
Contents

- PCSE re-starts processing pharmacy applications
 - Current legal issues for landlords and tenants
 - General Pharmaceutical Council regulation under lockdown
 - PSNC and LPC review
 - Is your business Covid-19 secure?
 - Pharmacy Conference 2020
-

PCSE re-starts processing pharmacy applications

At the end of March 2020 Primary Care Support England, which processes market entry applications on behalf of NHS England, suspended the processing of most pharmacy applications. This meant that most applications for new contracts, relocations or change of ownership that had not been determined by that date were suspended.

The suspension, therefore, affected most pharmacy applications in England, although exceptions were made in certain circumstances.

PCSE has announced that it has recommenced processing applications from 1st June 2020. Whilst there will undoubtedly be a backlog to clear, it is hoped that this can be dealt with relatively swiftly to restore normal service.

NHS Resolution, which determines market entry appeals in England, continued to process and determine appeals, although no oral hearings are currently being held whilst social distancing rules apply. It is not yet clear when hearings may recommence.

Current legal issues for landlords and tenants

Special rules have been put in place under the Coronavirus Act 2020 effective from 25 March 2020 until 30 June 2020 (currently) limiting the remedies landlords have against tenants who do not pay rents due under their leases. Although the rent remains payable, landlords generally cannot forfeit leases nor wind up a tenant company for non-payment. Payments caught by this include rent, service charge and insurance premiums. Interest on the unpaid rents accrues as normal and, if the landlord does not waive its right to forfeit, after 30 June the special rules will cease to have effect so the usual landlord's remedies will apply again as normal – unless the government extends the deadline.

With cash flow getting tighter and quarterly rents due on 24 June, the next few weeks are likely to see plenty of negotiations between landlords and tenants looking for mutually acceptable ways forward. We are seeing break rights being given up or terms being extended in exchange for rent free periods and other more inventive agreements being reached.

A word of warning for tenants thinking of not paying rent - be careful not to breach pre-conditions to the exercise of your break clauses, which are often linked to rent being paid on time.

Social distancing has prompted pharmacists and other businesses to think innovatively about how to run their business safely for staff and customers. If you have excess space that you could let to a neighbouring business to enable it to trade safely, this could be a good opportunity to create some additional revenue. If you need extra space to safely operate your own business, make sure you act quickly to secure it. We can help you to put in place suitable documentation for this, enabling you to offer a safe trading environment that customers feel comfortable to come to.



Articles

- [Fitness to Practise hearings under lockdown](#)
(Charles Russell Speechlys)
 - [Pharmacy contractors have a duty to try to acquire PPE](#)
(Chemist and Druggist)
 - [Risk involved in medicine delivery by NHS volunteers is too high say pharmacists](#)
(The Pharmacist)
 - [COVID-19: What should I do if I have to close?](#)
(TM Magazine)
 - [Pharmacies targeted by phone scammers claiming to be from NHS](#)
(Chemist and Druggist)
-

General Pharmaceutical Council regulation under lockdown

In mid-March 2020 the GPhC announced that it would be suspending most non-urgent Fitness to Practise Committee hearings for at least two months, and would only deal with the most urgent cases, such as interim order applications and reviews.

We have represented pharmacists at two hearings since then: a registration application for a pharmacist who had been struck off the register 5 years ago and an interim order review hearing. Both were conducted by video-conference. The technology held up well with all parties and the Committee accepting the inevitable limitations of remote hearings.

With no sign of the lockdown ending, and social distancing rules likely to remain in place for some time, the GPhC is now looking at holding some Principal Hearings via video-conference. This may be appropriate for the more straight-forward hearings where there is not a significant dispute over evidence, but holding fully contested hearings remotely will be more problematic for all involved and could lead to unfairness. Careful thought will need to be given to whether these hearings can proceed remotely, and the GPhC is going to have to prepare for physical hearings to resume sooner rather than later otherwise delays in concluding cases – which were already long – will only get worse.

PSNC and LPC review

In November 2019, PSNC and LPCs began a review of their functions. Professor Wright of the University of East Anglia was engaged to look at:

- What representation and support is needed by contractors?
- What is working well in LPCs and PSNC and what could be improved?
- What are the most effective structures for current and future demand?
- What is the best structure to ensure all contractors are represented?
- What, if any, changes are needed?
- How should the representation and support for contractors be financed?

The findings of the report are due to be published on 19th June 2020

Is your business Covid-19 secure?

The term “health and safety” gets used a lot, and the health and safety of employees and the general public is headline news at the moment; but what does “health and safety” really mean?

As a starting point, health and safety law lays down the basic duty on all businesses in the UK to protect the health, safety and welfare at work of employees and those not in their employment. This duty is not absolute - employers are required to do all that is “reasonably practicable” to protect health and safety.

The term “reasonably practicable” has been included in worker safety legislation for over a hundred years; what is “reasonably practicable” requires an assessment of the activity taking place, the risk of harm arising from that activity,



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the seriousness of the harm that may arise and the measures that could be taken to reduce, or eliminate, that risk.

For the purposes of working (or returning to work) under Covid-19, an important obligation on employers is set out in the Management of Health and Safety at Work Regulations 1999, which require all employers to prepare a “suitable and sufficient” risk assessment.

The risk assessment must be written down where the employer employs 5 or more people and should have regard to relevant guidance. Employers should discuss these assessments with staff and get their feedback.

In May the Government produced a raft of guidance for various sectors across the UK economy to help businesses make appropriate preparations to become Covid-19 Secure. “Chemists” were included in the guidance for “shops and branches”.

Government guidance provides that Covid-19 Secure risk assessments should consider issues such as:

- Increasing the frequency of handwashing and surface cleaning.
- Complying with the social distancing guidelines set out by the government (keeping people 2m apart wherever possible, including while arriving at and leaving work, moving around within the workplace and at break times).
- Using screens and barriers and back-to-back or side-to-side working to reduce face-to-face contact.
- Working in the smallest possible teams to reduce the number of people that each member of staff comes into contact with.

It is important that appropriate records are kept to demonstrate compliance with statutory obligations in case regulators ask for evidence in the future.

At the risk of adding to the ever-growing administrative burden on pharmacists, pharmacy owners should re-visit how Covid-19 Secure their pharmacies are and consider whether any additional, or different, measures are now appropriate. And don't forget to write the risk assessment down if you employ more than 5 people.

Pharmacy Conference 2020

Talking of making workplaces Covid-19 Secure, in our last edition we informed readers that our annual Pharmacy Law Conference, which had been scheduled for March 2020, was being put back to September 2020. Unfortunately, it seems unlikely that we are going to be in a position to hold a conference in a packed auditorium followed by a networking lunch in September whilst keeping 2 metres apart.

We have therefore taken the decision to put the conference back again to 4th March 2021, although we are looking at whether we can run a shorter webinar in September.

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