



t 0203 1220 810  
e [info@psnc.org.uk](mailto:info@psnc.org.uk)  
w [psnc.org.uk](http://psnc.org.uk)

May 2018

## PSNC's Judicial Review Appeal: Frequently Asked Questions

### 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 happened in the Judicial Review?

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%.

### 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.

### Q. What will happen next; and how long will the case take?

A. PSNC's legal team have been working on the Appeal case for many weeks, and our QC Alison Foster will make our arguments to the Judges in the Court of Appeal this week. The NPA and Department of Health will also make their cases. This is expected to take up to two and a half days, after which we expect that the Judges will defer their Judgment. This means it may be many weeks until we know the decision.

### Q. What can we hope for from the Appeal case?

A. Many cases of this kind have been brought with varying results, so it is not helpful to speculate on what the outcome may be if the Court of Appeal finds in our favour, but PSNC may be able to recover some of its costs and we would expect that the Department would be obliged to carry out proper consultation processes in the future.

### Q. What happens if PSNC loses the Appeal?

A. If the Court does not find in favour of PSNC, the community pharmacy imposition would stand. It is likely that we would have to cover the Department of Health's legal costs for the Appeal as well as our own.

### Q. How much will the Appeal cost?

A. The Judicial Review cost many hundreds of thousands of pounds and this was covered by a one off supplementary levy from LPCs, equating to an average cost of £100 per pharmacy. The costs of the Appeal are very small, compared with this, and no further special levies will be needed.