



# The Pharmacists' Defence Association's Response to the Pharmaceutical Society of Northern Ireland's Consultation on Guidance on Maintaining Clear Sexual Boundaries

April 2019

## About the Pharmacists' Defence Association

The Pharmacists' Defence Association (PDA) is a not-for-profit organisation which aims to act upon and support the needs of individual pharmacists and, when necessary, defend their reputation. It currently has more than 28,000 members. The PDA Union was inaugurated in May 2008 and achieved independent certification in 2011.

The PDA is the largest pharmacist membership organisation and the PDA Union is the only independent Trade Union exclusively for Pharmacists, in the UK.

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.

## Summary

The Pharmaceutical Society of Northern Ireland is consulting on changes to its guidance on 'Maintaining Clear Sexual Boundaries with People Receiving Care'. The PSNI is conducting a targeted consultation with certain stakeholders.

The consultation runs from 4 April 2019 to 14 April 2019.

## Foreword

The PDA broadly welcomes this guidance from the PSNI. We found it well written, helpful and clear. We respond to consultations from many different government bodies and organisations and it was refreshing to read a consultation where, overall, we found the proposals and associated guidance appropriate and in need, in our view, of only limited amendments.

We take the view that the language and content was tailored well to its audience – pharmacists, and that it would achieve its aims of helping to protect the public.

Generally speaking, we found this guidance to be professional, clear and informative.

## Questions

### Q1. Is the structure of the document helpful?

Yes

**Please provide additional comments, including how the document may be improved in this regard.**

We found the document well structured, meaning the information is accessible to those reading it.

### Q2. Is the document clearly written?

Yes

**Please provide additional comments, including how the document may be improved in this regard.**

Our view is that the document is clearly written overall. Our view is that its scope ought to be broadened, however. We understand that the PSNI may have focused its guidance on patients or “*people receiving care*” (see below), but it is also important for pharmacists to have guidance on maintaining clear sexual boundaries with members of staff and other healthcare professionals, for example. We therefore make the following recommendation.

#### **Recommendation**

The PSNI’s Guidance on Maintaining Clear Sexual Boundaries with People Receiving Care should be broadened in scope to encompass “*patients and others that pharmacists interact with in the course of their work.*”

The PDA takes the view that the PSNI has used the term “people receiving care” to try to encompass both patients and patient representatives. In some parts of the document, it refers to patients, but in others it uses the term “people receiving care”.

The word ‘patient’ means a recipient of healthcare. As opposed to words such as ‘person’ and ‘customer’ (a word more often used in corporate retailing environments), it conveys the importance of the individual as a recipient of healthcare and embraces the ethos and attitude that the pharmacy sector has, and should continue to have, towards recipients of its services. Conversely, the use of the word “person” instead of “patient” can lead to vagueness, ambiguity and confusion in policy documents as to whom the word is referring.

It is certainly important for pharmacists to treat patients and their representatives appropriately – as people would expect to be treated – but that does not mean that the word “patients” or the term “patients and their representatives” should be replaced with “people” in policy, standards or guidance for pharmacists. The approach expected of pharmacists towards patients and their representatives in that regard can be achieved in policy documents by setting explicit requirements or guidance to that effect.

#### **Recommendation**

The term ‘*people receiving care*’ in the guidance should be replaced with ‘*patients and others that pharmacists interact with in the course of their work*’. That is predicated on the PSNI’s acceptance of our recommendation that the guidance be broadened to encompass ‘*others that pharmacists interact with in the course of their work*’ (see above). If the PSNI does not accept our recommendation in that regard and maintains the current focus of the guidance - on patients and their representatives - then ‘*people receiving care*’ should be replaced with ‘*patients and their representatives*’ to ensure that it is clear that the guidance pertains to both of those groups.

**Q3. Does the updated guidance on Maintaining Clear Sexual Boundaries with People Receiving Care, focus on the right areas?**

Yes

**Please provide additional comments, including how the document may be improved in this regard.**

The PSNI has adopted the Professional Standards Authority's 2008 definition of sexualized behaviour. It says in the consultation document: *Sexualised behaviour is an act or form of behaviour designed or intended to arouse or gratify sexual impulses or desires.*

**Recommendation**

The term '*sexualised behaviour*' should not be defined by reference to the pharmacist's *intentions*, since the PSNI could not know what was in the mind of a person accused of such behaviour. The test of whether sexualised behaviour had been exhibited would be a subjective one, under this definition.

Instead, the PSNI could use the definition of sexual harassment highlighted by the Equality Commission for Northern Ireland "*where a person subjects another to unwanted conduct of a sexual nature, for example, inappropriate sexual contact or lewd comments*". [3]

Please see also our responses to question three.

**Q4. Is there any issue/content that is missing from the document?**

Yes

If you answered 'Yes' to Question 4, can you please identify what you think is missing and why its inclusion is important?

#### Recommendation

Section 2.3.4 should be renamed from "Social Media" to "Social Media and other Social Situations" to cover interactions occurring outside of social media and provide guidance relevant to both.

This section should address the fact that many pharmacy interactions may be transient, and the appropriateness of forming a relationship with a former patient in a social setting will be a question of fact and degree. For example, a person may have attended a pharmacy once, then subsequently meet the pharmacist several years later at a social event. The pharmacist may or may not know that the person was formerly a patient.

#### Recommendation

Paragraph 1.5 in the "About this Guidance" section should be amended by adding words to the effect that *"The circumstances of any potential fitness to practice proceedings will be evaluated on a case-by-case basis."*

Where a pharmacist will be in the consultation room with the patient, another member of staff may need to leave the dispensary to act as a chaperone. If staffing levels are not adequate, this may leave the dispensary with few or no remaining staff.

**Recommendation**

In the section on chaperones, the PSNI should add a requirement that it is the responsibility of pharmacy owner to ensure that there are sufficient staff to ensure a chaperone can be available as required.

**Recommendation**

We ask that the Pharmacists' Defence Association be listed in Section 3 as a source of help and advice for pharmacists, alongside the other organisations that are already listed by name.

**Recommendation**

Point 5 of Appendix 1 should be revised to reflect the fact that some internal examinations may be inappropriate whether gloves are worn or not.

**Q5. Do you have any additional comments?**

Yes

#### Recommendation

At paragraph 1.2, the text “(who has access to relevant information and resources)” should be removed. The imbalance of power between a healthcare professional and a patient is not created merely by access to relevant information and resources, but also by other factors such as the power to make the decision as to what care is received, if any.

Please also note the comments we have made in the foreword to this response.

## References

- [1] “Sexual harassment at work: reported cases up 31% over 5 years,” Equality Commission for Northern Ireland, 9 November 2017. [Online]. Available: <https://www.equalityni.org/Blog/Articles/November-2017/Sexual-harassment-at-work-reported-cases-up-31-ove>.