



# The PDA's response to the General Pharmaceutical Council's (GPhC) consultation: 'Draft equality guidance for pharmacies.'

June 2022

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## Summary

The General Pharmaceutical Council recently published its EDI policy within which it confirmed that it would develop and issue “comprehensive” equality guidance to owners of pharmacy premises.

The purported aim of the guidance is to help support pharmacy owners in creating an open and inclusive environment and the GPhC claims that this equality guidance could help support this. The proposed EDI guidance is set out under the five principles used within the GPhC standards for registered pharmacies.<sup>1</sup>

## Response to Questions.

<b>1. Thinking about the structure and language of the guidance, do you think it is easy to understand?</b>
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No. The wording used in the guidance potentially sends mixed messages.

Page 16 of the consultation says:

*“As a pharmacy owner, you have an important role to play in carrying out your equality policies and procedures and in achieving fair outcomes.”*

Page 19 in the consultation document says:

*“You should consider developing a clear equality policy for your staff and the people using your services. This is not a legal responsibility, but it demonstrates good equality practice and lets everyone know that this is something you take seriously.”*

Overall, the structure is rather laboured. Pharmacy premises derive their income from NHS services so we welcome the statement in the guidance:

*“We expect you to follow this guidance. Not following the guidance might mean that you fail to meet one or more of the standards for registered pharmacies.”*

However, this statement is lost on page 12 of the Guidance document - it must be given more visibility and a greater emphasis.

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<sup>1</sup> [standards\\_for\\_registered\\_pharmacies\\_june\\_2018\\_0.pdf \(pharmacyregulation.org\)](#)

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2. Thinking about the structure and language of the guidance, do you think it is easy to apply?

No. The structure and language are important but so is actual relevant content.

### **Risk Assessments:**

Wording such as:

*“You do not have to carry out a specific, separate, risk assessment at every pharmacy.”*

which will make the guidance exceptionally easy to apply for large corporate pharmacy owners.

Simultaneously, this language will ensure that the guidance has little by way of meaningful impact because the majority of pharmacy premises are in corporate ownership (with some entities owning in excess of 1,000 premises)

How will risks be identified at each location unless a risk assessment is undertaken specific to the circumstances of that individual premises? A simple amendment to the wording is described below, which should be linked to the premises standards could be:

*“You ~~do not have to~~ **must** carry out a specific, separate, risk assessment at every pharmacy.”*

This would make the guidance effective and fit for purpose and would link directly with the standards for premises.

The need for a relevant pertinent risk assessment was illustrated when the GPhC had to issue a statement reminding premises owners of the need for owners to review their risk assessments in light of the Covid-19 pandemic. The PDA fielded countless calls from concerned pharmacists that corporate Head Offices were expecting premises to operate as usual without any premises specific risk assessment being undertaken.

This then led to a failure to risk assess at the required local level or to take into account specific local factors. Given the significant diversity of the pharmacy team workforce and of patients within local neighbourhoods this failure by some larger corporate owners posed an ongoing risk to both patients and staff within those pharmacy premises.

It seems that the GPhC has failed to build in any learning from the Covid-19 pandemic. The Chief Executive of the GPhC, in an interview with a pharmacy magazine (at the height of the pandemic) specifically noted:

*“He cited evidence that the sector “hasn’t necessarily seen the level of practice we would expect” with regard to performing risk assessments for staff and working environments,”<sup>2</sup>*

Many local authorities<sup>3</sup> specify that any generic risk assessment must be adapted to consider risks at that specific site.

“Such model assessments may be applied by employers at each workplace, but only if they:

...adapt the model to the detail of their own work situations ... This is referred to as a site specific risk assessment. Enforcers will not accept generic assessments where a site specific risk assessment is needed and legal action may be taken against your company – particularly where a serious accident / incident has occurred.”

### **EDI to be integral part of Premises Standards:**

We are also concerned that meeting of all legal EDI requirements could be perceived, due to the wording in the premises standards, not to be an integral part of the premises standards and also of any inspection framework.

The GPhC “Standards for registered pharmacies” states:

*“As well as meeting our standards, the pharmacy owner must make sure they comply with all legal requirements including those covering medicines legislation, health and safety, employment, data protection **and equalities legislation.**”*

This seems to separate out meeting GPhC standards from the obligation of pharmacy owners to comply with EDI legislation. The GPhC standards for registered pharmacies needs to be reworded (our suggested addition in red):

*“As well as meeting our standards, the pharmacy owner must make sure they comply with all legal requirements including those covering medicines legislation, health and safety, employment, data protection and equalities legislation. **Premises owners should also be able to demonstrate how they have incorporated our EDI guidance for premises within the operations of the pharmacy. Failure to do so will be an automatic breach of these standards**”*

This then links the proposed equality guidance in a tangible way with the standards for premises and which makes clear to premises owners that a failure to

<sup>2</sup> GPhC prepared to pursue employers over Covid risk assessments ([pharmacymagazine.co.uk](http://pharmacymagazine.co.uk))

<sup>3</sup> Risk assessment | Westminster City Council

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meet the legal requirements or satisfy equalities guidance will be an automatic breach of premises standards.

Similarly, the GPhC inspection decision making framework<sup>4</sup> used by Inspectors when undertaking Inspections of premises **must** oblige Inspectors to consider the equalities guidance and whether (and how) it has been applied for each of the 5 principles of the premises standards.

Failure by the premises owner to demonstrate how the equalities guidance has been applied in that particular premises for each individual principle should automatically lead to a **standard not met** outcome for that principle and an overall standard not met.

The existing framework does not mention the word equalities or diversity or inclusivity or the term EDI even once within the 29 pages of the document.

3. Please give comments explaining your answers to the two questions above.

We appreciate that current Regulatory thinking (driven by Government thinking) is geared towards making things simplistic in understanding and application. Unfortunately, there are some aspects of regulation which cannot be reduced to “easy language” or follow an “easy process” in such simplistic terms. Guidance has to be fit for purpose in order for regulation to be fit for purpose. We have given examples where this guidance is, essentially, not fit for purpose.

We have also proposed solutions for GPhC to help ensure that this guidance can become fit for purpose by ensuring the guidance is linked to the standards for premises and the inspection framework used by Inspectors when undertaking inspections of pharmacy premises.

4. Thinking about the areas covered in the guidance, do you think we have missed out anything important?

Yes

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<sup>4</sup> [Inspection decision making framework \(pharmacyregulation.org\)](https://www.pharmacyregulation.org/inspections/inspection-decision-making-framework)

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5. If 'Yes', please describe the areas we have missed.

The GPhC is in a privileged position in being allowed to undertake inspections of premises from which healthcare professionals provide professional services. It is the only healthcare regulator that has this privilege.

With the privilege, comes an obligation to meaningfully discharge this duty imposed on it. This guidance is a continuation of the process where the GPhC is failing to create a framework of Inspection to ensure that pharmacy premises, which are in receipt of substantial NHS income, are meeting their legal equalities obligations.

The format for each Inspection is standardised and under each Principle (of the premises standards) there is a "Summary findings" followed by a section titled "Inspectors Evidence".

To make this equalities guidance effective and fit for purpose, each Inspection report should contain a subsection in the "Summary findings" stating whether the premises had applied the GPhC equalities guidance. The narrative in the "Inspectors Evidence" would elaborate on this as necessary.

This is a straightforward mechanism by which the proposed equalities guidance ties up with premises standards which then ties up with Inspection Frameworks and Inspection Reports.

Without such linkage the Guidance will be ineffective and rendered useless.

### **Equality and impact questions**

6. Do you think our proposals will have a positive or negative impact on: each of the following groups?

- Patients and the public
- Pharmacy staff
- Pharmacy owners

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**Patients and Public: Negative impact**

England, Scotland and Wales are incredibly diverse. We find the suggestion made in the proposal that there is no need for each premises to have undertaken a risk assessment incomprehensible. The majority of pharmacy premises are owned by bodies corporate, some who own in excess of 1,000 premises each. It is simply unrealistic that any GPhC equalities guidance will be taken seriously by large corporate owners without an obligation being imposed for a specific risk assessment at each individual premises.

How could a generic risk assessment as proposed by this consultation be valid across 1,000+ premises located in diverse areas across Great Britain? The very fact that the GPhC has explicitly stated that each premises does not have to undertake a risk assessment is likely to lead to poor practice and pose a risk to patients.

The risk assessment could, for those owners that own hundreds of premises, be based on a generic version which is then adapted for the circumstance of that specific premises – and every premises **must** have such an individual risk assessment.

**Pharmacy Staff: Negative Impact**

Throughout the pandemic, the PDA has received calls from members concerning the failure of large corporate employers to take into consideration (and mitigate against) specific risks for individual staff at the pharmacy premises. The green light given by this GPhC “Guidance” is likely to introduce risk as premises owners may now think it appropriate that they do not need to undertake a premises specific risk assessment for the specific staff at those premises.

**Pharmacy Owners: Positive Impact (superficially)**

Some premises owners may welcome the GPhC explicitly allowing them not to undertake individual premises based risk assessments. However, they expose themselves to risk of prosecution by other agencies and we strongly advocate that, were the GPhC to actually issue this as official guidance, then they should still undertake a premises specific risk assessment.

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7. Do you think our proposals will have a positive or negative impact on individuals or groups who share any of the following protected characteristics (as listed in the Equality Act 2010)?

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

As proposed, the guidance may not have much impact unless it is linked to the Inspection Framework and how Inspectors would assess pharmacy premises with respect to equalities and whether this equalities guidance has been implemented at the premises together with this being a documented outcome in the Inspection Report.

In effect the proposals will allow the same inequalities to persist as the proposals are inadequate unless some significant changes are made. They could thus **impact negatively** on every individual (patient or staff) with a protected characteristic.

To ensure a positive impact the following changes should be made:

Firstly, the GPhC must ensure that the guidance is linked to the Inspection frameworks for Inspectors and with a requirement that the summary findings and narrative under each of the 5 principles of the premises standards will list whether the premises has demonstrated how it fulfils the requirements of the Equalities Act 2010 and how it has satisfied the GPhC Equalities Guidance.

Secondly, Inspectors must be trained to a consistent standard to enable them to fully include EDI considerations as part of the overall premises Inspection.

Thirdly, each premises must have a specific risk assessment (including a risk assessment for each member of staff)

8. Please give comments explaining your answers to the two impact questions above. Please describe the individuals or groups concerned and the impact you think our guidance would have.

Please refer to our comments to the two questions.

## About the Pharmacists' Defence Association

The Pharmacists' Defence Association (PDA) is a not-for profit defence association and trade union for pharmacists. It is the only organisation that exclusively looks after the interests of employee and locum pharmacists across all sectors of pharmacy. Currently with a membership of more than 34,000, the PDA is the largest representative membership body for pharmacists in the UK and this membership continues to grow.

Delivering more than 5,000 episodes of support provided to members who have found themselves in a critical incident situation in the last year alone, provides the PDA with a rich vein of up-to-date experiences which have informed policies and future strategy.

This experience has recently been informed by the very considerable number of Covid-19 related issues being faced by members. The practical experience gained in supporting member issues from the coal face is further enhanced by regular member surveys and focus group interactions. The information in this document is largely built upon the experience of our 34,000 members.

The primary aims of the PDA are to:

- Support pharmacists in their legal, practice and employment needs
- Represent the individual or collective concerns of pharmacists in the most appropriate manner
- Proactively seek to influence 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 further improve the membership benefits to individual pharmacists
- Arrange insurance cover for individual pharmacists to safeguard and defend their reputation.