

ROYAL PHARMACEUTICAL SOCIETY OF GREAT BRITAIN

INVESTIGATING COMMITTEE

REFERRAL CRITERIA IN RESPECT OF FITNESS TO PRACTISE ALLEGATIONS

1 BACKGROUND

Part 5 of the Pharmacists and Pharmacy Technicians Order 2007, supplemented by more detailed rules, makes provision for the fitness to practise procedures of the Royal Pharmaceutical Society of Great Britain. Those procedures establish statutory mechanisms for the determination of allegations that a registrant's fitness to practise is impaired.

The Investigating Committee has been established as a key component of the fitness to practise committee structure. One of its functions is to make initial decisions in relation to allegations of impairment of fitness to practise, by deciding whether or not to refer such allegations to other relevant parts of the committee structure.

In disposing of allegations before it, by making such referral decisions, the Investigating Committee has an important legislative duty to take into account, amongst other things, its published referral criteria. Accordingly, this document gives guidance on the matters which may be taken into account by the Investigating Committee, in carrying out its referral role.

The Investigating Committee is additionally of the view that those who might be subject to its jurisdiction are entitled, under the principle of fairness, to be aware of the factors and criteria which the Committee will consider, in making significant decisions which might impinge on their professional practice. In this sense, this document has a duality of purpose. The Explanatory Notes which accompany this document are intended to provide further clarification.

2 UNDERLYING PRINCIPLES

The Royal Pharmaceutical Society's fitness to practise procedures recognise that all allegations of impairment require initial consideration to determine the most appropriate method of disposal, including referral to the most relevant component of the committee structure.

Accordingly, the procedures provide for the Investigating Committee to ensure that the cases which are referred to the alternative fitness to practise committees, the Health Committee, and the Disciplinary Committee are those where it is satisfied that there is a **real prospect** that those Committees will establish that the registrant's fitness to practise is impaired.

This important test, which applies in most healthcare regulatory schemes, requires an important balancing of the key principles of the protection of the public; the maintenance of public confidence in the pharmacy profession; safeguarding the competent professional from unjustifiable allegations; and the legitimate expectation of

complainants and the public that allegations will be fully and fairly investigated. The Investigating Committee adopts a cautious approach, however, and will commit to making a referral in any case where there is an element of doubt.

In making its decisions, the Investigating Committee will take into account guidance on the parameters of the **real prospect** test, which has been given by the relevant courts. Additionally, the Committee will consider guidance issued by the Chairs of the Health and Disciplinary Committees.

The Investigating Committee considers the allegations before it on the basis of documentary evidence alone. Additionally it does not have the function of making judgements on, or seek to resolve substantial conflicts of evidence. It will not, therefore make findings of fact on the substantive issues arising in the allegation.

Nonetheless, its practices and procedures are sufficiently rigorous to ensure that all allegations are thoroughly considered. The Committee is permitted to direct that further investigations are undertaken. The Committee is required to take into account all of the representations which have been made. It will be supported by legal advisers, and in appropriate cases, by clinical advisers.

The Committee is obliged to issue reasons for all of its decisions. Trends in the Committee's decision-making and analyses of the reasons for referral decisions will be reported on an annual basis, in the Committee's Annual Report.

3 FACTORS WHICH MAY INDICATE A REFERRAL TO THE DISCIPLINARY OR HEALTH COMMITTEES

It is important to note that the following factors are indicative only, and the Investigating Committee will reserve the right to take into account additional factors, relevant to any particular allegation.

Harm:

- H1. Evidence of previous or existing actual harm to patients or the public**
- H2. Evidence of previous or existing potential harm to patients or the public**
- H3. Realistic risk of future harm to patients or the public**
- H4. Subject of harm is a vulnerable patient/person**

Personal Health:

- PH1. Risk of self-harm**
- PH2. Recurrent or episodic conditions**
- PH3. Sustained ill-health**
- PH4. Current medical supervision or treatment**
- PH5. Current addictive behaviour**
- PH6. Relapses into addictive behaviour**
- PH7. Underlying condition suffered by registrant which, although in remission, is capable of causing impairment of fitness to practise if it recurs**

- PH8. Failure to comply with drug/treatment regimes or medical supervision or support recommendations**
- PH9. Failure to comply with medical assessment**
- PH10. Failure to comply with undertakings**

Personal Behaviour:

- PB1. Dishonesty**
- PB2. Sexual misconduct**
- PB3. Breach of confidentiality**
- PB4. Lack of insight**
- PB5. Breach of trust**
- PB6. Vulnerable patient or victim**
- PB7. Lack of respect for others**
- PB8. Adverse determination in criminal, civil, or administrative proceedings**
- PB9. Harassment or bullying**
- PB10. Violation of appropriate boundaries Professional**

Practice:

- PP1. Registration status**
- PP2. Serious departure from accepted professional standards and guidelines**
- PP3. Breach of RPSGB Code of Ethics or Guidance**
- PP4. Failure of supervision or control**
- PP5. Abuse of professional position**
- PP6. Exceeding appropriate professional boundaries**
- PP7. Disregard or breach of Inspectorate advice**
- PP8. Failure to maintain indemnity insurance**
- PP9. Excessive or irresponsible supply of medicines with potential for abuse**
- PP10. Failure to work effectively, or co-operate with other healthcare professionals**
- PP11. Lack of professional competence or judgement**
- PP12. Placing commercial interests above those of patients or public**
- PP13. Serious breach of controlled drugs legislation**
- PP14. Failure to comply with conditions imposed by the Health or Disciplinary Committees**
- PP15. Failure to comply with undertakings**
- PP16. Refusal to provide an undertaking not to practise**
- PP17. Failure to respond to correspondence from the RPSGB**
- PP18. Failure to take action in the public interest**
- PP19. Failure to practise within agreed parameters**

Professional status:

- PPN1. Bringing the profession into disrepute**
- PPN2. Undermining public confidence in the profession**

Registration status:

- PPN3. Deliberate disregard for the system of registration**
- PPN4. Failure to co-operate with RPSGB or other Investigation**
- PPN5. Failure to comply with personal performance assessment**

Current Allegation:

- CA1. Attempt to cover up the facts**
- CA2. Attempt to impede/obstruct investigation**

Prior Allegations:

- PA1. Prosecutions, previous warnings, reprimands, sanctions, advice on same or similar matter in previous 5 years**
- PA2. Disregard or breach of advice given in relation to previous allegations**
- PA3. Failure to comply with undertakings in relation to prior allegations**

4 ADDITIONAL FACTORS WHICH MAY BE TAKEN INTO ACCOUNT

It is important to note that the following factors are indicative only, and the Investigating Committee will reserve the right to take into account additional factors, relevant to any particular allegation.

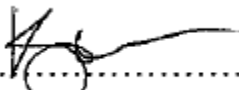
Relative experience of the registrant
Length of time since matters complained of
Response of the registrant to the allegation

5 COMMITMENT TO FAIRNESS

The Investigating Committee is committed to operating its practices and procedures in a manner which is fair, objective, transparent and free from discrimination. The members of the Committee have agreed to comply with a relevant code of standards, reflecting these principles.

6 REVIEW

This Referral Criteria document shall be the subject of a regular review, to reflect developments and changes in the Investigating Committee's practices and procedures. The first review took place after six months of the operation of the Investigating Committee, and, thereafter, on a regular basis. The Referral Criteria document, when reviewed, shall be re-published in its revised format.



.....
KAREN REA

DATE: 13 July 2009

Chair, Investigating Committee
Royal Pharmaceutical Society of Great Britain

ROYAL PHARMACEUTICAL SOCIETY OF GREAT BRITAIN

INVESTIGATING COMMITTEE

REFERRAL CRITERIA IN RESPECT OF FITNESS TO PRACTISE ALLEGATIONS

EXPLANATORY NOTES

PURPOSE

These explanatory notes are intended as clarification for registrants, following the first review of the referral criteria. The purpose of the notes is to help registrants understand how the investigating committee's referral criteria are applied when the committee considers whether referral to the health or disciplinary committee is indicated. It is important to emphasise that the outcome of the review will have no impact on the committee's decisions or judgements but is intended to result in clearer guidance for all stakeholders.

1. Vulnerable patients.

H4: 'Subject of harm is a vulnerable patient/person': H4 is included under the heading 'Harm' because it is considered to be relevant if the patient who is harmed is in a vulnerable condition e.g. is elderly, terminally ill, a child, is vulnerable because of addiction, or has a learning disability, so that the potential for harm is greater as a result of that vulnerability. H4 does not stand alone as one at least of H1 – H3 must apply for H4 to take place.

In contrast, **PB6** (Vulnerable patient or victim) is set in the context of personal behaviour, where the registrant takes advantage of the pharmacist/ patient or victim relationship, often but not exclusively, in a social or domestic setting.

2. Professional status and Registration status.

By separating out **PPN1** (Bringing the profession into disrepute) and **PPN2** (Undermining public confidence in the profession) from the registration criteria it is intended to make clear that matters related to behaviour outside the professional setting, for which registration is required, are capable of meeting these two criteria and hence might result in referral. In this context, the referral criteria relating to personal behaviour have been clarified by the inclusion of the criteria **PB8**, **PB9** and **PB10**, to assist registrants in understanding issues which the committee MAY take into account.

3. Age

The term 'Relative experience' has replaced the previous use of 'Age' to make it clear that the committee MAY consider the relative experience (or inexperience) of a registrant to be relevant in certain circumstances.

10 January 2009