

**THE PHARMACEUTICAL SOCIETY OF  
IRELAND**

**ANNUAL REPORT OF THE PRELIMINARY  
PROCEEDINGS COMMITTEE 2010**



**PSI**

THE PHARMACEUTICAL  
SOCIETY OF IRELAND

*Cumann Cógaiseoirí na hÉireann*

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THE PHARMACY REGULATOR

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## Foreword

The Preliminary Proceedings Committee (established under the Pharmacy Act 2007 and hereinafter called the “PPC”) was appointed on 29<sup>th</sup> September 2009 and 2010 was its first full year of operation. It is the function of the PPC to decide whether further action is warranted when complaints are received about registered Pharmacists and registered Retail Pharmacy Businesses (hereinafter called “RPBs”) and where appropriate to refer complaints for mediation or for inquiry by either the Health Committee or the Professional Conduct Committee.

The first PPC meeting held on 16<sup>th</sup> November 2009 was a training meeting in order to assist members of the PPC to become familiar with the processes and procedures involved in the disciplinary regime established under the Pharmacy Act 2007. There were 7 subsequent meetings. During the period 42 formal complaints under Part 6 of the Act were considered by the PPC.

This Annual Report is prepared in order to outline the work of the PPC and to highlight to the Council of the Pharmaceutical Society of Ireland any comments and observations that the PPC may have.

On a personal note I would sincerely like to thank the effort, diligence and commitment shown by members of the PPC in dealing with the various complaints that are put before each PPC meeting. The PPC performs a vital function on behalf of the Pharmaceutical Society of Ireland (hereinafter called the “PSI”), the pharmacy profession and most importantly the public.

Finally, on behalf of the PPC, I would like to express our appreciation of the work of the PSI staff for their assistance throughout the year and I would also like to express sincere thanks to the PPC’s legal advisor, Dominic Dowling, for his assistance.

Signed:   
Michael McGrail

Chairperson of the Preliminary Proceedings Committee

## Introduction

This report is prepared and approved by the PPC and covers the period from 29<sup>th</sup> September 2009 to 31<sup>st</sup> December 2010. The purpose of this report is to provide the Council of the PSI with information with regard to the day to day running of the PPC and other matters relating to the discharge of its functions.

## Legislative Background

The Pharmacy Act 2007 (hereinafter called the “Act”) provided for a major overhaul of many aspects of the pharmacy profession and specifically introduced a fundamental change to the disciplinary/fitness to practise regime operated by the PSI.

Provision for fitness to practise is set out in Part 6 of the Act. Specifically Section 34 of the Act empowered the Council of the PSI to establish, amongst other committees, the PPC.

The PPC consists of 16 members; 7 of these members are registered pharmacists (5 are also pharmacy owners) and the remaining majority is made up of 9 persons other than registered pharmacists who were appointed to represent the public interest.

Sections 38 and 40 of the Act set out the functions and powers of the PPC. Please see Appendix A which sets out applicable sections of the Act.

### Membership and Composition of the PPC

**Non-Pharmacists appointed to represent public interest:**

Ms Maeve Barry

Mr Harry Cooke

Mr Stephen Driver

Dr Martin J Duffy (Alternate Chairperson)

Ms Caitriona Griffin

Ms Noreen Keane

Mr Michael McGrail (Chairperson)

Mr James O'Connor

Ms Anne-Marie Taylor

**Pharmacists:**

Mr Liam Farmer, MPSI

Ms Geraldine Hetherton, MPSI

Ms Oonagh O'Hagan, MPSI

Ms Aoife O'Rourke, MPSI

Ms Joan Peppard, MPSI

Mr Criofan Shannon, MPSI

Mr Gary Smyth, MPSI



## Role of the PPC

The PSI is the statutory regulator of the pharmacy profession and the principal function of the PSI is set out in Section 7 of the Act as follows:

*“to regulate the profession of pharmacy in the State having regard to the need to protect, maintain and promote the health and safety of the public”.*

The PSI carries out this role through the Council and through various committees established by the Council. The PPC is one of these committees and forms part of the disciplinary process of the PSI. The PPC is the first port of call for complaints regarding registered Pharmacists and RPBs. The PPC advises the Council on whether there is sufficient cause to warrant further action being taken on foot of a complaint. It is not the function of the PPC to find that a complaint has been proven or otherwise.

When considering a complaint the PPC ensures that it has sufficient information to process the complaint. This may necessitate the PPC requesting a party to a complaint to provide further information. When the PPC is satisfied that it has sufficient information to consider a complaint it will then establish that the complaint is not trivial, vexatious or made in bad faith.

When considering a complaint, the PPC can decide that there is or is not sufficient cause to warrant further action. In either case, the complaint and advice of the PPC is referred to the next meeting of the Council who may agree or disagree with the advice of the PPC. If the Council decides to take further action then the PPC at its next meeting will either:

1. refer the complaint for resolution by mediation; or
2. refer the complaint to the Professional Conduct Committee; or
3. refer the complaint to the Health Committee.

The PPC is aware that it must go about its business expeditiously and in a manner that is lawful, fair and in conformity with the principles of natural justice.

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2010

## Activities from 29<sup>th</sup> September 2009 to 31<sup>st</sup> December 2010

In the first year of the PPC it held seven meetings to consider complaints by members of the public (which included pharmacists and other healthcare professionals) against registered Pharmacists and RPBs. The categories of complaints considered by the PPC are set out below. Note that some complaints may relate to a number of categories but for the purposes of this table the primary category of complaint is recorded.

<b>Categories of Complaints</b>	<b>Total</b>
• Dispensing Error	16
• Contravention of Section 64 of the Act	2
• Breach of Undertaking to Council	2
• Failure to adhere to professional and/or legal standards including general Code of Conduct issues	9
• Professionalism and customer service	10
• Dishonesty	1
• <u>Commercial Matter</u>	2
Grand Total	42

### **Decisions of PPC**

The PPC decided to advise Council as follows in relation to these 42 complaints:

• Sufficient Cause to take further action	12
• Not Sufficient Cause to take further action	29
• No Jurisdiction to consider complaints	1

In relation to the 12 complaints where the PPC decided that there was sufficient cause to take further action:

- Council decided to take no further action in 4 cases;
- Six complaints were referred to the Professional Conduct Committee for inquiry prior to 31 December 2010;
- Two complaints were referred to Professional Conduct Committee for inquiry after 31 December 2011.

### Secretariat

The PPC is supported in its work by an administrative team or Secretariat made up of trained PSI employees. The members of the Secretariat are:

Ciara McGoldrick LLB, FCA, BL (Head of Unit)

Brendan Curran BCL (Solicitor)

Bernie Chamberlaine (Administrator)

Anthony Whelan (Administrator)

### Independent Legal Advice

Independent legal advice is provided to the PPC by Mr Dominic Dowling, solicitor.

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## Observations and Recommendations

The PPC has the following observations and recommendations in relation to issues that arose during their consideration of complaints:

### 1. Hi-tech Medicines

The PPC suggests that the Council of the PSI consider the protocol for the operation of the Hi-tech Scheme and that they consider whether further guidance should be issued to the Profession as to the appropriate Standard Operating Procedures which should be in place in pharmacies for dealing with prescriptions under the Hi-tech Scheme.

### 2. Handwriting on Prescriptions

The use of handwritten prescriptions is a serious issue and will continue to be an issue until all prescriptions are typed/computer generated, taking into account legislative requirements. While many handwriting errors do not make it to complaint stage because pharmacists are diligent about contacting doctors to clarify the instructions in prescriptions, it is time consuming and there remains an unnecessary risk of dispensing error.

### 3. Stock Levels

A number of complaints have been received about pharmacies not having medication in stock when the patient presented their prescription for dispensing. The PPC is concerned that in the current economic climate pharmacies may be cutting back on their levels of stock resulting in delays for patients in obtaining medications.

### 4. Stock control

The PPC observed that there were a number of complaints about dispensing errors that arose due to poor stock management and the Council may consider reminding pharmacists of best practice in this regard.



**5. Intermediate Level Below "Sufficient Cause"**

Twenty nine of the forty two complaints considered by the PPC during 2010 did not warrant further action yet the complainant clearly felt they had a genuine grievance. While the PPC, in appropriate circumstances, would like to be in a position to advise a Pharmacist/Pharmacy owner that conduct is inappropriate notwithstanding that the matter does not proceed under Part 6, there is no provision for this in the Act.

**6. Patients on Psychiatric Medicines**

The PPC came across a number of complaints from patients who were on psychiatric medicines. The PPC considers that in certain instances these complaints would not have arisen if the Pharmacist concerned had borne in mind the patient's mental state when initially dealing with the patient. In this regard the PPC believes that the Council might consider issuing advice to Pharmacists on the appropriate course of action when dealing with a patient who is on psychiatric medicines.

**Conclusion**

This Annual Report covers the first 15 months in operation of the PPC. It is hoped that the Council and indeed the public can have confidence in the manner in which the PPC discharges its functions. The PPC is acutely aware of the importance of its role in the protection of the public and in ensuring that all complaints are dealt with in a manner that is transparent and fair for all parties concerned. It is hoped that the PPC can continue to successfully fulfil this role in the coming years for the benefit of the public and the pharmacy profession.

Signed: \_\_\_\_\_



Michael McGrail

Chairperson of the Preliminary Proceedings Committee

## Appendix A - Legislation

### Section 34 of the Pharmacy Act 2007

*“The Council shall establish the following disciplinary committees:*

- (a) a preliminary proceedings committee;*
- (b) a professional conduct committee;*
- (c) a health committee.*

*(2) The President of the Society is not eligible to be appointed to a disciplinary committee.*

*(3) A majority of the members of a disciplinary committee shall be persons other than registered pharmacists and at least one of those persons shall be appointed to represent the interest of the public.*

*(4) At least one third of its members shall be registered pharmacists.*

*(5) At least 2 of its members shall be registered pharmacists who are pharmacy owners.*

*(6) The quorum of a disciplinary committee considering a complaint against a pharmacy owner shall include at least one registered pharmacist who is a pharmacy owner.*

*(7) A person is not eligible to hold concurrent membership of more than one disciplinary committee.*

*(8) The members of a disciplinary committee have, as such, the same protections and immunities as a judge of the High Court.*

*(9) The Council shall appoint a registered medical practitioner with relevant expertise to advise the health committee in relation to each complaint referred to it.*

*(10) The registered medical practitioner must be present at the meetings of that committee, but may not vote.*

*(11) The registered medical practitioner has, when advising that committee, the same protections and immunities as a judge of the High Court.”*

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Section 38 of the Pharmacy Act 2007

*“(1) As soon as practicable after receiving a complaint, the Council shall refer it to the preliminary proceedings committee for its advice on whether there is sufficient cause to warrant further action being taken.*

*(2) The committee may –*

*(a) require the complainant to verify, by affidavit or otherwise, anything contained on the complaint,*

*(b) require the complainant to give, by statutory declaration or otherwise, more information relating to the matter raised by the complaint,*

*(c) require the registered pharmacist or pharmacy owner to give such information in relation to the complaint as the committee specifies,*

*(d) invite the registered pharmacist or pharmacy owner to submit observations.*

*(3) A requirement under subsection (2) –*

*(a) must be in writing,*

*(b) must specify a reasonable time within which it is to be met,*

*(c) may be made along with or after another such requirement.*

*(4) The registered pharmacist or pharmacy owner may give the committee information although not required to do so and submit observations although not invited to do so.*

*(5) Before arriving at its advice on whether there is sufficient cause to warrant further action, the committee shall consider –*

*(a) any information given under this section, and*

*(b) whether the complaint is trivial, vexatious, or made in bad faith.”*

Section 39 of the Pharmacy Act 2007

*“(1) On receiving advice pursuant to section 38, the Council shall decide whether to take further action.*

*(2) If the Council decides to take no further action, it shall inform the registered pharmacist or the pharmacy owner, the preliminary proceedings committee and the complainant accordingly.”*

Section 40 of the Pharmacy Act 2007

*“(1) If the preliminary proceedings committee advises, pursuant to section 38, that there is sufficient cause to warrant further action or the Council decides, under section 39, to take further action, the committee shall either –*

*(a) refer the complaint for resolution by mediation under section 37, or*

*(b) refer the complaint to whichever of the following committees (“committees of inquiry”) it considers appropriate –*

*(i) the professional conduct committee,*

*(ii) the health committee.*

*(2) If informed by a mediator that a complaint referred for resolution by mediation-*

*(a) cannot be resolved,*

*(b) can be so resolved but only after taking into account considerations which make the complaint more suitable for a committee of inquiry,*

*the committee shall refer the complaint to a committee of inquiry as if under subsection (1)(b).”*