

A fitness-to-practise investigation would be a nightmare scenario for any pharmacist – find out what happens once that letter comes through your door

# Living in limbo

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Facing a fitness-to-practise procedure is always a harrowing experience. As soon as an investigation opens, a pharmacist's professionalism and livelihood are thrown into doubt. It's little wonder that one pharmacist speaking to C+D describes it as a process that would "drive anyone to a nervous breakdown".

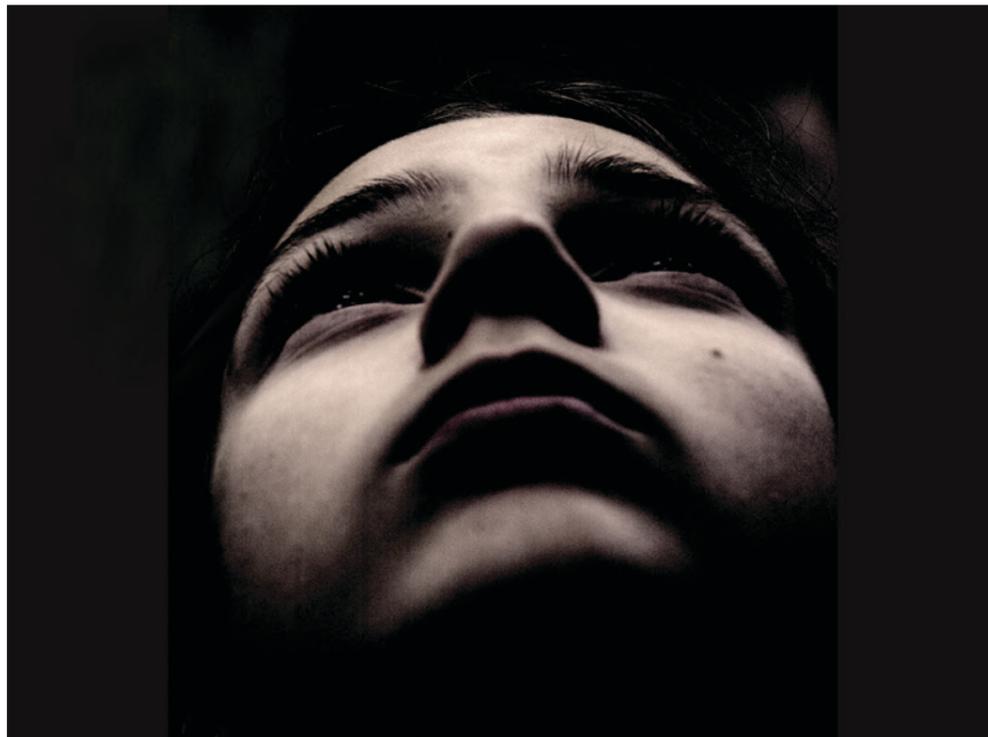
Although the cases regularly make the headlines in the pharmacy press, the actual process remains largely unknown. The highly publicised hearings are just the end of a procedure that can take more than a year - from the initial notification to investigation and evidence gathering. So what is it actually like to undergo the fitness-to-practise process?

A letter through the post will usually be the first a pharmacist hears of a case. The General Pharmaceutical Council (GPhC) will send a notification as soon as fitness-to-practise concerns are raised. Nearly half of these fitness-to-practise complaints come from the public, while the remainder will be from public bodies, law enforcement agencies or one of the GPhC's inspectors.

## A shock to the system

Although some pharmacists refer themselves to the GPhC, receiving the letter can still be a shock. A pharmacist who wishes to remain anonymous tells C+D that, despite self-reporting, getting that official notification was still a "scary experience".

At this stage, pharmacists should seek legal advice straight away, says David Reissner, head of healthcare at law firm Charles



Russell. Having worked on many fitness-to-practise cases, he has seen many pharmacists become stressed by the overwhelming amount they have to consider. "They may need to respond to the regulator and put something in writing," Mr Reissner explains. "If they're a pharmacy owner, they'll need to notify NHS England, so there's quite a lot that needs to be put in place."

From the GPhC's perspective, the first thing to do is assess whether it's the right body to deal with the allegations. If they fall within its regulatory powers, it will open a case and conduct an initial investigation. The GPhC is clear it expects registrants to fully comply with the process from the start. "There's a professional obligation on registrants to be accountable, so that means we do expect them to take part," GPhC chief executive Duncan Rudkin tells C+D. "They



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Duncan Rudkin  
 chief executive, GPhC

have an opportunity at different times to put their case forward so they're dealt with fairly."

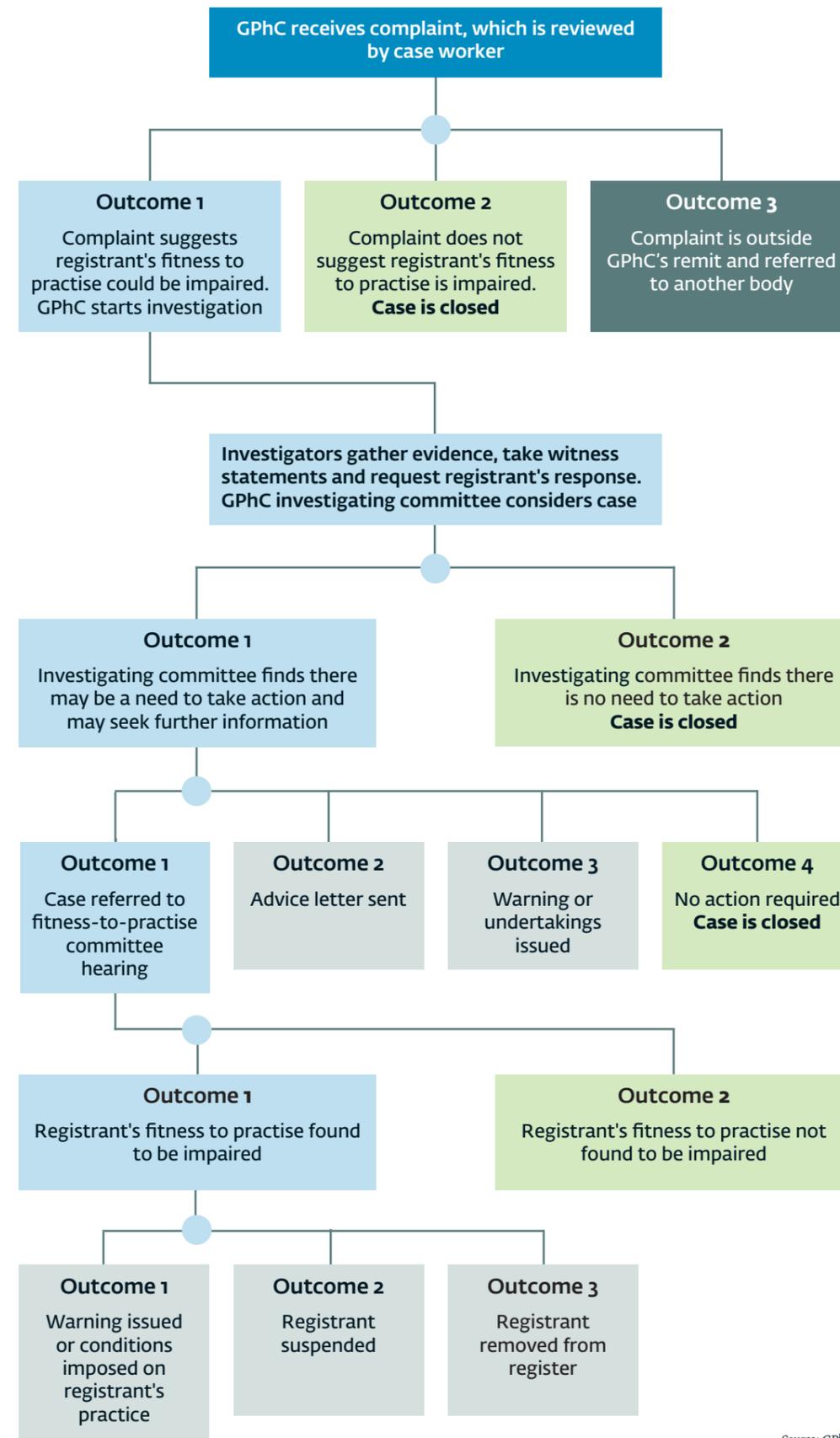
## Timeframe

Once an investigation is opened, the length can vary widely. Simpler accusations should take no longer than six months to investigate, but the process can go on longer if they are more complicated. Last month, the GPhC set a target to wrap up all fitness-to-practise cases within a year by next March; in 2012-13, 14 per cent of cases took 15 months or more to close.

The waiting can be the most agonising part for pharmacists. Until a decision is made, there's little they can do except wait to see whether it results in a fitness-to-practise hearing, and whether they'll be able to return to a normal working life.

Andrea James, partner at JMW Solicitors, says this stress

## How the fitness-to-practise process works



**“The most realistic advice we can give is to carry on with their lives as best they can and live from day to day, because there's nothing they can do to make the case go away**

David Reissner  
 head of healthcare,  
 Charles Russell LLP

is often the main challenge for her clients. "Some clients can call five or six times a day as they get increasingly stressed by the process," she tells C+D. "Fear of the unknown, shame, embarrassment and money worries can all play a part." Ms James says a large part of her role is supporting pharmacists to enable them to respond effectively to the process.

The proceedings can create a financial burden, she adds - and not just from potential legal costs. "While legal fees may be getting paid by the pharmacist's defence organisation, they may have been dismissed from work or, if they're working as a locum, they may find it impossible to get placements with the proceedings hanging over them," Ms James explains.

Charles Russell's Mr Reissner advises his clients to keep going as much as possible. "The most realistic advice we can give is to carry on with their lives as best they can and live from day to day,"

Source: GPhC

because there's nothing they can do to make the case go away," he says.

But this worry can take its toll. The anonymous pharmacist says their case lasted almost a year and a half because they needed to face court proceedings before the regulatory hearing could begin. This made it almost impossible to concentrate on work.

"From the moment [the investigation] happened, I was working under pressure and you've got all this at the back of your mind," they recall. "I couldn't make any plans – personal or business – I was in limbo."

GPhC chief executive Duncan Rudkin stresses that only a small proportion of cases will require a hearing. The regulator's investigating committee has powers to close a case, issue a warning or send a letter of advice before it reaches that stage.

### Extra pressure

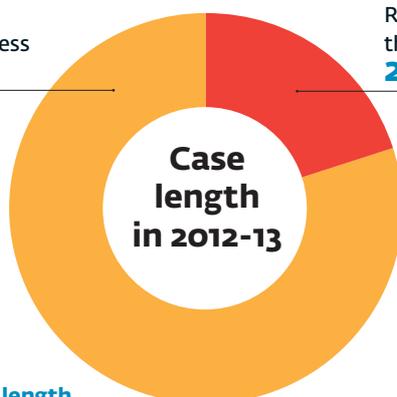
But cases that do result in a hearing will require a lot of work from the pharmacist. To make their case, pharmacists will need to prepare an official statement and obtain character references – an arduous task even with the help of their lawyers. The anonymous pharmacist estimates this work took about two or three weeks of "nothing else".

This work can be vital to the outcome of the hearing. When the committee hears the case, it will cross-examine the pharmacist on their statement and take their references into account. This will usually come in the initial fact-

The GPhC aimed to resolve fitness-to-practise cases within 15 months in 2012-13. How did it do?

Resolved in 15 months or less  
**80%**

Resolved in more than 15 months  
**20%**



### Average case length

2011-2012 39 weeks  
2012-2013 29 weeks

Source: GPhC annual report 2012-13

finding part of the case when the committee decides whether the allegations are true or not.

Once the facts are established, the committee will decide whether they impair the pharmacist's fitness to practise. If the answer is yes, then the final stage is to decide on the sanction. The entire hearing can take several days, Mr Reissner explains, as the committee retires privately to consider its decision at each of the three stages. "Each time the committee deliberates, it's going to take at least an hour because they're making decisions that they recognise are of real seriousness," he reveals. "So they're not going to be rushed into making a decision."

These decisions often come as a shock, JMW Solicitors' Ms James explains, even to those who have committed a serious offence. "Registrants can often be surprised by how harsh the

sanctions are even when you have clearly informed them of the likely outcome in advance," she tells C+D. "Some are convinced they won't be suspended or removed."

Given that four fifths of last year's hearings ended with either a suspension or removal, it's a possibility that many of those facing a hearing will have to consider\*. And, due to what Ms James describes as "very limited" grounds for appeal, only 1 per cent of decisions are formally challenged in the High Court.

Looking at these figures, on top of the time, stress and uncertainty involved, it's easy to see why fitness-to-practise procedures are such a daunting process. But there is some light of the end at the tunnel.

Although the majority of cases don't reach the hearing stage, even the tougher sanctions needn't be the end of your career. The

### Expert view

*The GPhC has tightened its target timeframe for resolving FTP cases from 15 months to a year from March – has it got it right?*

"I think there's a need to speed up the process, particularly given the fact that it impacts on people's ability to do their jobs. I know some of the issues are quite complex but I think there should be a standard timeframe to resolve cases and, if that isn't met, there should be an explanation."

**Ash Soni, clinical network lead, NHS Lambeth**

"I think 12 months is a fair target time, but it depends on how complex the case is. There are circumstances where the GPhC has to be quick, but there are circumstances where it could be justified to take a couple of years."

**Graham Phillips, owner, Manor Pharmacy Group (Wheathampstead) Ltd**

anonymous pharmacist is keen to return to practice again after their year-long suspension period has elapsed. They sum up potentially the only way to approach the fitness-to-practise procedure: "I'm just taking it one day at a time."

\* C+D analysis of the 45 public fitness-to-practise hearings that took place between April 1, 2012 and March 31, 2013, excluding review and appeal hearings

## My experience An anonymous pharmacist tells C+D how she survived a fitness-to-practise hearing



It was quite a scary experience to receive the fitness-to-practise letter. It took about a year and a half before we got to the hearing, so waiting was a lot of pressure.

From the moment the investigation happened, I was working under pressure and had all this at the back of my mind. I couldn't make plans – personal or business – I was in limbo.

It was 50/50 whether my case would result in a hearing, so I put in a lot of effort to do as much as I could. But the GPhC wanted to see me because of the length of time that had passed.

Before the hearing, I spent time getting character references and I had to write a witness statement. It took about two or three weeks of doing nothing else. I was also worried about legal costs. This wasn't a case I could afford, but what can you do?

The hearing was a very horrible experience. I wouldn't wish it on my worst enemy. For three days after it, I was... it could drive anyone to a nervous breakdown. I had to read out my own witness statement and be cross-examined by the GPhC representatives.

I had spoken to my legal representative and he said it would be a suspension or removal – he was pushing for a suspension. It could have gone either way but I was suspended – I can't work as a pharmacist so I'm taking a year out. The GPhC explained their reasons as to how they made the decision, which were quite clear and it was done in a very fair way.

Now I will have to wait until my review hearing. It looks like I'm going to have more character references and also bring my CPD forward. I'm just taking it one day at a time.