

General  
Pharmaceutical  
Council

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# Consultation on our publication and disclosure policy

July 2018





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## About the GPhC

### Who we are

We regulate pharmacists, pharmacy technicians and pharmacies in Great Britain.

We work to assure and improve standards of care for people using pharmacy services.

### What we do

Our role is to protect the public and give them assurance that they will receive safe and effective care when using pharmacy services.

We set standards for pharmacy professionals and pharmacies to enter and remain on our register.

We ask pharmacy professionals and pharmacies for evidence that they are continuing to meet our standards, and this includes inspecting pharmacies.

We act to protect the public and to uphold public confidence in pharmacy if there are concerns about a pharmacy professional or pharmacy on our register.

Through our work we help to promote professionalism, support continuous improvement and assure the quality and safety of pharmacy.



## Overview

We are consulting until **14 September 2018** on our **publication and disclosure policy**, and an annex that sets out our approach to publishing and disclosing information about individuals who are subject to fitness to practise procedures.

The scope of the policy includes:

- information we publish on our website and online register
- information we disclose to third parties
- how we deal with individual requests for information

The policy also sets out how we balance our aim to be open and transparent in how we discharge our regulatory duties against the rights and freedoms of individuals, so that what we publish or disclose is proportionate and lawful.

We have reviewed our previous policy and annex and are making some changes. We welcome your views on these. The key changes are:

- setting out what we consider when making decisions to publish or disclose in the public interest
- revising the length of time sanctions appear on a pharmacy professional's entry on the online register, including:
  - lowering the period for a removal from 'indefinite' to ten years, and
  - introducing a specific length of time for which a pharmacy professional's restoration appears on the online register

This consultation asks for views on the policy and annex. More specifically, we are asking for views on the length of time for which we publish information about a pharmacy professional's fitness to practise history on the online register, and the impact these changes may have on various stakeholder groups.

We welcome responses from anyone with an interest in the publication and disclosure of this information. We are particularly interested to hear views about the impact of our proposals on patients and the public, pharmacy owners and employers.

## The consultation process

### How to respond

You can respond to this consultation by going to [www.pharmacyregulation.org/publication-disclosure](http://www.pharmacyregulation.org/publication-disclosure) and filling in an online survey there.

Please contact us at [consultations@pharmacyregulation.org](mailto:consultations@pharmacyregulation.org) if you would like a copy of the survey in another format (for example, in hard copy, larger type or in a different language).

### Comments on the consultation process itself

If you have concerns or comments about the consultation process itself, please send them to:

[feedback@pharmacyregulation.org](mailto:feedback@pharmacyregulation.org)

or post them to us at:

**Governance Team**  
**General Pharmaceutical Council**  
**25 Canada Square**  
**London E14 5LQ**

Please do not send consultation responses to this address.

### Our report on this consultation

Once the consultation period ends, we will analyse the responses we receive and consider any changes that are required.

We will also publish a summary of the responses and an explanation of the decisions taken. You will be able to see this on our website [www.pharmacyregulation.org](http://www.pharmacyregulation.org).





# 1. Background

- 1.1. As part of our regulatory work we publish and disclose certain information about pharmacy professionals, registered pharmacies and education and training providers. The policy explains how we will be open and transparent, and how we balance the public interest against the rights and freedoms of individuals, so that what we publish or disclose is proportionate.
- 1.2. The publication and disclosure policy sets out:
  - the information we use to carry out our regulatory work
  - the relevant law that the publication and disclosure policy is based on
  - how we make decisions about the information we publish and disclose
  - what we consider when making a disclosure in the public interest
- 1.3. The policy is supported by an annex. This sets out what we publish and disclose about pharmacy professionals who are subject to fitness to practise procedures. We will, in the future, develop other annexes that set out what we publish and disclose about registered pharmacies and education and training providers.
- 1.4. The policy and annex are designed to make sure we:
  - meet our statutory objectives
  - effectively carry out our tasks in the public interest
  - meet certain legal requirements
- 1.5. Under the law we have a range of duties covering information governance. These include the Data Protection Act 2018, the Human Rights Act 1998, and the Freedom of Information Act 2000. Under the Pharmacy Order 2010 we may publish information about a pharmacy professional's fitness to practise. Our publication and disclosure policy, with the annex, sets out how we carry out these duties, and our approach to publishing and disclosing fitness to practise information. This includes how long a fitness to practise sanction will remain on the public register.
- 1.6. The policy was originally published in 2012, updated in 2013 and 2014, and was recently reviewed to take into account changes in the law, including the introduction of the General Data Protection Regulation (GDPR) and Data Protection Act 2018. The **revised policy** was published on 5 July 2018. We published the revised policy early to take into account legislative changes, but we are now asking for views on the policy and the changes we have made, which are detailed below.

## 2. About our approach to publication and disclosure

- 2.1. The purpose of our publication and disclosure policy, and the supporting annexes, is to set out how we aim to make sure we have a consistent, transparent, proportionate and fair approach to the publication and disclosure of information we hold about pharmacy professionals, registered pharmacies and education and training providers.
- 2.2. We publish and disclose information in line with the law and when it is in the public interest. The policy and annex set out our approach to both the publication and the disclosure of information about the fitness to practise of individual pharmacy professionals. They also set out the principles we use when making decisions to disclose in the public interest.

2.3. The policy includes information we:

- publish on our website and online register
- disclose to third parties in carrying out our regulatory work, in administering our hearings, and in the publication *Regulate*

It also covers how we deal with individual requests for information.

- 2.4. We are committed to being transparent about the information we publish and disclose and under what circumstances. What we publish and disclose is guided by striking an appropriate balance between

the public interest and the rights of the pharmacy professional. For example, this will ensure we make a proportionate response to matters that are 'historical' and when the pharmacy professional's fitness to practise is no longer impaired.



### 3. Overview

- 3.1. Publication and disclosure is largely governed by legislation. While we welcome comments on all aspects of our policy and the supporting annex, we would like to focus attention on two key areas.
- 3.2. The first covers what we consider when making decisions to publish or to disclose in the public interest – for example in response to a request for information. The second is our proposal to reduce the length of time that fitness to practise sanctions will be published on a pharmacy professional's entry on the online register.

### 4. Making decisions about publication and disclosure in the public interest

- 4.1. We want to be clear about what we consider when deciding:
  - what to publish – when we are not lawfully compelled to do so, and
  - when we should, or should not, disclose information to a third party. (For example, if we receive a request from an employer asking for information that is no longer publicly available)
- 4.2. When we are considering publishing information, or when we receive a request to disclose information, we will consider

the public interest when making a decision. We will balance the public interest, which includes patient safety and public confidence, against the rights of the pharmacy professional. This will include, when appropriate, weighing up factors in line with our primary objective and the relevant legislation to decide whether information should be disclosed.

- 4.3. In deciding whether to publish or disclose, we must be satisfied that it is:
  - lawful, and meets one of the conditions for processing given in data protection legislation, and
  - needed to allow us to carry out our statutory and regulatory work under the Pharmacy Order, Rules and/or other relevant legislation
- 4.4. Section 6 in the main policy sets out our approach to this. We welcome views on whether what we have set out is appropriate.

## 5. Revised time periods for publication on the online register

- 5.1. Fitness to practise sanctions are intended to make sure patients and the public receive safe and effective care from pharmacy professionals.
- 5.2. We have reduced the length of time for which fitness to practise sanctions appear on the register. We believe this reduction strikes the right balance between the public interest and the rights and freedoms of individuals, so that what we publish or disclose is proportionate.
- 5.3. How long we publish the information for will depend on the sanction imposed: the more serious the sanction, the longer the time period. When the time limit is reached, this information will not be available by searching the register. We will only disclose it on a case-by-case basis.
- 5.4. We are reducing the length of time for which a warning is published from two years to one year.
- 5.5. We are also reducing the length of time for which some other sanctions are published:
  - Undertaking: for the duration of the undertaking plus one year (instead of the previous plus two years)
  - Conditions: for the duration of the conditions plus one year (instead of the previous plus two years)
- 5.6. A suspension will be published for the duration of the suspension plus two years (instead of the previous plus five years). This reduction takes into consideration the patient safety implications, the severity of the sanction and fairness to the individual professional.
- 5.7. Previously, when an individual was removed from registration by a Fitness to Practise Committee, we published the 'determination' (the fact of removal and the summary of the decision) indefinitely. We are now changing this to 10 years. We believe this is fairer to the individual, and that the public are protected because the person has been removed from the register and is no longer able to practise. This also takes account of the Professional Standards Authority's (PSA) recommendation to publish removals for a minimum of five years.
- 5.8. Following restoration or re-admittance to the register, after removal by a Fitness to Practise Committee (FtPC), the fact of removal will be published alongside the restoration summary for five years. On restoration, the original determination of removal will be taken down.



## Revised time periods for publication on the online register

Outcome	How 'status' will appear on the online register for the duration of the sanction	How the accompanying information will be presented	Length of time 'fitness to practise' information will remain on the online register
Warning from the IC	'Registered'	Fact of the warning published	1 year
Warning from the FtPC	'Registered'	With the determination or summary attached	1 year
Undertaking from the IC	'Registered'	Fact of the undertaking	Duration of the undertaking plus 1 year
Undertaking from the FtPC	'Registered'	With the determination or summary published	Duration of the undertaking plus 1 year
Conditions	'Registered'	With the determination or summary published	Duration of the condition plus 1 year
Suspension	'Suspended'	With the determination or summary attached	Duration of the suspension plus 2 years
Removal by the FtPC	'Erased'	With the determination or summary published, including details of any interim measures	10 years from when the decision comes into effect

Outcome	How 'status' will appear on the online register for the duration of the sanction	How the accompanying information will be presented	Length of time 'fitness to practise' information will remain on the online register
Restoration (or re-admittance) to the register following removal by FtPC	'Registered'	With the determination or summary attached	5 years from date of restoration
Interim order from the FtPC	'Suspended'	With the summary attached	Duration of the order
Interim order with conditions from FtPC	'Registered'	With the summary attached	Duration of the order



## Consultation questions

We welcome your views on the following questions. Please visit [www.pharmacyregulation.org/publication-disclosure](http://www.pharmacyregulation.org/publication-disclosure) to complete the online survey.

### In section 4 we describe the factors we consider when making a decision to publish or disclose information.

1. Do you think that the factors we consider when deciding whether or not to publish or disclose information are:
  - clear?
  - appropriate when making a decision in the public interest?
  - fair to individual pharmacy professionals?

Please indicate 'Yes', 'No' or 'Don't know' to each of the questions.

2. It is our aim to balance publication and disclosure in the public interest with the individual's right to privacy. Do you think the factors we consider when deciding whether to publish or disclose achieve this balance?

Please indicate 'Yes', 'No' or 'Don't know'.

3. Please give comments explaining your responses to the questions above.

### In section 5 we outline the revised time periods for publication on the online register.

4. Do you think that the length of time for which a sanction is published should depend on the seriousness of the sanction?  
Please indicate 'Yes', 'No' or 'Don't know'.

Please give comments explaining your response.

5. It is our aim to strike the right balance between the public interest, which includes the health, safety and wellbeing of the public, and the rights and freedoms of the pharmacy professional. Do you think the time limits we have introduced for sanctions and restorations to be published achieve this balance?

Please indicate 'Yes', 'No' or 'Don't know'.

Please give comments explaining your response.

**We are keen to hear views about the impact of the publication and disclosure policy and supporting annex.**

6. What kind of impact do you think the changes will have on patients and the public?  
Please indicate 'positive impact', 'negative impact', 'both positive and negative impact', 'no impact' or 'don't know'.  
Please give comments explaining your response.
7. What kind of impact do you think the changes will have on pharmacy professionals?  
Please indicate 'positive impact', 'negative impact', 'both positive and negative impact', 'no impact' or 'don't know'.  
Please give comments explaining your response.
8. What kind of impact do you think the changes will have on employers and pharmacy owners?  
Please indicate 'positive impact', 'negative impact', 'both positive and negative impact', 'no impact' or 'don't know'.  
Please give comments explaining your response.

**We want to understand whether our proposals may discriminate against or unintentionally disadvantage any individuals or groups sharing any of the protected characteristics in the Equality Act 2010. These characteristics are:**

**Age**  
**Disability**  
**Gender reassignment**  
**Marriage and civil partnership**  
**Pregnancy and maternity**  
**Race**  
**Religion or belief**  
**Sex**  
**Sexual orientation**

9. Do you think any of the changes will have an impact – positive or negative – on certain individuals or groups who share any of the protected characteristics listed above?  
Please indicate 'Yes', 'No' or 'Don't know'.  
Please describe the impact and the individuals or groups concerned.
10. Do you think there will be any other impact of the changes which you have not already mentioned?

**Other comments**

11. Do you have any other comments on our publication and disclosure policy or supporting annex which you have not already mentioned?





## How we will use your responses

After the consultation, we will publish a report summarising what we heard.

If you respond as a private individual, we will not use your name or publish individuals' responses. If you respond on behalf of an organisation, we will list your organisation's name and may publish your response in full unless you tell us not to.

If you want any part of your response to stay confidential, you should explain why you believe the information you have given is confidential. We may need to disclose information under the laws covering access to information (usually the Freedom of Information Act 2000). If you ask us to keep part or all of your response confidential, we will treat this request seriously and try to respect it. But we cannot guarantee that confidentiality can be maintained in all circumstances.

If you email a response to the consultation and this is covered by an automatic confidentiality disclaimer generated by your IT system this will not, in itself, be binding on the GPhC. Under data protection law, you may ask for a copy of your response to this consultation or other information we hold about you. You may also ask us to delete your response.

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