

A pharmacist is unaware that he is going through a formal disciplinary procedure.

↓ THE CASE

A pharmacist received a telephone call from an RPSGB inspector to arrange a visit to the pharmacy, in which he was working, to discuss a dispensing error. During the visit, the pharmacist was told that he had allegedly made a dispensing error in another pharmacy in the previous month and had a complaint made against him by a member of the public and that she was conducting an investigation.

The inspector discussed the incident with him and, consequently, he freely offered information to her there and then, which, on the face of it was self-incriminatory. He was asked to sign the notes jotted down by the inspector, and he duly obliged.

The pharmacist was subsequently surprised to receive a written warning from the Infringements Committee warning him of his future conduct.

↓ FACTS AFFECTING THE CASE

If The Society receives a complaint from the public, another healthcare professional or a fellow member, it is required to investigate. The Inspector's role has significantly changed over the years as a result of the professional body leaning more towards its Regulatory function, consequently their scope for showing discretion in dealing with complaints is now limited. It is incumbent upon the inspectors to be

transparent and show due deference to pharmacists' rights and whilst inspectors will always attempt to conduct investigations in this way: sometimes pharmacists who are in awe of the inspector may forget to exercise their rights or may not even know what their rights are under such circumstances.

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01. Formal interviews should be taken under caution: this is a verbal warning along the lines of 'you do not have to say anything or reply to questions but if you fail to disclose something which you later rely on in your defence at a later stage, this may have negative consequences for you'.
02. You do not have to be interviewed there and then. If it is inconvenient, say and arrange a more convenient time.
03. Take some time before the interview to go over what you know. Consider having another person (another pharmacist, or a PDA representative) present when you are being interviewed to take notes and support you.
04. Before starting to deal with any formal interview, ask to see the available evidence. Always try to understand what the nature of the complaint is before answering any questions.
05. You may decline to answer any or all of the questions put to you. However, your professional responsibility is to reply honestly to questions directly relating to the event under investigation.
06. Be frank with questions relating to staffing levels, training of staff and dispensing procedures, but be sure of your facts. If you feel that an error arose as a result of unacceptable procedures or systems imposed by your employer, you should tell the inspector at the time of the interview.
07. You may stop the interview at any time if you wish to have a break or to deal with other business. Also be aware that whilst you are not obliged to provide your home details, you will need to be able to provide a suitable and reliable contact address and telephone number, e.g. mobile. Invariably this may, through necessity, have to be your home details if you have no alternative.
08. When a written record is made, in the inspector's notebook / interview sheets, you will be asked to initial or sign they are correct. Take time to read it thoroughly before doing so. Your witness should also be asked to sign.
09. Always ask for a copy to be left with you and forward a copy to your Head Office and your insurers.
10. If you are talking to the inspector casually either before or after the formal interview, do not discuss the incident under investigation.
11. **If you are to be subjected to an RPSGB investigation, always contact the PDA for advice.**

An RPSGB inspector investigates a formal complaint. The pharmacist declines ‘legal representation’...

↓ THE CASE

A dispensing error occurred and because the Pharmacy Manager and Area Manager did not deal with the situation appropriately by not responding to the complaint promptly, the patient complained to the RPSGB. A Locum Pharmacist had been implicated in the dispensing error and had been invited to an interview with the RPSGB inspector. Following the interview, the pharmacist received notification that the Infringements Committee would meet, to decide whether “it wishes to refer either one or both pharmacists for prosecution for a breach

of the Medicines Act 1968” and “whether it wishes to refer either/or both pharmacists and /or the Company to the Statutory Committee on the grounds that a dispensing error of this nature and the manner in which the complaint was handled, constituted serious professional misconduct”

As is the norm in these cases, the Pharmacists and the Company involved were given the same extracts of any statements that were to be put before the Committee and were invited to respond to the allegations in writing.

↓ FACTS AFFECTING THE CASE

This was a case whereby its unnecessary escalation was almost certainly fuelled by an inadequate response to the complaint in the first instance.

Because the Locum pharmacist was convinced of her innocence and was sure that the employee pharmacist was to blame, she did not see the potentially damaging consequences of this interview and declined to have a representative present. This resulted in her providing a series of self-incriminating statements and an attitude that did not help in mitigation.

In contrast, the employee and other company personnel did have a representative who exercised their right to intervene to protect the interviewee where appropriate. Subsequently, the Infringements committee was critical of the locum pharmacist and she then belatedly contacted the PDA who helped her with her response to the Infringements Committee.

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01. Two out of three errors are escalated further because the complaint was not dealt with adequately in the first place.
02. Dispensing errors are a breach of the Medicines Act 1968. In practice, it is highly unusual for The Society to prosecute as they prefer to handle the matter as a misconduct issue. Nevertheless they have the statutory powers to do so and infringement of the act can even lead to imprisonment.
03. In the case of matters of a serious nature, it is always preferable to have a representative present when undergoing an interview with an RPSGB inspector. Before agreeing to an interview time and venue, contact the PDA.
04. Inspectors should conduct their interviews under the PACE (Police And Criminal Evidence Bill) guidelines. Your rights during such an interview are laid out in the PDA Professional Disciplinary No.1 (overleaf).
05. Any report from the inspector that includes evidence, that on the face of it (prima facie evidence), could support a prosecution or a complaint to the Statutory Committee, will be considered by the Society's infringement committee.
06. This committee may at its discretion choose not to pursue either of these actions but issue instead a warning letter to you. This is your opportunity to agree that the allegations are correct and undertake some remedial action, or challenge the allegations.
07. If you challenge them, the Committee may agree with your challenge and withdraw its warning or refer the matter for prosecution or inquiry by the Statutory Committee. The Statutory Committee may or may not hold an inquiry, but they usually do.
08. **Should you learn of a potential RPSGB disciplinary action – always contact the PDA for advice.**