

Restoration to the register: guidance for applicants and committees

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Contents

About us	3
1. Introduction	4
What this guidance is about.....	4
Who this guidance is for	4
Equality and diversity	4
2. About restoration	6
Before applying to restoration	6
Applying for restoration.....	7
The restoration process and outcomes	7
3. Restoration hearings	8
Reaching a decision	8
4. After the decision has been made	15
Appealing against the decision	15

About us

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.

1. Introduction

What this guidance is about

1.1 This guidance explains how to apply for restoration to the register after being removed by a fitness to practise committee. It also includes information about restoration hearings, how decisions are made and the outcomes which committees can decide on.

Who this guidance is for

1.2 This guidance is for people considering applying for restoration to the register after having been removed from the register by a fitness to practise committee. You can only apply for restoration after at least five years have passed since you were removed.

1.3 This guidance is also aimed at anyone who is involved in, or has an interest in, a restoration hearing. This includes:

- the representatives of people applying for restoration
- defence organisations
- representative bodies
- pharmacy professionals
- other regulatory bodies, including the Professional Standards Authority (PSA)
- fitness to practise committees
- patients and the public
- the courts

1.4 This guidance does not apply to you if you have been removed from the register for any other reason: for example, if your registration has lapsed or you have been removed voluntarily. In these situations, you can get more information on applying to have your registration restored on our website:

- if you are **applying less than 12 months since your most recent registration**, or
- if you are **applying more than 12 months since your recent registration**

1.5 We will regularly review this guidance to:

- take account of changes to legislation and case law
- make sure it is consistent with other guidance documents covering this area
- make sure it continues to provide effective advice and guidance, taking into account feedback from relevant stakeholders and those involved in restoration hearings

Equality and diversity

1.6 Equality is fundamental to our work as a health regulator and public body, in line with our legal duties under the Equality Act 2010. Our Equality, Diversity and Inclusion (EDI) Strategy sets out how our refocused approach to EDI goes beyond legal compliance and intends to shape everything we do, including regulatory decisions, to make sure our processes are demonstrably fair and consider the needs and perspectives of different individuals and groups.

- 1.7 While the nine protected characteristics defined in the Equality Act are an essential foundation to our EDI work, we want to go beyond simply delivering interventions that support those who share particular legally protected characteristics. We will, therefore, holistically consider further key aspects such as intersectional perspectives, cultural diversity and influences, socio-economic factors, and language barriers or communication challenges.

2. About restoration

- 2.1 Anyone who has been removed from the register by a fitness to practise committee and wants to be restored to the register must apply to the registrar, **using the application form available from the *Returning to the register* page** of the main GPhC website.¹
- 2.2 The provisions set out in this document apply to anyone removed under the Pharmacy Order 2010². Furthermore, if you have been removed under any previous versions of the Pharmacy Order under equivalent provisions, this guidance will be followed.
- 2.3 All applicants will be treated as if they had been removed under the Pharmacy Order 2010, and the Pharmacy Order 2010 provisions on restoration³ will be followed. Anyone who has previously been removed by order of a fitness to practise committee on a finding of impairment, must only be restored by a fitness to practise committee after a full hearing.
- 2.4 You must not practise as a pharmacist or pharmacy technician (or use the title ‘pharmacist’ or ‘pharmacy technician’) before the GPhC tells you that your application has been successful and that your name has been restored to the relevant register. To do so is a criminal offence. We can prosecute people in the criminal courts for these offences.

Before applying for restoration

- 2.5 Before you apply for restoration to the register it may be helpful to know the following:
 - you can only apply for restoration to the register five years or more after the date of your removal by a committee⁴
 - an application for restoration is not an appeal against, or a review of, the original fitness to practise committee decision
 - there is no automatic right to restoration
 - when applying for restoration, the ‘burden of proof’ is on the applicant (see 3.4)
 - applicants must provide sufficient evidence to demonstrate their fitness to practise
 - your application for restoration will be heard by a fitness to practise committee, which will consider whether you can be restored with unrestricted practice or with conditions⁵
 - if your application for restoration is refused you must wait 12 months from the date of the application before you can make another one⁶
 - the committee may direct that you cannot make any further applications for restoration⁷

¹ Rule 8 – The General Pharmaceutical Council (Fitness to Practise and Disqualification etc Rules) Order of Council 2010

² Article 54(2)(c), (3)(a)(i) or (b)(iv) of the Pharmacy Order 2010

³ Article 57 of the Pharmacy Order 2010

⁴ This is the date from when the order takes effect

⁵ Article 57(6) of the Pharmacy Order 2010

⁶ Article 57(2)(b) of the Pharmacy Order 2010

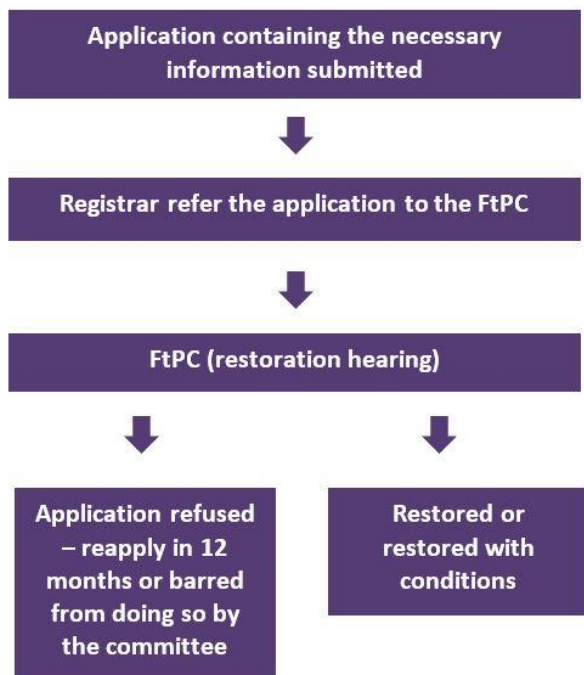
⁷ See paragraphs 3.21 and 3.22

- if the committee allows the application, your name will not be restored to the register until you have paid the appropriate registration fee

Applying for restoration

- 2.6 When applying for restoration, you must provide a range of information with your completed application form. We need this information so that:
- the registrar can decide whether the application is valid, and if so
 - a committee can decide if you are fit to practise and whether restoring your name to the register will meet our overarching objective (see 3.17 - 3.22)
- 2.7 Please go to **the Returning to the register page** of the main GPhC website for:
- details of the application form and the information we need, and
 - advice on filling in the application form and providing the supporting information
- 2.8 Under the law, all pharmacy professionals must have the necessary knowledge of English for safe and effective practice as a condition of their registration with the GPhC. This means that applicants for restoration may need to provide evidence to show they meet this requirement.
- 2.9 When we receive an application, we will review it to make sure it includes the information needed for it to be considered by a committee. The registrar will then refer it to a fitness to practise committee. An application which is not valid and does not meet the legal requirements⁸ cannot be referred to a fitness to practise committee.

Figure 1: Restoration process and outcomes



⁸ Rule 8 – The General Pharmaceutical Council (Fitness to Practise and Disqualification etc Rules) Order of Council 2010

3. Restoration hearings

- 3.1 This section tells you what happens at a restoration hearing and how the committee reaches a decision.
- 3.2 Restoration hearings will usually take place in public. If the hearing is about the health of the applicant, or the committee decide that the interests of the applicant or a third party in maintaining their privacy outweigh the public interest in holding the hearing in public, then the hearing will be held wholly or partly in private.
- 3.3 The hearing is held by a panel of three people (a chair, a registrant member and a lay member). Other people may also be at the hearing, including a legal adviser, a medical adviser, GPhC staff and the applicant's representatives. The applicant may bring a representative, but does not have to. In circumstances when the applicant does not have a representative, the committee chair should consider giving a brief explanation of the hearing process before the hearing begins. The committee will consider if they can restore an applicant's name to the register. It is for the committee to decide if, at the time of the hearing, the applicant is fit to practise and whether restoration will achieve our overarching objective.
- 3.4 When you apply for restoration, you must provide sufficient evidence to demonstrate your fitness to practise. The 'burden of proof' is upon you. This means that it is for you to satisfy the committee that you should be restored to the register – it is not for the GPhC to prove or to provide evidence to show that you should or should not be restored. Committees should always make this aspect clear to the applicants.
- 3.5 The committee may ask for a performance, health or English assessment before considering the application.⁹ The committee must be satisfied that an applicant has the necessary knowledge of English before they can be restored to the register.
- 3.6 The restoration hearing is not an opportunity to challenge the findings of the fitness to practise committee which removed the applicant's name from the register, or about the severity of that original decision. A committee considering an application for restoration is bound by the original findings and decision. It will not re-examine or go behind the findings of the original committee or the outcome it imposed.

Reaching a decision

- 3.7 Unless the committee decides otherwise the restoration hearing will usually follow this order:

Preliminary arguments

- 3.8 The chair must – if the applicant is present – require the applicant to confirm their name, or the person presenting their case to confirm the applicant's name.
- 3.9 The committee must hear and consider any preliminary legal arguments. Unlike fitness to practise proceedings, restoration hearings do not have a separate stage at the beginning where the facts of an allegation are considered.

⁹ Rule 8 – The General Pharmaceutical Council (Fitness to Practise and Disqualification etc Rules) Order of Council 2010

The GPhC case presenter

- 3.10 The GPhC presenter is invited to speak to the committee on the background of the case and the circumstances in which the applicant's name was removed from the register. This is important, because the committee will need to understand what happened which led to registration being removed. The presenter must direct the attention of the committee to any relevant evidence, including transcripts of previous hearings. They may provide evidence (including calling witnesses) which relates to the applicant's fitness to practise.
- 3.11 The presenter will need to remind the committee and the applicant that the applicant's name will not be restored to the register until payment of the appropriate registration fee has been made, even if the committee allows the application.

The applicant

- 3.12 The applicant may speak to the committee, present evidence and call witnesses in relation to any relevant matter, including their suitability for restoration to the register. Applicants will have to demonstrate the following:
- how they have kept their professional knowledge and skills up to date
 - how they have learnt from the circumstances that led to their removal, and demonstrated insight¹⁰

The committee

- 3.13 The committee may ask questions on any issues which are relevant to the restoration application. When asking questions, they should take care to use language that is appropriate for the applicant and the context.
- 3.14 The chair may refuse to allow a witness to give oral evidence if they are:¹¹
- not satisfied that the witness is in a position to provide relevant testimony, or
 - satisfied that all or part of the evidence that the witness is to provide, or is to provide on a certain matter, should have been disclosed at an earlier stage in the proceedings to the party not calling the witness
- 3.15 The committee may receive further evidence and hear any further submissions from the applicant or the GPhC about whether it should grant or refuse the application. Before reaching a decision on the application, the committee may adjourn and give any directions that it sees fit. This would include requiring the applicant to have performance, health and English language assessments.
- 3.16 If the committee adjourns before reaching a decision, it will:
- consider any assessment reports and any other relevant evidence and reports, and
 - invite further representations and evidence from the applicant and the GPhC

¹⁰ **Our hearings guidance** explains what we mean by insight

¹¹ Rule 35(11) – The General Pharmaceutical Council (Fitness to Practise and Disqualification etc Rules) Order of Council 2010

Making a decision

3.17 The committee will consider whether the applicant should be restored to the register. When making this decision, they will apply the following test:

*against the backdrop of the overarching objective, is the applicant concerned fit to practise?*¹²

3.18 To decide if the applicant is fit to practise and whether restoration will meet our overriding objective, the committee will take into account a range of factors, including but not limited to those set out below.¹³

The circumstances that led to the removal

The committee should take some time to consider the background to the restoration application, including the past concerns which resulted in the applicant's name being removed from the register. In some cases, the applicant's past misconduct or poor performance may be so serious that it will be difficult to see how restoring their name to the register will meet our overriding objective.

The reasons given by the original committee for the decision to remove

The committee will be provided with copies of the determination from the original hearing in which it was decided that the applicant's name must be removed from the register. The reasons given in this determination will help the committee understand why the original committee decided that removing the applicant was the only means by which the public could be protected.

The applicant's response to the findings of the committee at the original hearing

The applicant's response to the findings of the committee at the original hearing may contain useful information about the extent to which the pharmacy professional demonstrated insight and remediation at the original hearing. The nature and extent of the insight and remediation the pharmacy professional demonstrated at the original hearing should be used as a starting point and benchmark to assess to what extent the pharmacy professional's insight has developed. The committee should carefully assess whether the pharmacy professional's current level of insight and remediation demonstrates learning and improvement. Most importantly, the committee should consider if it demonstrates that patients' and members of the public's health and well-being would now be protected.

The likelihood of the applicant repeating the conduct that led to their removal from the register

The likelihood that the applicant will repeat their past misconduct or poor performance is an essential factor for the committee to consider, as it will help them determine whether or not the applicant would pose a risk to patients and the public if they are allowed to resume unrestricted practice.

Evidence demonstrating insight into the seriousness of the allegation which resulted in the applicant being removed from the register

It will be important for the committee to consider whether the applicant has demonstrated genuine insight into the concerns that led to their removal from the register. The level of insight demonstrated by the applicant will have a significant bearing on the likelihood that they will repeat their misconduct or poor performance.

¹² GMC vs Chandra [2018] EWCA Civ 1898

¹³ Article 6 of the Pharmacy Order 2010

The following considerations may be relevant for the committee when weighing up the applicant's level of insight:

- Does the applicant understand what went wrong and accept that they should have behaved differently?
- Has the applicant demonstrated that they appreciate the impact or potential impact that their wrongdoing had or could have had on patients and members of the public, for example by showing remorse?
- Is the applicant empathetic to any individuals involved in the original concern, for example by apologising?
- Has the applicant identified how they will act differently in the future to avoid similar issues arising?

The committee should be aware that there may be cultural differences or a professional's personal circumstances, such as ill-health, that may impact the way an individual communicates and expresses themselves. For example, whether or how an apology, insight or expression of regret is framed and delivered. This is particularly the case for individuals who are communicating in a second language and may use elements of their first language to construct their sentences or statements, which could alter the intended meaning when spoken in their second language.

There may also be differences in the way individuals use non-verbal cues to communicate including, but not limited to, facial expressions, eye contact and gestures. For example, a professional with a sight impairment may have difficulty making eye contact with committee members. The committee should be aware and sensitive to these issues when deciding how a professional frames their insight, remorse and in judging their behaviour and attitude during the hearing.

Evidence of remediation and activities designed to help the applicant learn from the original concern

Evidence of remediation and activities which have helped the applicant learn from their past misconduct or poor performance may also be relevant factors when deciding whether the applicant is likely to repeat the original concerns. In this context, remediation is when the applicant takes steps to actively put right the concerns which led to their removal. This could include, for example, participating in training, supervision, coaching or mentoring, or attending relevant courses, such as anger management or professional boundaries.

The committee should pay close attention to the extent to which the remedial steps or learning activities that the applicant has undertaken have directly addressed the original concern. They should also consider whether the applicant's past misconduct or performance is remediable. Some concerns, such as clinical errors, are more easily remedied than others.

The timing of any remediation or learning activities by the applicant is an important consideration. Remedial steps or learning started soon after removal from the register will carry more weight towards restoration than similar activities started just before, or at the time of, the restoration application.

Evidence of learning activities designed to keep the applicant's skills and knowledge up to date, and to keep up with developments in practice (accepting that they must not have practised during that time)

The committee should consider any relevant learning activities the applicant has undertaken since their removal to keep their skills and knowledge up to date and to keep up with developments in practice. Evidence that the applicant has kept their skills and knowledge up to date and has kept up with developments in practice will reduce the likelihood that they pose a risk to patients and members of the public. Examples of learning activities an applicant could undertake to keep their skills and knowledge up to date and/or keep up with developments in pharmacy include, but are not limited to, attending relevant courses, overseas practice or observing a practising pharmacy professional.

The lapse of time since the applicant was removed

The amount of time between the applicant's removal from the register and their restoration hearing may have a bearing on the extent to which the applicant has been able to keep their skills and knowledge up to date and relevant. The longer the applicant has been away from clinical practice, the greater the likelihood that their skills and knowledge have deteriorated.

This factor should be carefully balanced by the committee against any evidence of learning activities the applicant has undertaken to keep their knowledge and skills up to date and relevant.

Relevant evidence to demonstrate that the applicant is fit to practise

The committee should consider any other relevant evidence presented by the applicant when making a decision about the applicant's fitness to practise. This could include references or testimonials. All evidence must be balanced carefully in order to assess whether the applicant is fit to practise.

The committee should be aware that in some circumstances, there may be cultural or other reasons why an applicant may not want to request testimonials or references. For example, sharing information about their fitness to practise history with family members or colleagues may bring reputational consequences to their private lives, families and communities. As such, the committee should be mindful of this and not draw inferences from an absence of such evidence.

Proportionality

When making a decision on whether to restore the applicant to the register, the committee should consider the full range of outcomes (see below) and make sure that they decide on an outcome which is appropriate and proportionate. By proportionate, we mean an outcome which is no more serious than it needs to be to achieve its aims.

- 3.19 On occasion, the committee may also need to consider new allegations of impaired fitness to practise against the applicant. This could include a caution or conviction or a determination by another regulatory body, amongst others. In such circumstances, the committee must decide:
- whether the new allegations are proved on the balance of probabilities
 - if the applicant's fitness to practise is impaired by reason of the new allegations
- 3.20 The committee should invite the applicant and GPhC case presenter to make submissions and present evidence on the new allegations. The burden of proof for the new allegations lies with the GPhC.

3.21 Once all the relevant factors set out under paragraph 3.18 have been considered and, when appropriate, any new allegations have been tested (see 3.19), the committee should make findings on the applicant's fitness to practise. The committee should then step back and consider whether restoring the applicant to the register will meet our overarching objective, which is to protect the public. This objective has three parts, all of which will be considered by the committee:

i. to protect, promote and maintain the health, safety and wellbeing of the public

It is important that the committee consider the risk posed by the applicant to the health, safety and wellbeing of the public should they be allowed to resume unrestricted practice. If the committee decide that the applicant poses a risk to the public, then restoration will not be in line with our overarching objective.

The level of insight, remorse and remediation the applicant has demonstrated and how they have responded to their erasure will be important considerations when making an assessment of risk.

ii. to promote and maintain public confidence in the profession

Promoting and maintaining public confidence in the profession will be an essential consideration for the committee when making a decision on restoration. In cases where the applicant's past misconduct or poor performance is so serious that it remains capable of undermining public confidence, restoration will not meet our overriding objective. This may even be the case when the applicant has demonstrated full insight and remediation and a considerable length of time has passed since the original incident. For example, if the applicant was removed from the register for serious sexual misconduct, violence towards patients or vulnerable members of society or an offence involving extortion or blackmail, then restoration is unlikely to meet our overarching objective, regardless of the level of insight, remediation and remorse shown.

When considering public confidence, the committee should think about whether an ordinary, well informed member of the public who is aware of the case would lose trust and confidence in the pharmacy professions as a whole on learning that the applicant has been restored to the register. They should also bear in mind that maintaining confidence in the professions as a whole is more important than the interests of the applicant.

iii. to promote and maintain proper professional standards and conduct for the profession.¹⁴

The committee should consider whether restoration will promote and maintain proper professional standards and conduct for the profession. In cases where erasure was the result of serious and/or persistent failures to meet our standards, our overarching objective will not be met.

3.22 The committee must announce whether to grant or refuse the application and give its reasons for that decision, including how it has taken account of all three parts of our overarching objective.¹⁵

¹⁴ Article 6 of the Pharmacy Order 2010

¹⁵ Rule 35 (7) – The General Pharmaceutical Council (Fitness to Practise and Disqualification etc Rules) Order of Council 2010

Available outcomes

3.23 The committee may:

- grant the application, and direct that the applicant should be restored to the register without conditions
- grant the application, and direct that the applicant should be restored to the register with conditions¹⁶ for a period of up to 3 years¹⁷
- refuse the application

3.24 The committee will impose conditions which it considers are appropriate to protect the public, or which are otherwise in the public interest or in the interests of the applicant. The conditions may be drawn from the published **conditions bank**.

3.25 If the committee announces that the applicant should not be restored to the register, and the applicant has now applied for restoration two or more times, it may then consider whether or not to direct that no further applications for restoration can be made.¹⁸

3.26 Before deciding whether or not to direct this, the committee will consider any representations made and evidence received. If the applicant is present, it will invite further representations and evidence from the applicant specifically on that issue.

¹⁶ Article 57(6) of the Pharmacy Order 2010

¹⁷ Article 57(6) of the Pharmacy Order 2010

¹⁸ Article 57(9) of the Pharmacy Order 2010

4. After the decision has been made

- 4.1 If the committee decides to allow the application, the applicant will be restored to the register as soon as possible. The register will show that the applicant is registered. The record from the hearing will also be displayed on the register as will the details of any conditions imposed. Details of the hearing will appear on our website and the **online register in line with our publication and disclosure policy**.
- 4.2 If the committee decides that a person should be restored to the register, the committee secretary must tell the registrar about this. The applicant should be reminded that they must not practise until the GPhC tells them formally that they have been restored.

Appealing against the decision

- 4.3 If the application for restoration is the first that an applicant has made, they cannot appeal against a decision by the committee to refuse restoration. However, they can appeal against a committee decision that no further applications can be made.¹⁹ This type of appeal can be made to the High Court (or the Court of Session in Scotland) within 28 days of the written reasons for the decision being given.
- 4.4 The Professional Standards Authority (PSA) can appeal against decisions made by the committee, including those to restore pharmacy professionals to the register. The appeal would be to the High Court (or the Court of Session in Scotland) if it considers that the decision to restore a person is not sufficient for the protection of the public, taking into account:
 - protecting the health, safety and wellbeing of the public
 - maintaining public confidence in the professions, and
 - maintaining proper professional standards and conduct for members of the professions
- 4.5 The court may:
 - dismiss the PSA appeal
 - allow the appeal and quash the decision of the committee
 - make a different decision than the committee made, or
 - send the case back to the committee for reconsideration

¹⁹ Article 58(1)(d) of the Pharmacy Order 2010

