minor, are made to the existing criteria.

If you disagree, what changes do you suggest?

Given that the RPSGB enjoys a dual membership and regulatory role it must apply the following in Health cases. In Health cases the overriding principle must be that the registrant should not be in a position to harm himself nor a member of the public. Once that position is established then all help and support must be extended by the membership body to help the registrant overcome his condition and return to safe practice.

Do you agree with the draft criteria in relation to performance cases?

We disagree on several points with the draft criteria.

If you disagree, what changes do you suggest?

1. For performance cases we would expect to see wording like

" *repeated and unjustifiable failure to comply with advice ..*"

" *repeated and unjustifiable breaches of undertakings..*"

2. We advocate the use of a panel of assessors so that the registrant has a reasonable right to refuse to be assessed by a specific member of a proposed panel.

3. Mere failure to comply with recording CPD should not trigger a performance case. The CPD committee will be a statutory committee and we await the draft rules relating to CPD.

Question 8

Do you agree with the draft criteria that the Investigating Committee should take into account when referring cases to the Health Committee?

If you disagree, what changes do you suggest?

We are disappointed at the preamble to the current referrals procedure of the Infringements committee which sets the tone for its investigating duties. The Society should frame its guidance in a simple straightforward manner that re-states the right to an equitable due process for the registrant and a fair and transparent process for the complainant.

We would anticipate that in the interests of transparency the new Investigating Committee (IC) will release its rules and guidance for referrals for consultation before they become effective.

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Moving specifically onto the draft criteria for referral from the IC to the Health Committee we make the following observations.

It is for the RPSGB to demonstrate that in the event that a registrant provides a satisfactory medical assessment from a medical practitioner but the Health Committee demands a further medical assessment, that the reasons for such a further assessment are given to the registrant.

The refusal by a registrant who has already provided a recent medical assessment to undergo the RPSGB's medical assessment should not count as a further disciplinary matter.

Question 9

Do you agree with the criteria for 'fast tracking' cases to the Disciplinary and Health Committees?

We disagree with some of the criteria the RPSGB proposes for fast tracking cases because they demonstrate a lack of insight by the Society into the day to day operations of a pharmacy.

If you disagree, what changes do you suggest?

A registrant may make a large number of dispensing errors in a single day due to an extraordinary one-off set of circumstances. Similarly, one single serious error, in an otherwise unblemished 30 year career, for example, does not necessarily justify fast tracking.

The RPSGB proposal that the outcome of the error, which could occur after one single dispensing mistake, should be a determinant for fast tracking is shallow and merely plays to a public appeasement agenda rather than an intelligent and equitable approach to regulation.

Fast tracking should only apply if there is a clear and ongoing risk to the public, not simply for purposes of obtaining an interim order but also to ensure that the case itself is fast tracked to a full hearing by either the health or disciplinary committees.

Question 10

Do you agree with the proposed definition of deficient professional performance?

We disagree with the definition.

If you disagree, what changes do you suggest?

We propose the following amendments to the definition of deficient professional performance (DPF):

"***Deficient professional performance is defined as professional performance which repeatedly or seriously falls ….***"

" ***Deficient professional performance may include professional performance that would fall below the***

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***standards expected by peers* or competencies either repeatedly, or on a single serious occasion.**

"A departure from generally accepted norms of good practice, or unjustifiable on peer review, … "

Question 11

Do you agree with the Performance Assessment Framework?

We agree that there should be a framework but with changes.

If you disagree, what changes do you suggest?

We feel that it is an unnecessary power to be given to the Registrar to order a performance assessment. Only the investigating committee should be able to authorise that. Where the registrar feels such a need exists he should be able to fast track this request to any of the FTP committees.

The power to order assessments should also apply to registrants who:

" ***.. are likely to have direct contact, and or set standards for registrants that have direct contact with, and responsibility …*** " This is important in the pharmacy setting because there are many individuals, especially in corporates that create circumstances and govern environments that directly impact upon individual registrant practitioners.

It needs to be acknowledged that these definitions are therefore clearly not appropriate for all registrants as many will not be working in patient facing roles.

Question 12

Do you agree with the proposed composition of the Performance Assessment Team?

We agree with the flexibility afforded by the proposed structure.

If you disagree, what changes do you suggest?

We strongly object to the Registrar making the decision on the composition of the assessment team.

Once a performance assessment has been ordered the composition of the assessment team should be made from a panel. The registrant should have a right of reasonable objection without prejudice to any of the individuals who make up the assessment team.

We agree that the assessment teams should be constituted on a case by case basis. However, each member of the team should be subject to individual performance measures and these should be transparently published.

We disagree that case managers should be responsible for forming assessment teams as this defeats the whole ethos of arms length process. Certainly, on a case by case basis the FTP committee may delegate this power to the case assessment teams but only with the registrants' consent.

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The GDC lays out the duties of the case management teams that it has put into place. The RPSGB has not published transparent policy guidelines for casework staff and in the absence of this, for fairness and equity, only the FTP committees should appoint the assessment teams.

Question 13

What do you think the role and function of a 'Specialist Adviser' should be?

The role of Specialist advisor is as stated in "Legal, Clinical and Specialist advisers rules 2006" Rule 5 (2)

However, Rule (6) (4) (b) should be amended so that the registrant can cross-examine the specialist adviser on his evidence.

Please note the section on specialist and clinical advisors in the fundamental issues section preceding these answers.

Question 14

What qualities and skills should someone have, in order to be appointed as a 'Specialist Adviser'?

The primary and overarching skill is up to date knowledge followed by the competency to give that expert advice in an unbiased and professional way. In addition he should be recognised for his expertise in that area on which he is advising, with appropriate formal qualifications.He should have at least five years experience in the relevant area of which at least 2 years must be within the last five years. He should have the competencies and experience or have been trained in being an expert witness.

Most importantly, he should not be a professional adversary of the registrant being investigated.

Question 15

In what circumstances do you think it would be appropriate to impose an order for interim suspension or an order for interim conditions on a member's registration?

The circumstances in which an interim order should be placed are adequately defined in Rule 22 (3) (e).

However, we would be creating a two tier register, where NHS employed pharmacists could continue to receive a salary whilst being placed under an interim order whilst non-NHS employed pharmacists or self-employed locums would have their income terminated.

The possibility of having a High Court review the interim order is not a realistic proposition when one considers the costs of such action particularly when there will be no income.

It is imperative that since an interim order may prevent a registrant from practice or impose such conditions on his practice that effectively make the registrant unemployable that these cases are fast-tracked.

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The initial review of the interim order should be reviewed within 3 months and three monthly thereafter. The maximum length of duration of an interim order should not exceed 9 months.

Question 16

What sort of conditions do you think would be appropriate to impose as part of an interim order? How would such conditions work in practice?

The types of conditions and how they could work in practice, as part of an interim order, need to take into account whether the order is health related.

If the interim order is health related, issues such as opiate addiction may make it appropriate to ensure that the registrant works under supervision and has no access to controlled drugs.

If the interim order were related to a registrant who had been charged with a serious sexual offence against a patient or serious violent act against a patient then any patient facing work would be inappropriate. If the charges were not related to the registrants' patients then a condition that the registrant must never be alone with a patient may suffice.

Increasingly conditions will need to accommodate scenarios where pharmacists visit care homes to perform clinical reviews, or where pharmacists visit patients houses (with PCT and patient consent) to conduct a MUR. Even within pharmacies a pharmacist working to a local PGD may be alone in a consulting room with a minor supplying EHC.

If the interim order is based on a deficient performance assessment then a condition that the registrant should not work unsupervised for a period of time may suffice. Additionally a condition for the registrant to undertake additional training may be applied.

There would need to be some monitoring put into place with the registrant and his employers and this would need to be agreed on a case by case basis.

Question 17

In what circumstances do you think it would be appropriate to require a registrant to give and comply with undertakings to the Society?

The IC should be able to accept undertakings in all minor or single isolated misdemeanour cases (irrespective of the outcome of that mistake on the patient) where the registrant acknowledges his FTP is considered impaired and is willing to address the issues.

Given that the registrant has admitted his situation, the purpose of any FTP process is surely to ensure that the registrant is rehabilitated back into the profession.

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Question 18

What sort of undertakings do you think it would be appropriate for the Society to accept?

Evidence that conditions set by the Society had been met.

Question 19

In what circumstances do you think it would be appropriate to impose conditions on a member's registration?

Conditions may need to be imposed on a registrant if there was a clear identified risk to either the public or the registrant himself. These would be applied in cases where it was evident that the registrant was capable of being rehabilitated. Moreover they could be considered in cases where a registrants impediments could be usefully risk managed by the imposition of conditions concerning specific issues.

Question 20

What sort of conditions do you think should be imposed on a member in:-

a. a health case; and b. any other type of case in order to protect the public?

Again the overarching aim should be protecting the public and rehabilitating the practitioner. For health cases conditions which may be acceptable should start from the registrant showing willingness to accept or undergo treatment. This would clearly demonstrate his acceptance that his FTP is impaired.

Depending on the nature and severity of the condition there could be a condition

a) not to work unsupervised

b) not work in a patient facing environment

c) to avoid work under stressful or demanding environments e.g. working long hours or working without breaks.

d) to provide periodic reports as to progress on his condition for a stated period of time

For non-health cases, say where there were repeated dispensing errors but no other issue, then a condition that the registrant should not work alone, work only alongside accredited checking technicians or be prohibited from working unsupervised may suffice.

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Question 21

Do you think the employer should have a role in monitoring and enforcing any undertakings or conditions?

As the profession moves to being primarily an employed profession, either by the private sector or NHS there will be a role for the employer to play. However, the profession is effectively a three tier profession. The first tier is afforded all the benefits of the NHS as employer. The second tier are those employed by large corporate entities and the bottom tier is largely composed of small companies or self-employed independent practitioners. The role of the employer will thus vary. However, in every case the role of the employer should be secondary to the role of the professional and regulatory body. The whole point of the regulatory reforms is public protection and public perception. The RPSGB cannot abdicate its duties to another entity – particularly a commercial one.

Within a hospital pharmacy there will be adequate resources to provide support and mentoring for a registrant. This would apply similarly for employees of large corporate entities. Despite this, the Society would still need to provide some independent monitoring of the situation. Care would also need to be taken in those situations where monitoring by an employer would be inappropriate such as when an employer is implicated in a disciplinary episode.

It is incumbent on the RPSGB to ensure that the conditions it imposes are not merely uniform but take into account the circumstance of the registrants employment.

Question 22

In what circumstances do you think it would be appropriate to suspend a member's name from the Register?

Suspension may be used as a sanction when erasure would be too harsh. In ALL cases where there is no public risk at issue suspension will ALWAYS suffice as a reasonable punishment.

Erasure should be the last option and should only be considered in cases where there is an ongoing risk of real harm to the public which cannot be risk managed or effectively rehabilitated.

Question 23

On page 39, we set out some instances where it would be appropriate to remove a member's name from the Register. Do you agree with these cases?

WE agree with some of the instances.

If you disagree, what changes do you suggest?

We are glad that the consultation states erasure may be appropriate where **" *continuing risk to patients …*"** The risk (or lack of) to the public should be balanced by the need to demonstrate censure for maintaining public confidence.

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Dishonesty, whilst being objectionable, should not qualify for automatic erasure. The risk to patients, especially in an employee situation, would not merit such action.

However, in all circumstances the rehabilitation of the registrant especially when insight is shown should be a primary goal for the FTP committees.

Question 24

In what circumstances do you think that the Disciplinary Committee should exercise its power to award costs against a party?

The role of the regulator is to regulate and FTP costs are part and parcel of its statutory duties.

However, there may be occasions when the FTP committees come across a case where there is a deliberate and wilful denial of facts by a registrant merely to obstruct the investigation and subsequent proceedings.

Only in such an instance should costs be awarded against the registrant and then only after taking into account the financial circumstances of the registrant.

Question 25

Do you think that costs should include the cost of investigating the case (e.g. cost of an Inspector/administration time/costs of Investigating Committee etc) or simply the costs of the hearing before the Disciplinary Committee (e.g. witness expenses, legal fees, shorthand writer)?

The costs should relate only to the costs of the Disciplinary or Health committees time and the cost of any additional expert witnesses over and above the specialist adviser.

Costs should be awarded against the registrant only after taking into account the financial circumstances of the registrant.

Question 26

Do you think that the costs of the hearing should include the initial costs of medical examination/performance assessment and the subsequent costs of preparing the first report necessary to bring the case?

The costs of the medical or performance assessment should not be included in the costs for the hearing as these have been instigated by the regulator as part and parcel of discharging its statutory obligations. The only exception to this would be if the registrant chose to provide his own independent medical assessment.

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Question 27

In what circumstances do you think that costs should be awarded against the Society?

Costs should be awarded against the Society;

1. When there is evidence that injudicious or incompetent handling of the case may have prejudiced the allegation and its subsequent investigation.
2. Where the regulator may have been over-zealous, one-sided or vindictive in its prosecution and /or handling of the case.
3. Where errors have been committed by the Society
4. Where the process has been delayed unnecessarily or is a case that is being prosecuted by the Society despite being many years old.

Question 28

What sort of evidence do you think that a person should be required to produce, in order to satisfy the Disciplinary Committee that his name should be restored to the Register?

The implicit assumption should in all cases be that once a period of erasure has passed and the registrant has demonstrated that his CPD and other relevant professional knowledge pertinent to his area of practice is up-to-date he be allowed back onto the register.

Restoration to the register should only be refused if the regulator has grounds to suspect or has evidence to confirm that the registrant were he allowed to return to the register would continue to be a risk to the public or bring the profession into disrepute.

Question 29

Given that a person can only be restored to the register after the expiry of five years from the date of removal, what sort of refresher training do you think would be appropriate to require of such a person before granting his application for restoration to the Register? What form of assessment do you think would be appropriate to demonstrate that such a person is fit to return to practice?

We do not accept at this stage of what we presume is an honest "***consultation***" that it is a "***given***" that a registrant can only be restored to the register on the expiry of 5 years from date of removal.

There should be more flexibility for the FTP committees to issue suspensions greater than 12 months and erasures of

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less than 5 years.

That said, there would be several aspects that could be considered as being supportive of a return to the register.

1. Participation in a recent CPD programme of at least a years duration.
2. A period of supervised practice alongside a registrant who is then prepared to attest to the candidates suitability to a return to practice.
3. Suitable character references (not necessarily from pharmacists)

Question 30

On page 40, we set out a draft set of matters that the Disciplinary Committee should consider when deciding whether or not to restore a person's name to the Register? Do you agree with the list of matters to be taken into account?

We strongly disagree with the Disciplinary committee taking into account any representations made by victims or their representatives. What purpose could such a suggestion ever usefully serve? There would be little or no prospect (for example) of a member of the public whose close relative may have died as a result of an error of a registrant ever being able to make an objective contribution at such a hearing.

Question 31

What sort of evidence do you think that a person who has been off the Register voluntarily for a period of over twelve months should be required to produce to satisfy the Registrar that his name should be restored?

We agree with the premise that there should be some mechanism of ensuring that anyone wishing to re-join the practicing register should be able to demonstrate their FTP. However, we disagree that the first threshold period should be only twelve months. Such a position would greatly disadvantage women who may have temporary family commitments. We are therefore suggesting 18 months as the first threshold.

In cases where the restoration is within 18 months of leaving then a self-declaration should suffice.

In cases greater than 18 months but less than 5 years then evidence of a specified number of CPD episodes undertaken in the last twelve months would suffice.

In cases greater than 5 years the applicant would need to demonstrate CPD and should have to undergo a refresher course. A performance assessment test relevant to the sector they intend to practice in may also be appropriate.

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Question 32

What sort of refresher training do you think would be appropriate to require of such a person before granting an application for fresh registration? What form of assessment do you think would be appropriate to demonstrate that such a person is fit to return to practice?

As above.

Question 33

Would you like to make any other comments?

1. Informing employers

We are greatly concerned that the Society may have powers to inform employers of any allegations even before it had referred the case to the investigation committee. Such a notification to employers would cause great damage to a registrants reputation, even if subsequently they were exonerated by the investigation. Such a report to employers should only be made when the evidence is absolutely clear and is not solely reliant on an allegation. i.e., in the event of a prosecution in a court.

2. Dilemma for the Society

The nature of these FtP rules indicate finally and abruptly that the Society cannot ever hope to continue on in a role of both regulator and membership body. Indeed, how can the Society ever hope to advise and support pharmacists or continue to support programmes such as the Listening Friends scheme when its obligations are set out and expressed in terms that have appeared in this draft. The emphasis of these rules is to punish and pillory individual practitioners. There appears to be no appreciation of the fact that mistakes do occur in pharmacy and at some stage, virtually every single practitioner will make a mistake. Instead of supporting a risk management agenda, where mistakes are used as learning episodes, the proposed regime (with an enlarged inspectorate) could easily produce a scenario where the vast majority of pharmacists on the register would be called into a disciplinary investigation. In short this proposed FtP process has the potential of bringing the profession of pharmacy into disrepute.

3. Draft registration rules

Rule 4 (5) (6) and Rule 5(g) refer to the same issue about annotation. However, rule 5(g) specifically mentions that this annotation should only be for a specified period. For the sake of clarity annotation must only be for the period specified by the FtP committee.

There is a significant difference between annotation of the register and the publication (electronic or otherwise) of this information. It is essential that in considering the publishing of any FtP history or erasures or suspensions that a balance is struck between what constitutes public protection and also the right of the registrant to put the past behind him. Clearly the case for providing all information on past annotations to employers is a much stronger one.

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- We are unsure of the meaning of current professional status as stated in Rule 8.
- Rule 12 (6) (a) specifies that the registrar should not admit an applicant unless he is sure of his "fitness to practise". There should be explicit published guidance on the criteria that the Registrar uses to determine this fitness.
- Rule 12 (7) (a) states that the registrar shall inform the applicant promptly. This is unsatisfactory and a clear timeline should be given. The registrar must provide a full and detailed explanation of why registration is being refused.

5 years is not an appropriate minimum time for erasure from the register for the following reasons.

a) it removes the discretionary powers of the Disciplinary Committee who have the knowledge and wisdom to decide when a person is fit to be restored to the register.

b) it imposes upon the applicant immense stress to maintain and obtain sufficient pharmaceutical knowledge over such a period that will deter them from practising pharmacy again.

c) It is a potential breach of the Human Rights Act

4. Draft Registration Appeal Rules :

We disagree with any admission of "evidence" that is below the standard required even in civil courts. We would like to see a detailed explanation and examples (in the explanatory notes) how this suggestion would ever serve the purposes of justice and fair play.

5. Draft FtP Rules :

The whole ethos of these reforms is to deliver better public protection. Yet, the Rules do not allow a process where a complainant can bypass the system and make a complaint directly to any FtP committee. The consequence of this is that the Secretary and Registrar becomes the rate-determining step in all cases and this is not helpful in the totality of what the Section 60 Order is trying to achieve. The FtP committee is of course at liberty to refer the matter for investigation or a hearing etc, but that provision for any complainant to make a direct complaint must be there.

6. Procedure of Fitness to Practice Committees Rules

Rule 13 (a) - There is no mention of the Disciplinary Committee considering a complaint direct from the public. This is an serious omission as a direct complaint has an advantage to the complainant in that it by-passes the body politic e.g RPSGB. This has been very useful in the public interest in past Statutory Committee cases.

7. Draft RPSGB Membership of Fitness to Practice and Registration Appeals Committee Rules

Rule 3 (5) - Surely one member should be medically qualified

Rule 4 - Current presumably means existing council members

Rule 21 (2) - Surely the chairman should have a casting vote in the event of having a equal number on the committee and a split decision occurs. As at present in the disciplinary committee we recommend that the chairman would have to agree with a decision to order the erasure of a registrant.

Further information is available from:

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