

August 2018

Judicial Review Appeal judgment: Frequently Asked Questions

The judgment in PSNC's Judicial Review Appeal case was handed down on Thursday 23rd August 2018. A summary of the judgment is available in [PSNC Briefing 044/18: Summary of the Judicial Review Appeal judgment](#). This document answers some Frequently Asked Questions about the judgment.

Background

Q. What is a Judicial Review?

A. A Judicial Review is a procedure in which a court reviews the lawfulness of an action or decision taken by a public body such as the Government, a minister, or a Local Authority. The reviews are generally concerned with whether the decision-making process was lawful, rather than considering the actual decision itself.

Q. Why did PSNC seek a Judicial Review?

A. PSNC voted unanimously to take legal proceedings in 2016. It is the first Judicial Review we have sought this century, and the Committee took time to balance the pros and cons before making the decision to proceed. Leading counsel advised PSNC that it had a good case, and PSNC believed it was essential, for now and in the future, to seek to ensure that consultation processes are conducted properly and that decisions about community pharmacy are well informed and considered.

Q. What was the initial Judicial Review judgment?

A. On 18th May 2017, Mr Justice Collins gave his judgment in PSNC's Judicial Review case. He found against PSNC but criticised the Department of Health's (DH's) consultation process, stating that it was unfair, but not so unfair as to be unlawful. DH had failed to disclose its use of a Companies House analysis that it said showed community pharmacies have an operating margin of 15%. You can read about PSNC's Judicial Review case [here](#) and a fuller description of the initial judgment is available in [PSNC Briefing 031/17: Summary of the Judicial Review judgment](#).

Q. Why did PSNC appeal the decision?

A. PSNC felt that the Judgment handed down by Mr Justice Collins failed to grapple with all of the arguments that we put forward in the Judicial Review and was, in places, inconsistent. PSNC was advised by its lawyers that the Appeal was worth pursuing.

The Appeal judgment and implications

Q. What does the result mean for community pharmacy?

A. The funding cuts will not now be undone, but we hope that consultations between us and the Department of Health and Social Care (DHSC) will now be much more collaborative. This will be in the best interest of community pharmacies. PSNC Chief Executive Simon Dukes has already begun rebuilding relationships with DHSC, NHS England and Government.

Q. What will PSNC do next?

A. PSNC's objective now is to ensure that the valuable contribution that community pharmacies make to local communities is fully recognised and that pharmacies are able to provide a wide range of fully funded services for the benefit of patients and the NHS. There is much work to be done, not only in detailed negotiations with DHSC and the NHS, but in ensuring the evidence supporting community pharmacy is robust and maintaining support for the sector from charities and patient groups.

Q. How was the Judicial Review and subsequent Appeal funded?

A. PSNC covered the costs of the Judicial Review through a levy from LPCs and we will not need to seek additional levies to cover the costs of the Appeal. Any legal process costs money, but the sums of money that PSNC spent on this litigation, although large, are relatively small in comparison with the cuts that we were seeking to prevent.

Q. What can we expect for the future of the national community pharmacy contract?

A. The current funding and national service elements of the contract, extended via [interim arrangements](#) in March, will continue for the time being. Funding negotiations for 2018/19 have not yet begun but PSNC expects that with the Appeal now concluded they will be able to commence soon. We have appreciated the supportive comments from the new Secretary of State and look forward to working with Government to find ways for community pharmacies to do more for the benefit of their patients.

If you have queries on this PSNC Briefing or you require more information, please contact [PSNC's Communications and Public Affairs Team](#).