

Consultation on remote hearings

November 2021



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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

This 12-week consultation asks for feedback on a proposed permanent change to our procedural rules to give us the express legal power to hold hearings and meetings by teleconference or video link.

During the COVID-19 pandemic lockdown and restrictions we had to hold many meetings and hearings remotely by video link. This proved to be successful in many ways, with increased registrant engagement with the hearing process. For example: registrants seem more likely to attend a hearing that is held remotely than they are to attend one in person. We have also had mostly positive feedback from everyone involved.

This success has persuaded us to ask for a legislative rule change to allow greater flexibility in how we hold meetings and hearings. Some of the other health regulators have also gone down this route. We acknowledge that some hearings are more suitable than others to be held in a certain way – whether that be in person or remotely by video link. This consultation will help to guide us when we consider those questions of suitability.

It is important to make sure that any changes to our legal framework are compatible with our core values of equality, diversity and inclusion. The consultation will

therefore focus on asking for feedback on any negative or positive impacts that holding hearings remotely by video link would have on individuals or groups sharing any of the protected characteristics in the Equality Act 2010.

The consultation process

The consultation will run for 12 weeks and will close on Tuesday 8 February 2022. During this time, we welcome feedback from individuals and organisations. We will send this document to a range of stakeholders, and the consultation will be available on our website.

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

Our report on this consultation

Once the consultation period ends, we will analyse the responses and consider the feedback we have received.

We will then prepare our analysis and invite our governing council to make the rule changes at a meeting in May 2022. We also need approval of the draft rule changes from the Privy Council before the rules can be laid in the Scottish and Westminster parliaments and for them to then come into force.

We will publish our analysis and an explanation of the decisions we take. You will be able to **see these publications on the previous consultations page** in the *Get involved* section of our website.

Why we consult

We have to consult before we set any standards or requirements under the Pharmacy Order 2010. We will also consult, when we need to, to make sure we carry out our statutory functions effectively and proportionately to meet our main objective of protecting the public.

Responding to the consultation

How we use your information

We will use your response to help us develop our work. We ask you to give us some background information about you and, if you respond on behalf of an organisation, your organisation. We use this to help us analyse the possible impact of our plans on different groups. We are committed to delivering equality, improving diversity and fostering inclusion in all our work as a health professions regulator, and meeting our responsibilities under the Equality Act 2010. There is an equality monitoring form at the end of the survey. You do not have to fill it in, but if you do it will give us useful information to help us monitor and improve our performance.

How we share your information

If you respond as a private individual, we will not use your name or publish your individual response. 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.

Your rights

Under data protection law, you may ask for a copy of your response to this consultation or other information we hold about you, and you may also ask us to delete your response. For more information about your rights and who to contact please read our privacy policy on our website.

How to respond

You can respond to this consultation by going to [pharmacyregulation.org/remote-hearings-consultation](https://www.pharmacyregulation.org/remote-hearings-consultation) and filling in the online questionnaire there.

We encourage respondents to use the online questionnaire. However, if you want to send a response by email, please write your response to the consultation questions and send it to us at consultations@pharmacyregulation.org.

Other formats

Please contact us at communications@pharmacyregulation.org if you would like a copy of the consultation survey in another format (for example, in 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

or post them to us at:

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

Please do not send consultation responses

Details of the remote hearing proposals

Background

In our role as the regulator of pharmacy professions and pharmacy premises, one of our jobs is to investigate concerns about pharmacists and pharmacy technicians:

- who may pose a risk of harm to patient safety, or
- whose actions could undermine public confidence in the pharmacy professions and the delivery of pharmacy services

If we investigate a concern and decide there is evidence to show that a pharmacy professional's fitness to practise may be impaired, the case may need to be referred for a hearing before a committee.

Before March 2020, all our committees heard cases in person at our hearing centre in London. As a result of the national COVID-19 lockdown – with restrictions first imposed in March 2020 – we had to immediately close our offices and hearing centre. We therefore stopped holding 'in-person' hearings and started holding hearings remotely by video link.

Before holding any hearing in this way we asked the individual concerned or their representative for their consent. If we did not get this consent, the hearing was postponed. While some hearings were postponed, consent was given in most cases, which meant we could hold those hearings by video link. Early feedback from participants involved in these hearings was mostly positive.

In August 2020, as national restrictions were eased, we were able to hold a number of in-

person hearings at our hearing centre. So from August 2020, we had a mixture of in-person hearings and ones held by video link, with most hearings taking place by video link.

In December 2020, following an increase in the COVID-19 infection rate, we decided to stop holding in-person hearings. So from December 2020, all our hearings were held by video link. That remained the case until May 2021 when we began holding in-person hearings again. Since May 2021, we have again had a mixture of in-person hearings and ones held by video link.

Emergency rules and draft rules

To help us respond to the challenges brought about by the COVID-19 pandemic, we were granted – along with other regulators – changes to our procedural rules. These gave us greater flexibility to perform our statutory roles.

One of the rule changes allowed us to hold hearings remotely. This was a temporary provision which ended on 1 May 2021. You can find [details of our procedural rules](#) on the 'legislation' page in the 'About us' section of our website.

We have been talking to the Department of Health and Social Care about further draft changes to our procedural rules which would allow us to carry on holding hearings by video link (as well as in person). They have not yet had final approval before being laid in the Westminster and Scottish parliaments. The draft rules are at the end of this consultation.

Our reasons for wanting permanent changes to our rules

Since March 2020 we have held most of our hearings by video link and this has proved to be successful in a number of ways. For example, we found that registrants seem more likely to attend a hearing that is held remotely than they are to attend one in person.

Feedback we have received from participants has mostly been positive and supported the idea of remote hearings. We have heard from other regulators that they have had similar experiences in holding hearings remotely.

Not all hearings are suitable for being held remotely and there can be many benefits in holding a hearing in person. The proposed draft rules would allow the chair of the hearing to decide whether to hold a remote or an in-person hearing. To make sure we were consistent in making these decisions we would provide guidance on what to consider when making them. For example, the chair should take into account any potential impact a remote hearing would have on the hearing's participants.

We have produced and published **guidance on our website on deciding whether a hearing is suitable to be held remotely**. This includes what to consider when making the decision on how the hearing should be held. Two examples of this are:

- how complex are the allegations and evidence in the case?
- do the parties have access to technology that will allow them to take part effectively in a remote hearing?

You can see this guidance **in the *Hearings* section of our website**.

We have also produced and published **separate guidance explaining the procedure at remote hearings**. This guidance supports people attending a remote hearing under the emergency rules. We will update this guidance if, following this consultation, the proposed rule changes are approved.

Our proposal to carry out a 12-week public consultation

We have already received some very useful initial feedback from key pharmacy and patient-focused stakeholders on whether there should be a change to our rules to allow us to deliver remote hearings. We now welcome the opportunity to get feedback on the issue from all stakeholders (including any further feedback from those who gave initial responses) and the wider public. This will help us plan our next steps and guide our long-term approach to remote hearings. We are particularly interested in hearing views on the impact remote hearings may have upon people who share protected characteristics, as defined in the Equality Act 2010.

Future options

The success of remote hearings during the COVID-19 lockdown period has shown us that remote hearings should also be an option beyond the pandemic. At this stage we are open minded about how much we should use remote hearings. We would be likely to have a mixed approach, with some hearings in person and some remote. We have already published guidance on what types of hearing are suitable to be held in person and which are suitable to be remote ones. We welcome your feedback on whether we should be allowed to have a permanent change to our procedural rules so that we can continue to hold some of our hearings remotely by video link, both now and in the future.



Appendix A:

Collated consultation questions

1. **Do you agree or disagree that hearings should continue to be held remotely when it is fair and practical to do so?**
2. **What do you think the advantages would be (if any) of remote hearings?**
3. **What do you think the disadvantages would be (if any) of remote hearings?**
4. **Do you think there are any circumstances when a hearing should not be held remotely?**
 - a **If 'yes', please describe the circumstances.**

We want to know if our proposals will have a positive or negative impact on patients and the public and on the pharmacy professionals we regulate.

5. **Do you think our proposals will have a positive or negative impact on each of these groups?**
 - Patients and the public
 - Pharmacy professionals

Please give comments explaining your answer. Please describe the individuals or groups concerned and the impact you think our proposals would have.

We also want to understand whether our proposals may have a positive or negative impact on any individuals or groups sharing any of the protected characteristics in the Equality Act 2010:

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

6. **Do you think our proposals will have a positive or negative impact on individuals or groups who share any of the protected characteristics?**

Please give comments explaining your answer. Please describe the individuals or groups concerned and the impact you think our proposals would have.

Appendix B: Draft legislation

STATUTORY INSTRUMENTS

2021 No.

HEALTHCARE AND ASSOCIATED PROFESSIONS

PHARMACY

The General Pharmaceutical Council (Amendment) Rules Order of Council 2021

Made - - - - - ***

Laid before Parliament ***

Laid before the Scottish Parliament ***

Coming into force - - - - - ***

At the Council Chamber, Whitehall on [**] day of 2021

By the Lords of Her Majesty’s Most Honourable Privy Council

The General Pharmaceutical Council has made the General Pharmaceutical Council (Amendment) Rules 2021, which are set out in the Schedule to this Order, in exercise of the powers conferred by articles 61(1), (2)(a) and (6)(b) and 66(1) of the Pharmacy Order 2010⁽¹⁾.

In accordance with article 66(3) of that Order, the General Pharmaceutical Council has consulted such persons or organisations, as it considered appropriate.

In accordance with article 66(4) of that Order, the Rules shall not come into force until approved by Order of the Privy Council.

Citation and commencement

1. This Order may be cited as the General Pharmaceutical Council (Amendment) Rules Order of Council 2021 and comes into force on [*****] 2021.

⁽¹⁾ S.I. 2010/231, to which there are amendments not relevant to this Order.



Privy Council Approval

2. Their Lordships, having taken the Rules as set out in the Schedule to this Order into consideration, are pleased to, and do, approve them.

Name
Clerk of the Privy
Council

SCHEDULE

The General Pharmaceutical Council (Amendment) Rules 2021

The General Pharmaceutical Council makes these Rules in exercise of the powers conferred by articles 61(1), (2)(a) and (6)(b) and 66(1) of the Pharmacy Order 2010⁽²⁾.

In accordance with article 66(3) of that Order the Pharmaceutical General Council has consulted such persons or organisations as it considered appropriate.

Citation and commencement

1. These Rules may be cited as the General Pharmaceutical Council (Amendment) Rules 2021 and come into force on [***] 2021.

Amendment of the General Pharmaceutical Council (Appeals Committee Rules) Order of Council 2010

2.—(1) The General Pharmaceutical Council (Appeals Committee Rules) Order of Council 2010⁽³⁾ are amended as follows.

(2) In rule 2 (interpretation)—

(a) after the definition of “appellant” insert—

““attend” means—

(a) to be physically present at a meeting or hearing, or,

(b) to be present at a meeting or hearing by teleconference or video link;”.

(b) after the definition of “parties” insert—

““present” includes being in a meeting or hearing by teleconference or video link and “presence” is to be construed accordingly.”.

(3) After rule 2 insert—

“Virtual meetings and hearings

2A. At the discretion of the chair meetings or hearings of the Committee arranged under these Rules may be conducted by teleconference or video link.”.

(4) In rule 6 (notice of hearing) for subparagraph (a) substitute—

“(a) state—

(i) the date, time and venue of the hearing, or

(ii) if the hearing is to be conducted by teleconference or video link, the date and time of the hearing and instructions on how to access the hearing;”.

(5) After rule 16(4) (attendance of the public at hearings), insert—

“(5) Reference to a hearing under this rule includes hearings conducted by teleconference or video link.”.

⁽²⁾ S.I. 2010/231, to which there are amendments not relevant to this Order.

⁽³⁾ Rules as contained in the Schedule to the General Pharmaceutical Council (Appeals Committee Rules) Order of Council 2010 (S.I. 2010/1614).

Amendment to the General Pharmaceutical Council (Fitness to Practice and Disqualification etc.) Rules 2010

3.—(1) The General Pharmaceutical Council (Fitness to Practise and Disqualification etc.) Rules 2010⁽⁴⁾ are amended as follows.

(2) In rule 2 (interpretation)—

(a) after the definition of “applicant concerned” insert—

““attend” means—

(a) to be physically present at a meeting or hearing, or,

(b) to be present at a meeting or hearing by teleconference or video link;”.

(b) after the definition of “prescribed fee” insert—

““present” includes being present at a meeting or hearing by teleconference or video link, except in the phrase “present their case”, and “presence” is to be construed accordingly.”.

(3) After rule 2 (interpretation) insert—

“Virtual meetings and hearings

2A. At the discretion of the chair meetings and hearings of the Committee arranged under these rules may be conducted by teleconference or video link.”.

(4) In rule 16 (notices of hearing other than interim order hearings), for subparagraph 2(a) substitute—

“(a) state—

(i) the date, time and venue of the hearing, or

(ii) if the hearing is to be conducted by teleconference or video link the date and time of the hearing and instructions on how to access the hearing;”.

(5) In rule 17 (interim order notices and court referrals), for subparagraph 2(a) substitute—

“(a) state—

(i) the date, time and venue of the hearing, or

(ii) if the hearing is to be conducted by teleconference or video link, the date and time of the hearing and instructions on how to access the hearing;”.

(6) After rule 39(4) (attendance of the public at hearings), insert—

“(5) Reference to a hearing under this rule includes hearings conducted by teleconference or video link.”.

Given under the common seal of the General Pharmaceutical Council this [**] day of [**] 2021.

⁽⁴⁾ Rules as contained in the Schedule to the General Pharmaceutical Council (Fitness to Practise and Disqualification etc. Rules) Order of Council 2010 (S.I. 2010/1615).



Nigel Clarke
Committee Chair

Duncan Rudkin
Chief Executive and Registrar



EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the General Pharmaceutical (Appeals Committee) Rules 2010 (as contained in the Schedule to the General Pharmaceutical Council (Appeals Committee Rules) Order of Council 2010 (S.I. 2010/1614)) (the ‘Appeals Committee Rules’) and the General Pharmaceutical Council (Fitness to Practise and Disqualification etc.) Rules 2010 (as contained in the Schedule to the General Pharmaceutical Council (Fitness to Practise and Disqualification etc. Rules) Order of Council 2010 (S.I. 2010/1615)) (the ‘Fitness to Practise Rules’).

Rule 2 of the Schedule amends the Appeals Committee Rules and Rule 3 amends the Fitness to Practise Rules by:

- providing that the words “attend” and “present” may mean by teleconference or video link,
- inserting a new rule so the chair may decide to conduct meetings or hearings by teleconference or video link,
- ensuring that a Notice of Hearing must provide details of how to access any hearing which is being held using teleconference or video link, and,
- providing that the rules for private hearings apply to and include hearings by teleconference or video link.

A full impact assessment of the effect that this instrument will have on costs of business, the voluntary section and the public sector is available from [***].



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