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Ref: FTP/DG

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Dear Sir,

Re: Fitness to Practise: Consensual Disposal & Guidance to the GMC's Fitness to Practise Rules

I am pleased to enclose the response of the Royal Pharmaceutical Society of Great Britain ("the Society") to your recent consultation document.

The Society is the professional and regulatory body for pharmacists in England, Scotland and Wales. It also regulates pharmacy technicians on a voluntary basis, and this is expected to become statutory under anticipated legislation.

The primary objectives of the Society are to lead, regulate, develop and represent the profession of pharmacy. The Society leads and supports the development of the profession within the context of the public benefit. This includes the advancement of science, practice, education and knowledge in pharmacy. In addition, it promotes the profession's policies and views to a range of external stakeholders in a number of different forums.

The Society has responsibility for a wide range of functions that combine to assure competence and fitness to practise. These include controlled entry into the profession, education, registration, setting and enforcing professional standards, promoting good practice, providing support for improvement, dealing with poor performance, dealing with misconduct and removal from the register.

The Society welcomes the opportunity to comment on your consultation document, and is content for this response to be published.

I look forward to receiving the results of the consultation in due course. In the meantime, please do not hesitate to contact me should you require any further information.

Yours sincerely,

David Gomez

Legal Advisor

Royal Pharmaceutical Society of Great Britain

ANNEX 1

RESPONSE OF THE ROYAL PHARMACEUTICAL SOCIETY OF GREAT BRITAIN TO QUESTIONS POSED IN THE CONSULTATION

1. Do you agree with the proposed criteria in the draft guidance for concluding cases by consensual disposal?

The Society considers that the following categories of case should not be suitable for disposal by means of undertakings to the case examiners:

- a) issues relating to *deliberate* breach of the UK regulatory scheme governing controlled drugs;
- b) circumstances in which the practitioner has a previous FTP history, including previous warnings issued by the Preliminary Proceedings or Investigating Committees;
- c) circumstances in which the alleged actions of the practitioner have caused widespread media interest;
- d) circumstances in which the alleged actions of the practitioner have caused, or had the potential to cause, death or serious injury to patients or other members of the public; and
- e) circumstances in which there is a realistic prospect of suspension from the register.

The Society considers that a practitioner's previous FTP history should be explicitly taken into account as part of the criteria for consensual disposal.

2. Do you agree that the proposals include adequate safeguards to ensure that consensual disposal will be restricted to appropriate cases and for ensuring that any complainant or referring body has an opportunity to comment before undertakings are agreed?

The Society considers that the best aids to transparency, and to avoid accusations of the “profession protecting its own”, are the publication of clear standards, thresholds and criteria; regular audit of decision making; and the weeding out of “informal processes” from the complaints system.

To promote consistent decision making, the Society recommends that case summaries should be developed for the use of the case examiners, setting out the examples of specific cases in which undertakings have been accepted.

The Society considers that there should be an independent audit, and report published on the use of undertakings as a method of disposal.

3. Do you agree that the proposed changes will allow the GMC to conclude more cases in a fair and proportionate way?

The Society well understands the advantages of an undertakings scheme, in terms of increasing rates of disposal and throughput in the complaints system, and additionally freeing up Committee time for consideration of disputed evidence. However, there may well be a residual perception, both amongst the public and the profession, that undertakings are a “less serious” sanction-given that they are accepted by case examiners, as opposed to conditions imposed by a Committee. The Society considers a concerted effort should be made to dispel this notion.

The Society is also concerned that there does not appear to be a mechanism to review the decision of the case examiners as to the appropriateness of undertakings in individual cases.

From the practitioner's point of view, there is also a danger that practitioners may be (wrongly) advised to admit the allegation and to "go for an undertaking" in the hope of avoiding the adverse publicity of a hearing.

The Society would recommend the publication of agreed statements of fact on the GMC website, alongside the undertakings issued in individual cases, so that the factual basis of the admission is made clear, and so that employers and the public may gauge the seriousness of the matter for themselves.

The Society appreciates the many difficult practical and political issues involved in the establishment of new procedures. It is hoped that these comments will be of assistance.