# Policy Document

**Reference: MM04**

University Hospitals of North Midlands NHS Trust

# Prescribing, Supply and Use of Unlicensed and Off-Licence Medicines



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| **Version:** | **4** |
| **Date Ratified:** | **August 2019 by Trust Executive Committee (TEC)** |
| **Date of Next Review:** | **August 2022** |
| **Expiry Date:** | **August 2023** |
| **Policy Author:** | **Clinical Director of Pharmacy and Medicines Optimisation** |
| **Executive Lead:** | **Medical Director** |

## Version Control Schedule

| Version | Issue Date | Comments |
|---|---|---|
| 1 | January 2008 | First time policy issued |
| 2 | Dec 2011 | Policy reviewed and updated |
| 3 | August 2015 | Policy reviewed and updated |
| 4 | August 2019 | Policy reviewed in full and minor alterations made to introduction, roles and responsibilities and Appendix B. Changed to new Trust format. Reviewed at Trust Safe Medication Group in June 2019. |

## Statement on Trust Policies

The latest version of 'Statement on Trust Policies' applies to this policy and can be accessed here

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## 1. INTRODUCTION

The purpose of this policy is to ensure that the Trust uses unlicensed medicines and licensed medicines for unlicensed indications (off-licence or off-label use) in a safe manner and any risks associated with their use are identified and managed.

To comply with the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 and the Care Quality Commission (Registrations) Regulations 2009 providers must ensure that medicines are supplied in sufficient quantities, managed safely and administered appropriately to make sure people are safe. This policy supports the Trust in achieving compliance with these regulations.

In order to ensure that medicines are safe, effective and of appropriate quality, their manufacture and sale or supply is controlled by national and European Union legislation. Accordingly, no medicinal product may be placed on the market unless a Product Licence (PL) (also known as marketing authorisation (MA)) has been granted. However, in order to preserve prescribers clinical freedom the legislation gives some exemptions from full control. Thus medicinal products that do not have a PL may be prescribed in order to fulfil special needs in individual patients on the direct personal responsibility of the prescriber. For good clinical reason the use of unlicensed medicines and off-licence medicines is widespread and were this practice to be curtailed the treatment of many patients would be impeded.

Licensed medicines in the UK are subject to rigorous independent assessment by the Medicines and Healthcare Products Regulatory Authority (MHRA), however, the same assumptions of quality, safety and efficacy cannot be made for unlicensed medicines. As a result of this unlicensed medicines may potentially carry a higher level of risk to our patients. Hence, safeguards and locally agreed policies and procedures need to be in place for the use of unlicensed medicines.

A fatal incident that occurred at Heartlands Hospital in 2009 highlights the importance of having adequate systems in place to manage unlicensed medicines. A 64 year old lady died of multiple organ failure 10 days following administration of an unlicensed phosphate solution during a routine bronchoscopy procedure. The investigation that followed revealed that the patients received a solution which was 10 times more concentrated that the solution normally used. No quality checks were carried out in Pharmacy, the product contained no information regarding the concentration and both the Doctor and Nurse assumed the new solution was the same as that used previously. The inquest ruled that ‘neglect and failure led to the woman’s death’.

All staff involved with the use of unlicensed medicines and off-licence medicines should be familiar with other relevant Trust policies and associated standard operating procedures. These include:

- MM03 Policy for the Storage, Prescription, Supply and Administration of Medicines

An “Equality Impact Assessment” has been undertaken and no actual or potential discriminatory impact has been identified relating to this document.

## 2. POLICY STATEMENT

The Trust will use UK licensed medicines within the limits of their product licence wherever possible. Unlicensed medicines and off-licence medicines will only be used when no pharmaceutically equivalent licensed product or suitable alternative licensed product is available for use at the time the patient requires it. All unlicensed medicines and off-licence medicines used within the Trust will only be used in accordance with this Policy, including the guidance provided in **Appendix A** (Unlicensed Medicines And Off-Licence Medicines Guiding Principles) and the procedure outline in **Appendix B** (Trust procedure for the supply of unlicensed and off-licence medicines)

## 3. SCOPE

This policy and associated guidance (Appendix A) and procedure (Appendix B) applies to all Trust staff and any external contractors, agency or locum staff involved in any aspect of the procurement,

prescribing, supply and administration of unlicensed medicines or off-licence medicines. The policy, guidance and standard operating procedure must be followed at all times.

This policy also applies to the prescribing, supply and use of unlicensed radiopharmaceuticals.

The policy does not cover:
- Investigational medicinal products (clinical trials material)
- Non-medicines
- Medical Devices

## 4. DEFINITIONS

A UK **licensed medicine** is one that has been granted a Product Licence (PL) and can be marketed in the UK for the treatment of medical conditions as defined in its PL i.e. its licensed indications. The Summary of Product Characteristics (SPC) specifies the licensed indications of a medicine and how it is to be used (e.g. doses, frequency, reconstitution, dilution etc.) and when it is not to be used (contra-indications) or used with caution (special precautions).

Sometimes medicines are used for a clinical indication or in a way that is not covered by the PL. This would constitute the unlicensed use of a licensed medicine which is often referred to as **off-licence** or **off-label** use.

A UK **unlicensed medicine** is one that does not have a UK PL. There are 3 reasons for a product being unlicensed: No UK PL has been granted; Licensed in a county other that the UK; UK manufactured 'special'. Further explanation of these reasons is given in Appendix A.

**Specials** are unlicensed medicines which have been specially prepared by the holder of a Manufacturers Specials Licence. A **Manufacturers Specials Licence** is issued by the Medicines and Healthcare products Regulatory Agency (MHRA) to organisations wishing to place unlicensed medicines on the market in the UK. The UHNM Pharmacy at the Royal Stoke University Hospital holds a Manufacturers Specials Licence. Further details of the controls applying to Manufacturers Specials Licences are given in the MHRA Guidance Note 14.

Specials are usually accompanied by either a certificate of analysis or certificate of conformity. For batch manufactured specials, a **certificate of analysis** confirms a sample of the final product has been taken and the quantity of the active ingredient in the medicine has been verified. For bespoke preparations which are not manufactured as a batch, a **certificate of conformity** confirms the medicine conforms to the initial product specification request.

Activities within Pharmacy can also render a licensed product unlicensed and further information on these activities is given in Appendix A.

Products are considered **pharmaceutically equivalent** if they contain the same amount (or concentration) of the same active substances in the same dosage form, and meet the same or comparable standards considered in the light of the clinical needs of the patient at the time of its use.

**Prescriber** applies to any practitioner legally authorised to prescribe under the Medicines Act 1968 and its subsequent revision and consolidation in the Human Medicines Regulation 2012. This policy applies equally to both medical and non-medical practitioner prescribing. Authorised prescribers must be approved by the Trust and include registered medical staff and accredited nurse, pharmacist or other non-medical prescribers**.** Registered non-medical prescribers are authorised by the Deputy Chief Nurse and may prescribe as independent or supplementary prescribers according to their annotation on the register.

## 5. ROLES AND RESPONSIBILITIES

### 5.1 Medical Director

The **Medical Director** has overall responsibility for Medicines Optimisation within the Trust and is supported in the role by the Clinical Director of Pharmacy and the Chief Nurse. The Medical Director will:

- Ensure through membership of the Executive Team that corporate performance management arrangements are in place regarding Divisional implementation of Trust policies relating to medicines, which includes implementation of this policy.
- If appropriate authorise the use of unlicensed medicines and off-licence medicines according to the procedure outlined in Appendix B.
- Appoint a designated deputy or deputies to authorise the use of unlicensed medicines and off-licence medicines according to the procedure outlined in Appendix B in his/her absence, this would normally be the Deputy/Associate Medical Directors and the Divisional Chairs.

### 5.2 Clinical Director of Pharmacy and Medicines Optimisation

The **Clinical Director of Pharmacy** will:

- Have overall responsibility for the purchase and supply of unlicensed medicines within the Trust.
- Ensure that this policy is reviewed and updated in line with the review date specified.
- Ensure that appropriate procedures are in place within the Pharmacy Directorate to cover all aspects of the procurement and supply of unlicensed medicines and off-licence medicines.
- If appropriate authorise the use of unlicensed medicines and off-licence medicines according to the procedure outlined in Appendix B.

### 5.3 ARSAC licence holders

For the purpose of unlicensed and off-licence radiopharmaceuticals only, the **Trust ARSAC licence holders** will:

- Ensure that appropriate procedures are in place within the Imaging Department and Medical Physics Department to cover all aspects of the procurement and supply of unlicensed and off-label radiopharmaceuticals.
- Will authorise the purchase and use of all unlicensed and off-licence radiopharmaceuticals according to the procedure outlined in Appendix B.
- Will ensure that only authorised staff are able to order unlicensed radiopharmaceuticals and that they only do so from a Trust authorised supplier.
- Will ensure that the unlicensed radiopharmaceutical has been approved by the Pharmacy Quality Team before it is used.

### 5.4 Prescribers

A **prescriber** who prescribes an unlicensed medicine or an off licence medicine is professionally accountable for his/her judgement in doing so, and in the case of adverse events may be called upon to justify his/her actions. It could be anticipated that such justification would be achieved if a body of peers would recognise the prescription as best practice.

**Prescribers** will:

- Ensure that they are aware of the licensed indications of a medicine and will routinely prescribe licensed medicines in accordance with the terms of the licence.
- Ensure the use of an unlicensed medicine or off-license medicine is justified by the clinical condition of the patient and be satisfied that an alternative licensed medicine would not meet the patient's needs.
- Be satisfied that there is sufficient evidence base and experience of using the medicine to demonstrate its safety and efficacy.
- Before prescribing an unlicensed medicine for the first time ensure that it has been approved by the Trust for the intended use, and if not, follow the procedure outlined in Appendix B, remembering to allow Pharmacy adequate time to source and obtain the medicine.
- Ensure that the Trust policy relating to obtaining patient consent is complied with.

- Record the medicine prescribed and, where this does not follow common practice, document clear reasons for choosing the medicine in the patient's notes.
- Where appropriate provide information for the patient about the unlicensed / off-licence medicine and provide the patient with a copy of the Patient Information Leaflet. This is available on the trust intranet under Home/Clinicians/Support Services/Pharmacy/Unlicensed Medicines.
- Ensure that incidents of patient adverse reactions are recorded and reported to the MHRA via the yellow card scheme and to the Trusts Adverse Incident Reporting Scheme (Datix®).
- Ensure that before on-going care is transferred to the patients General Practitioner (GP) the patients GP has been informed of the unlicensed / off- licence status of the medicine, including the reason for prescribing it, and he/she is willing to accept responsibility for its on-going prescription. Prescribers should be aware that a GP may decline to prescribe an unlicensed or off-licence medicine.

### 5.5 **Pharmacists**

Every **pharmacist** assumes a duty of care to the patient when he/she supplies medication to the patient. When supplying a product without a PL or outside of the PL the pharmacist who clinically checks the initial prescription and the pharmacist who authorises the purchase of the product may share liability, with the prescriber, should the patient suffer an adverse event. This particularly applies where the pharmacist is involved in specifying the product to be purchased, or if their actions or omissions have contributed to the harm.

The **pharmacist** who clinically checks the prescription will:

- Ensure that a medicine with a PL is supplied where such a product exists in a suitable formulation and when the patient requires it.
- Only authorise supply of unlicensed medicines and off-licence medicines in accordance with this policy and the procedure outlined in Appendix B.
- Ensure, wherever possible, that the prescriber is aware that the medicine they have prescribed is unlicensed or off-licence.
- Be satisfied that the use of an unlicensed medicine or an off-licence medicine is justified by the clinical circumstances and there is published evidence, relevant experience and/or sound therapeutic argument to support its use.
- Ensure that before supply of an unlicensed medicine is authorised there is a completed and authorised clinical risk assessment where required by the procedure outlined in Appendix B.
- Where appropriate, counsel the patient on the use of the unlicensed / off- licence medicine and provide them with the Patient Information Leaflet. This is available on the trust intranet (Home/Clinicians/Support Services/Pharmacy/Unlicensed Medicines)

The **pharmacist** responsible for the procurement of unlicensed medicines will:

- Ensure that before an unlicensed medicine is purchased for the first time the procurement risk assessment is completed by the Pharmacy procurement team and authorised by a Pharmacist or a Senior Pharmacy Technician for low risk medicines and by the Clinical Director of Pharmacy (or designated Deputy) for high risk medicines.
- Ensure procedures are in place to: enable identification and quarantine of unlicensed medicines on receipt into Pharmacy; inspection and release by the Pharmacy quality team of all unlicensed medicines; over-labelling of all medicines requiring translation of product information into English; enable tracing of an unlicensed medicine to patient level, as far as reasonably possible, in the event of a product recall.
- Maintain a register of all unlicensed medicines approved for use in the Trust, including the relevant risk assessments.
- Provide the Trust Safe Medicines Group and Divisional Safe Medicines Groups with quarterly reports of unlicensed medicines use, including any outstanding risk assessments.

The **Pharmacy Quality Team** will:

- Check that the unlicensed medicine is correct against the original order and the unlicensed risk assessment form completed by the procurement team.
- Undertake a visual inspection of the product including the labelling and packaging.
- Retain a record of the products inspected including batch number, expiry date and any accompanying certificates.
- Ensure that products requiring translation of product information into English are over-labelled.
- Ensure that where necessary appropriate change controls are undertaken to cover all aspects of the use of new unlicensed medicine.
- Authorise the release of the unlicensed medicine only if satisfied that the product is correct against the original order and procurement risk assessment form, and following assessment that it is of suitable quality. Any concerns will be immediately brought to the attention of the Procurement Pharmacist or Clinical Director of Pharmacy.
- Authorise the release of unlicensed radiopharmaceuticals based on satisfactory review of the individual product certificate of assurance. Any concerns will be immediately brought to the attention of the ARSAC licence holder.

5.6 **Nursing staff and healthcare professionals** involved in the administration of medicines will:

- Ensure that the unlicensed or off-licence medicine is only administered against a patient specific prescription and with the patient's informed consent.
- Ensure that they have sufficient information to administer the medicine safely and, wherever possible, that they are satisfied that there is acceptable evidence for the use of that product for the intended indication and in the intended manner.
- Where appropriate, provide information to the patient on the medicine and provide them with the Patient Information Leaflet.
- Where the unlicensed medicine is kept as ward stock record the name of the unlicensed medicine administered, batch number and expiry date in the patient's medical notes. Unlicensed medicines will only be kept as stock items on wards or in clinical areas where this is clinically justified and agreed by the Specialist Pharmacist responsible for that area.

On the rare occasion that unlicensed medicines are held as stock on the ward / department it is the responsibility of the registered practitioner in charge to ensure staff involved in the administration of the unlicensed medicine are aware of its unlicensed status and the requirement to record the name, batch number and expiry dates in the patient's notes. Where the registered practitioner in charge and the Specialist Pharmacist judge it impractical to record this information a risk assessment must be in place.

5.7 **Divisional Chairperson and Clinical Directors**

**Divisional Chairs** and **Clinical Directors** will:

- Ensure that systems are in place to ensure that prescribers working within their Division and Directorate respectively are aware of this policy and their responsibilities in relation to the prescribing and use of unlicensed medicines and off-licence medicines.
- Provide leadership and advice, and support decision making, in the prescribing and use of unlicensed and off-licence medicines in relation to their Divisions and Directorates respectively.
- Support the Pharmacy Team and Divisional Safe Medicines Group with ensuring compliance with this policy and addressing areas with outstanding clinical risk assessments.
- If appropriate authorise the use of unlicensed medicines and off-licence medicines according to the procedure outlined in Appendix B.

5.8 **Divisional Safe Medicines Groups**

Each Division should have a **Safe Medicines Group** who will:

- Actively support implementation of this policy within their Division through review and approval of unlicensed medicines usage reports from Pharmacy.

- Work with the Divisional Pharmacist, Divisional Chairperson and Clinical Directors to address areas of non-compliance including completion of outstanding clinical risk assessments.
- Review, and if appropriate approve, the use of unlicensed and off-licence medicines according to the procedure outlined in Appendix B.

### 5.9 Trust Safe Medicines Groups

The **Trust Safe Medicines Group** is responsible for:

- Overseeing and supporting the Divisional Safe Medicines Groups with implementation of this Policy through review and approval of Divisional action plans and reports provided by Pharmacy.
- Review, and if appropriate approve, the use of unlicensed and off-licence medicines according to the procedure outlined in Appendix B.

## 6. EDUCATION/TRAINING AND PLAN OF IMPLEMENTATION

Individual registered practitioners are responsible for ensuring that they have appropriate knowledge and experience to prescribe, supply or administer medicines competently in their area of practice, this includes knowledge of the licensed status of any medicines that they prescribe, supply or administer. They need to comply with the registration requirements of their registering body and ensure that they keep their professional and clinical knowledge up-to-date. This should form part of their personal development plan and be reviewed at their annual appraisal.

Consultants are responsible for ensuring that all medical officers in their teams are trained to be competent in all aspects of the prescribing of medicines, including unlicensed and off-licence medicines. Nursing and departmental managers are responsible for ensuring that any non- medical prescribers working for them are similarly competent.

Matrons and Ward Managers are responsible for ensuring that all nurses administering medicines are aware of this policy and the procedure for obtaining and administering unlicensed medicines.

Divisional and departmental managers have a responsibility to ensure that copies of this policy and associated guidance and standard operating procedure is available to their staff, and they must ensure that their staff are fully aware of all relevant procedures applicable to their Ward / Clinical Area.

The Pharmacy Directorate provides an overview of medicines optimisation arrangements within the Trust on the corporate induction programme and through medicines optimisation mandatory training. In addition the Pharmacy Directorate can support Divisions and Directorates in delivering educational sessions for specific staff groups. Specific medicines optimisation training is routinely given to Foundation Year 1 doctors and perceptorship nurses.

It is essential that the Trust and Divisions are able to demonstrate compliance with this policy. The Trust Safe Medicines Group and Divisional Safe Medicines Groups will oversee the implementation of this policy and as far as possible ensure compliance with it. The Pharmacy Directorate will provide information on the use of unlicensed medicines within the Trust including completed risk assessments to support these groups with this.

## 7. MONITORING AND REVIEW ARRANGEMENTS

### 7.1 Monitoring Arrangements

Implementation of this policy will be audited on an on-going basis through review of quarterly information reports sent to Divisional Safe Medicines Groups and the Trust Safe Medicines Group. The information reports will be provided by Pharmacy and will include newly approved unlicensed medicines, medicines requiring Divisional or Trust approval and any outstanding risk assessments. Divisional Safe Medicines Groups will be responsible for addressing any concerns/areas of non-compliance identified. See monitoring table below for full details.

The Pharmacy Directorate will maintain records of all unlicensed medicines used within the Trust and will publish and maintain an up-to-date register of Trust approved unlicensed medicines which is accessible via the Trust intranet. The Pharmacy Directorate will review the register annually and remove any unlicensed medicines that are no longer in use. The Pharmacy Directorate will keep all completed clinical and procurement risk assessment forms for a minimum of 5 years.

| MM04 Policy for the Prescribing, Supply and Use of Unlicensed and Off-Licence Medicines Monitoring Table | | | | | |
|---|---|---|---|---|---|
| Aspect of compliance or effectiveness being monitored | Monitoring method | Individual or department responsible for the monitoring | Frequency of the monitoring | Group/committee/ forum which will receive the findings/monitoring report | Committee/ individual responsible for ensuring that the actions are completed |
| Newly approved unlicensed medicines | The Pharmacy Directorate will provide a report of all newly approved unlicensed medicines to directorate level.<br><br>Pharmacy will maintain a register on the Trust intranet of all approved unlicensed medicines. | Pharmacy Directorate<br><br>Clinical Information Service | Quarterly | Divisional Safe Medicines Group | Divisional Safe Medicines Group<br><br>Trust Safe Medicines Group |
| Unlicensed medicine requests requiring Divisional or Trust approval | The Pharmacy Directorate will provide a list of unlicensed medicines requiring Divisional or Trust approval including copies of the completed risk assessment forms. | Pharmacy Directorate Clinical Information Service | Quarterly (this may be more frequently if urgent approval is required) | Divisional Safe Medicines Group | Divisional Safe Medicines Group<br><br>Trust Safe Medicines Group |
| Outstanding risk assessments | Pharmacy will provide a list of all unlicensed medicines in use which do not have up to date risk assessments | Pharmacy Directorate Clinical Information Service | Quarterly | Divisional Safe Medicines Group | Divisional Safe Medicines Group<br><br>Trust Safe Medicines Group |

### 7.2 Review

This policy will be reviewed at least every 3 years by Clinical Director of Pharmacy or earlier if major change is required due to change in legislation or national initiatives relating to unlicensed medicines.

## 8. REFERENCES AND FURTHER READING

Prescribing Specials: Guidance for the prescribers of Specials. Royal Pharmaceutical Society, April 2016

Professional Guidance for the Procurement and Supply of Specials. Royal Pharmaceutical Society, December 2015

MHRA Guideline Note 14: The supply of unlicensed medicinal products 'specials'. Medicines and Healthcare products Regulatory Agency, 2014.

Guidance for the Purchase and Supply of Unlicensed Medicinal Products - Notes for prescribers and pharmacists. NHS Pharmaceutical Quality Control Committee, 3rd edition, June 2004.

Legal and Ethical Advisory Service Fact Sheet 5: The Use of Unlicensed Medicines in Pharmacy. The Royal Pharmaceutical Society of Great Britain, September 2007.

Medicines, Ethics and Practice. The Royal Pharmaceutical Society, July 2018.

Rules and Guidance for Pharmaceutical Manufacturers and Distributors. Medicines and Healthcare products Regulatory Agency, 2015.

The Purchase and Use of Unlicensed Medicines in Hospital. Policy Statement No 006. Guild of Healthcare Pharmacists, January 1997.

The use of unlicensed medicines or licensed medicines for unlicensed applications in paediatric practice. Joint Standing Committee on Medicines, March 2019

**APPENDIX A**

## UNLICENSED MEDICINES AND OFF-LICENCE MEDICINES GUIDING PRINCIPLES

### Trust Policy

The Trust Policy on unlicensed and off-licence medicines is that the Trust will use UK licensed medicines within the limits of their licence wherever possible. Unlicensed medicines and off-licence medicines will only be used when no pharmaceutically equivalent licensed product or suitable alternative licensed product is available for use at the time the patient requires it.

All unlicensed medicines and off-licence medicines used within the Trust will only be used in accordance with the Trust Policy, including this guidance and the procedure outlined in Appendix B.

It is recognised that compliance with this policy and guidance may have additional financial implications for the Trust; however cost should not be a factor in the risk assessment of unlicensed medicines. Any potential cost pressures will be highlighted to the appropriate Division(s) and Directorate(s) by the Pharmacy Directorate.

If a commissioner requested that the Trust and it's clinicians (including prescribers, pharmacists and nursing staff) utilise an unlicensed medicine or off-licence indication of a licensed product as part of it's routine commissioning legal advice would be sort. Ultimately the Trust has a responsibility to ensure that it's clinicians and registered practitioners are not exposed to any unnecessary risk to their professional registration.

### Unlicensed Medicines

A UK unlicensed medicine is one that does not have a UK Product Licence (PL). There are 3 reasons for a product being unlicensed: No UK PL has been granted; Licensed in a country other than the UK; UK manufactured 'special'.

No UK PL may have been issued for one of the following reasons:
- The product is waiting the granting of a licence in the UK
- It is undergoing clinical trials
- It is only manufactured for export
- It has been withdrawn from the UK market.

Such medicinal products can often be obtained from the manufacturer on a named patient / individual patient / compassionate supply basis.

Medicines available and licensed in a country other than the UK may be imported through specialist importers, and their UK use would be unlicensed.

Some manufacturers specialise in the preparation of products for which demand does not justify commercial production and licensing. Some NHS pharmacy aseptic units and non- sterile manufacturing units are included in this group. They produce a medicinal product to the specification of an authorised purchaser, usually a pharmacist. Such products are often known as 'specials', and as the products do not have a PL they do not have a specified indication for use, recommended dose or SPC (Summary of Product Characteristics). The Trust holds a MHRA specials manufacturing licence for the Pharmacy Manufacturing Unit at the Royal Stoke University Hospital and the Radiopharmacy Laboratory within the Department of Nuclear Medicine.

In addition to the above, two activities within Pharmacy can also render a licensed product unlicensed. These are:

- The use of a licensed medicine as an ingredient in preparing a medicine for a specified patient in accordance with a prescriber's instructions. This activity, known as extemporaneous dispensing,

includes total parenteral nutrition compounding, preparation of intravenous additives, and cytotoxic drug reconstitution services. So long as best practice is used in the preparation process, and the plant, premises, processes and personnel are subject to audit and inspection, the risk involved in converting a licensed medicine to an unlicensed medicine in this way is small but justified if the clinical need cannot be met in another way.

- Repackaging of a licensed medicine e.g. preparing 5 packs of 20 tablets from a manufacturer's pack of 100 tablets for use as take home patient packs, would 'de-licence' the medicine. So long as the new packaging is appropriate to the product the risk involved in converting a licensed pack to an unlicensed pack in this way is minimal and justified if the operational need cannot be met in another way.

**Level of Risk**

The hierarchy of risk for medicines for a patient's requirement proposed by the MHRA is as follows (lowest risk first):

1. A UK or EU licensed medicine for a licensed indication.
2. A UK or EU licensed medicine used outside of its PL.
3. An imported medicine licensed in its country of origin.
4. A UK manufactured 'special' made in a MHRA licensed facility.
5. A UK extemporaneously dispensed medicine.
6. An imported product not licensed in its country of origin.
7. A none UK made unlicensed medicine or food supplement.

The medicine which carries the lowest risk according to the above hierarchy should always be selected, however it is recognised that in practice preference may occasionally be given to a lower graded category if the net risk/benefit is in favour of the lower graded medicine based on professional judgement. For example a UK manufactured special could be selected in preference to an imported licensed medicine because the imported licensed medicine may:

- Be in a presentation unfamiliar to UK practice; or
- Involve complex manipulation to prepare or administer; or
- Have labelling, packaging and/or supporting information that are not to UK standards.

The Trust requires 2 risk assessment forms to be completed when an unlicensed medicine is prescribed in the Trust for the first time. The clinical risk assessment is completed by the Consultant responsible for the care of the patient and uses the Trust risk matrix to determine the level of risk associated with prescribing and administering the medicine. The procurement risk assessment is completed by Pharmacy to determine the level of risk associated with the supply and quality of the product to be purchased. The level of risk associated with the unlicensed medicine determines the approval required according to the procedure in Appendix B.

**Liability**

Liability for an unlicensed medicine and any adverse reactions associated with its use lies with the prescriber and pharmacists responsible for the procurement and supply of the medicine.

If a patient is harmed by a licensed medicine used for an unlicensed indication or in an unlicensed way, and not because of any defect in the product itself, then the prescriber is liable for the harm, in the same way that they would be liable when a licensed medicine is used according to its licence.

If a patient is harmed by a defective medicine, whether licensed or unlicensed, then the supplier of that medicine (normally a pharmacist) is liable for the harm. If the supplier can identify the manufacturer of the medicine the liability passes to the manufacturer. If the manufacturer can prove that the specification of the medicine, as provided by the pharmacist ordering the medicine, contributed to it being defective, the liability passes back to the pharmacist.

If the patient is harmed by a defective medicine which has been prepared by or under the supervision of a pharmacist, the pharmacist is liable for the harm as the manufacturer of the medicine. If the medicine has been procured from a 'specials' manufacturer then the pharmacist who placed the order is considered by law to be the manufacturer and is therefore liable.

The Trust recognises its vicarious liability for the actions if its employees.

**Supply of Unlicensed Medicines**

All unlicensed and off-licence medicines used by the Trust will be supplied by the Pharmacy Department and only in accordance with this policy and standard operating procedure (Appendix B). All unlicensed medicines used by the Trust will be subject to authorisation and risk assessment following the procedure outlined in Appendix B.

Unlicensed medicines will not normally be included in the North Staffordshire Joint Formulary and therefore the prescribing of these is considered non-formulary.

**Patient Consent**

Health professionals must respect the right of patients, carers and parents to participate in discussions regarding the health care of the patient and to seek to ensure that decisions are properly informed. There is no statutory requirement to obtain more specific consent from a patient or carer in order to prescribe and supply an unlicensed medicine or to prescribe an unlicensed medicine in an unlicensed way. However, this would represent good professional practice and all patients, or their representatives, should be given sufficient information by the prescriber, whenever possible, for them to be aware that they are being prescribed an unlicensed medicine, and for them to make an informed choice to consent. Prescribers must comply with the Trust Policy for obtaining consent. A suitable patient information leaflet is available on the Trust intranet under Home/Clinicians/Support Services/Pharmacy/Unlicensed Medicines.

It is accepted that this practice may not be practical in paediatric or neonatal care due to the large number of off-licence medicines used, or in circumstances where involving patients in decisions is inappropriate or impractical e.g. clinical emergencies, unconscious patients.

**Paediatrics**

It is recognised that in neonatal and paediatric medicine, medicines are often used outside their licence limits because the cost and ethical considerations for clinical trials in children discourage manufacturers from applying for a licence for use in children. The Trust supports the policy statement on 'The use of unlicensed medicines or licensed medicines for unlicensed applications in paediatric practice' produced by the Joint Standing Committee on Medicines, a joint committee of the Royal College of Paediatrics and Child Health (RCPCH) and the Neonatal and Paediatric Pharmacist Group (NPPG).

Many children require medicines not specifically licensed for neonatal and paediatric use and healthcare professionals involved in the care of children should be aware of the advice given in the BNF for Children with regards to prescribing unlicensed and off-licence medicines.

The policy statement produced by joint RCPCH / NPPG Standing Committee on Medicines aims to inform and guide health professionals, health service managers, parents and carers who prescribe, dispense, administer or have a responsibility for medicines for children.

The key recommendations of the Committee are that

- Those who prescribe for a child should choose the medicine which offers the best prospect of benefit for that child, aware that such prescribing may be constrained by the availability of resources. Children should be able to receive medicines that are safe, effective, appropriate for their condition, palatable and available with minimal clinical risk.

- The informed use of some unlicensed medicines or licensed medicines for unlicensed applications is necessary in paediatric practice.
- Health professionals should have ready access to sound information on any medicine they prescribe, dispense or administer, and its availability.
- In general, it is not necessary to take additional steps, beyond those taken when prescribing licensed medicines, to obtain the consent of parents, carers and child patients to prescribe or administer unlicensed medicines or licensed medicines for unlicensed applications.
- NHS Trusts and Health Authorities should support therapeutic practices that are advocated by a respectable, responsible body of professional opinion.
- Where available an appropriate licensed preparation should be prescribed and supplied in preference to an unlicensed preparation

The RCPCH / NPPG have produced national patient information leaflets, one for parents and carers and the other for older children, on the use of medicines for children. The PILs include information on medicines that do not have a product license for neonatal and paediatric use. The PILs can be accessed via the medicines for children website (https://www.medicinesforchildren.org.uk/search-for-a-leaflet)

When a medicine is prescribed off-licence for a child at UHNM the prescriber will not normally be required to complete the off-licence medicines disclaimer form. However, unlicensed medicines prescribed for children are subject to the same risk assessment process as for adults.

**Reporting of Adverse Drug Reactions and Defective Products**

Adverse drug reactions and defective products are handled in the same way as licensed medicines. Serious adverse reactions should be reported to the MHRA via the yellow card scheme and to the Trust's Adverse Incident Reporting Scheme (Datix®).

Suspected defects in unlicensed medicines should be reported immediately to the Pharmacy Quality Team.

**Records of Dispensing**

Pharmacy will not keep records of dispensing of medicines which are to be used off-licence.

Pharmacy will not keep records of dispensing of unlicensed medicines which are kept as stock on wards or other clinical areas. Unlicensed medicines will only be kept as stock items on wards or in clinical areas where this is clinically justified and agreed by the Specialist Pharmacist responsible for that area. The name of the unlicensed medicine administered, batch number and expiry date should be recorded in the patient's medical notes this is the responsibility of the healthcare professional administering the medicine. Where the registered practitioner in charge and the Specialist Pharmacist judge it impractical to record this information a risk assessment must be in place.

Pharmacy will keep dispensing records for all other unlicensed medicines via the Ascribe® system.

**Transferring Prescribing to Primary Care**

Any Secondary Care Consultant who asks a General Practitioner (GP) to prescribe a medicine that is unlicensed or off-licence should clearly state the licence status of the medicine. The Consultant must explain the reasons for using this medicine and justify its use in preference to licensed alternatives. The evidence base behind the recommendation must be given and it should be made clear whether or not treatment recommended is a peer- supported option. Prescribing responsibilities between the Consultant and the GP must be clearly documented and state the specific responsibilities of each party. It should not be assumed that GPs will take on responsibility for prescribing unlicensed or off-licence medication and the Consultant initiating treatment is responsible for continuing treatment if the GP will not accept responsibility for continuing care. If there is financial concern in terms of the impact on Secondary Care or Primary Care drug budgets then this needs to be clarified before treatment is initiated. The patient should be informed of arrangements for how further supplies of their unlicensed medicine will be

obtained i.e. either via prescription from their GP and dispensed by a community pharmacy or via a hospital prescription from their Consultant and dispensed by the hospital out-patient pharmacy.

**Commissioning of Unlicensed Medicines**

If a commissioner requested that the Trust and it's clinicians (including prescribers, pharmacists and nursing staff) utilise an unlicensed medicine or off-licence indication of a licensed product as part of its routine commissioning process legal advice would be sort by the Trust. Ultimately the Trust has a responsibility to ensure that it's clinicians and registered practitioners are not exposed to any unnecessary risk to their professional registration.

The Trust will require the Commissioners to undertake a risk assessment of the unlicensed or off-label medicine as part of initial discussions / commissioning process. A copy of the risk assessment must be provided to the Trust which will then consider its response to the risk assessment. This must be fully agreed and signed off by the Trust prior to any initiation of the commissioned service.

The prescription of unlicensed medicines cannot be enforced on prescribers and registered practitioners as they carry their own responsibility and are professionally accountable for their judgement in so doing. Commissioners must recognise and acknowledge this fact.

**APPENDIX B**

# Standard Operating Procedure (SOP)

## MM04-SOP-1 SUPPLY OF UNLICENSED AND OFF-LICENCE MEDICINES

**V1 August 2019**

University Hospitals of North Midlands NHS Trust

**The purpose of this SOP is to outline the process for the supply of unlicensed and off-licence medicines to ensure compliance with the Trust Policy for the Prescribing, Supply and Use of Unlicensed and Off-Licence Medicines.**

**This procedure applies to all Trust staff and any external contractors, agency or locum staff involved in any aspect of the prescribing, supply and administration of unlicensed medicines or off-licence medicines. The procedure must be followed at all times.**

**This procedure also applies to the supply of unlicensed radiopharmaceuticals. The procedure does not apply to:**

- **Investigational medicinal products (clinical trials material)**
- **Non-medicines**
- **Medical Devices**

**This SOP links to Trust Policy MM03: Policy for the Storage, Prescription, Supply and Administration of Medicines.**

| No. | Description of Procedural Steps |
|---|---|
| | **Unlicensed Medicines** |
| **1** | The prescriber ensures the use of the unlicensed medicine is justified by the clinical condition of the patient and is satisfied that an alternative licensed medicine would not meet the patient's needs. The prescriber is satisfied that there is sufficient evidence base and experience of using the medicine to demonstrate its safety and efficacy. |
| **2** | The prescriber checks whether the unlicensed medicine has been approved by the Trust for the intended use. Approved medicines and indications are listed on the Trust unlicensed medicines register found on the Trust intranet under:<br><br>Home/Clinicians/Support Services/Pharmacy/Unlicensed Medicines.<br><br>Unlicensed liquid formulations of licensed medicines where the licensed formulation is not suitable to meet the patient's needs (e.g. the patient has an enteral tube) will normally receive automatic approval for use. Unlicensed medicines which have been purchased by Pharmacy because the licensed medicine is temporarily unavailable will also normally receive automatic approval for use. The ward pharmacist or Pharmacy Medicines Information can be contacted for further advice regarding these scenarios. |
| | **Unlicensed medicine approved for intended use and listed on register** |
| **3** | Pharmacy will supply the unlicensed medicine against the patient's prescription. The prescriber is to ensure that the treatment and justification for use are documented in the patients notes, the patient has been provided with sufficient information (including patient information leaflet if appropriate) and has consented to treatment (see Trust Policy MM04 for further guidance). |

<table>
<tr><th>No.</th><th>Description of Procedural Steps</th></tr>
<tr><td></td><td>If a non-formulary form is required for individual patient supply this will be annotated on the register. The completed non-formulary form should be made available to Pharmacy when requesting supply against the prescription.</td></tr>
<tr><td colspan="2">Unlicensed medicine not approved for intended use and not listed on register</td></tr>
<tr><td>4</td><td>
Pharmacy will require adequate time to source and obtain the unlicensed medicine and therefore prescribers should inform their Specialist/Directorate Pharmacist whilst completing the clinical risk assessment form and seeking approval for use.<br><br>
The prescriber completes the clinical risk assessment for the intended indication. The clinical risk assessment form can be found on the Trust intranet under Home/Clinicians/Support Services/Pharmacy/Unlicensed Medicines.<br><br>
The prescriber seeks approval for use of the unlicensed medicine according to the category in the table below:
<table>
<tr><th>Category</th><th>Criteria</th><th>Approval required</th></tr>
<tr><td>1</td><td>• Use of the unlicensed medicine recommended in BNF, cBNF or recognised UK guidelines, OR<br>• Established pharmaceutically equivalent licensed medicine temporarily unavailable.</td><td>Consultant to sign clinical risk assessment.<br><br>Specialist/Directorate Pharmacist approved.</td></tr>
<tr><td>2</td><td>• Use of the unlicensed medicine <u>not</u> recommended in BNF, cBNF or recognised UK guidelines but prescriber satisfied that sufficient evidence base and experience to support use, OR<br>• Established pharmaceutically equivalent Licensed medicine discontinued or unavailable for undetermined timeframe.</td><td>Consultant to sign clinical risk assessment.<br><br>Clinical Director to counter-sign clinical risk assessment.<br><br>Specialist/Directorate Pharmacist approved.</td></tr>
<tr><td>3</td><td>• All unlicensed medicines clinically risk assessed as being high or extreme risk (risk score <u>≥</u>8 ), after risk reduction strategies applied, OR<br>• Use of all unlicensed medicines which falls outside of Trust policy e.g. no evidence base and/or experience, suitable licensed alternative available.</td><td>Consultant to sign clinical risk assessment.<br><br>Clinical Director to counter-sign clinical risk assessment.<br><br>Specialist / Directorate and Divisional Pharmacist approved.<br><br>If not urgent: Divisional Safe Medicines Group and Trust Safe Medicines Group approved.<br><br>If required urgently: Clinical Chair and/or Medical Director approved.</td></tr>
</table>
</td></tr>
<tr><td>5</td><td>The prescriber receives the required approval to use the unlicensed medicine and sends completed clinical risk assessment form to Pharmacy.</td></tr>
</table>

| No. | Description of Procedural Steps |
|---|---|
| 6 | Upon receipt of the approved clinical risk assessment form Pharmacy procurement will complete a procurement risk assessment of the product that they intend to purchase to meet the requirements of the prescriber. The front page of the procurement risk assessment will be the product 'specification'.<br><br>Pharmacy procurement will complete a new procurement risk assessment form if the product they intend to purchase changes.<br><br>The prescriber will be contacted if the medicine to be purchased is assessed by Pharmacy procurement as being high risk. Medicines assessed as high risk will not be purchased without approval of the Clinical Director of Pharmacy and, if the request is not urgent the relevant Divisional Safe Medicines Group and the Trust Safe Medicines Group, or if the request is urgent the Clinical Chair and/or the Medical Director. |
| 7 | Pharmacy will enter the approved unlicensed medicine onto the Trusts unlicensed medicines register for use for the intended indication. Any restrictions to use will also be added e.g. 'Consultant prescription only', 'single patient use only - non-formulary forms required'. |
| 8 | Pharmacy will purchase the unlicensed medicine. A copy of the procurement risk assessment form will be given to the Pharmacy quality team so they can check the product on receipt. |
| 9 | When received into Pharmacy the unlicensed medicine will be quarantined. Only the Pharmacy quality team can release the unlicensed medicine from quarantine. The Pharmacy quality team will check that the unlicensed medicine is correct against the original order and the procurement risk assessment form. They will also undertake a visual inspection of the product including the labelling and packaging.<br><br>The Pharmacy quality team maintains records of the products inspected including batch number, expiry date and any accompanying certificates. All products requiring translation of product information into English are sent to the Pharmacy manufacturing unit to be over- labelled.<br><br>The Pharmacy quality team will release the medicine if they are satisfied that the product is correct against the order and specification and is of suitable quality. |
| 10 | Pharmacy will supply the unlicensed medicine when in receipt of a legally valid prescription. |
| 11 | The prescriber must ensure that the treatment and justification for use are documented in the patients notes, the patient has been provided with sufficient information (including patient information leaflet if appropriate) and has consented to treatment (see Trust Policy MM04 for further guidance). |
| 12 | If the unlicensed medicine is being issued as ward stock the name of the unlicensed medicine administered, batch number and expiry date should be recorded in the patient's medical notes by the healthcare professional administering the medicine. Where the registered practitioner in charge and the Specialist Pharmacist judge it impractical to record this information a risk assessment must be in place.<br><br>Unlicensed medicines will only be kept as stock items on wards or in clinical areas where this is clinically justified and agreed by the Specialist Pharmacist responsible for that area. |

| No. | Description of Procedural Steps |
|---|---|
| **13** | Pharmacy will issue quarterly reports to the Divisional Safe Medicines Groups detailing newly approved unlicensed medicines and any outstanding risk assessments.<br><br>Pharmacy will keep all risk assessments for a minimum of 5 years. |
| | **Off-licence Medicines** |
| **14** | If a licensed medicine is to be used outside of it product license the prescriber will ensure that the use of the medicine is justified by the clinical condition of the patient and will be satisfied that an alternative licensed medicine used according to its product licence would not meet the patient's needs. The prescriber will be satisfied that there is sufficient evidence base and experience of using the medicine for the intended indication, or in the intended manner, to demonstrate its safety and efficacy. |
| **15** | No clinical risk assessment or approval is required for off-licence medicines.<br><br>An off-licence medicines disclaimer form is available. It is advisable to complete this form if use of the off-licence medicine is not recommended in the BNF, cBNF or recognised UK guidelines and/or there is lack of evidence and experience to support use. A Pharmacist may request the prescriber complete the off-licence medicines disclaimer form before supplying a medicine to be used off-licence. The completed form should be sent to Pharmacy with the patient's prescription and will be retained in Pharmacy for a minimum of 5 years. |
| **16** | The prescriber must ensure that the treatment and justification for use are documented in the patients notes, the patient has been provided with sufficient information (including patient information leaflet if appropriate) and has consented to treatment (see Trust Policy MM04 for further guidance). |
| | **Unlicensed Radiopharmaceuticals** |
| **17** | All unlicensed radiopharmaceuticals used by the Imaging Department and Medical Physics Department will be used in accordance to local standard operating procedures and under supervisor of the Trust ARSAC licence holders. |