HPRA
An tÚdarás Rialála Táirgí Sláinte
Health Products Regulatory Authority

Guide to
Refusals and Appeals

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This guide does not purport to be an interpretation of law and/or regulations and is for guidance purposes only.

1 SCOPE

This guide provides information to applicants on refusals and appeals procedures in respect of applications and on written or oral representations the applicant may wish to make to the Advisory Committees or the Health Products Regulatory Authority (the 'Authority')[1].

The guide, and the procedures described in it, do not cover:

- complaints of an administrative procedure (the handling of such complaints is described on the HPRA website);
- decisions taken at European level, as in the centralised, decentralised or mutual recognition procedures;
- restrictions arising from post-authorisation safety studies;
- urgent suspensions, where the threat to public or animal health is such that there is insufficient time to follow the steps in the procedure on refusals;
- refusals of Type IA, Type IB or standard Type II variations;
- restrictions which are required by legislation;
- applications under Article 59 of Regulation (EU) 2017/745, or the equivalent provision in respect of *in vitro* medical devices ('compassionate use');
- appeals relating to applications submitted under Directive 2010/63/EU and S.I. No. 543 of 2012; or
- appeals relating to the suspension, revocation or restriction of an existing authorised veterinary medicinal product (which are covered by the procedure set down in Article 8(6) of SI No. 36 of 2022).

The procedure for refusals is described in section 2 and the procedure for appeals in section 3. It is only possible to appeal classification decisions[2], and objections to clinical trials and clinical investigations.

2 REFUSALS PROCEDURE

2.1 Introduction

The HPRA is the competent authority for authorisations, licences, registrations and certificates relating to manufacture, distribution and marketing of medicinal products for human or veterinary use and it approves notified bodies for medical devices. Applications are considered in the first place by HPRA employees. Where an applicant company does not adequately address issues raised during assessment or inspection, the employee may propose:

[1] References to 'the Authority' are references to the nine members of the Health Products Regulatory Authority appointed by the Minister under section 7 of the Irish Medicines Board Acts 1995 and 2006.
[2] 'Classification' in this document refers to classification of a borderline product as a medicinal product or other product. It does not include method of sale and supply of a medicinal product.

- refusing to grant or vary an application for an authorisation, licence, registration or certificate, or a variation
- granting the application subject to certain conditions or other than in accordance with the application
- imposing a compulsory variation
- suspending or revoking an existing authorisation, licence, approval or certificate, or
- refusing to designate a certification organisation as a notified body, or limiting the scope of that designation

For convenience, all of these actions are termed 'refusals'.

The HPRA is also the competent authority for determining that a product does not come within the scope of Regulation 2019/6, in accordance with the with Article 19(1) of S.I. No. 36 of 2022. Where the HPRA has considered an application under this article and proposes to classify it as a veterinary medicinal product, the applicant is entitled under Article 19(3) to make representations to the HPRA. These representations are considered within the 'appeals' procedure.

2.2 Procedure

The Irish Medicines Board Acts 1995 and 2006 require that the advice of the relevant Advisory Committee is sought by the Authority before refusing certain licences or authorisations.

Section 9(8) states that:
"(8) The Board[3] shall not refuse to grant a licence or authorisation in respect of—
(*a*) a medicinal product or class of medicinal products,
or
(*b*) the manufacture or wholesale of a medicinal product or class of medicinal products,

on any ground relating to the safety, quality or efficacy of the medicinal product or class of medicinal products, as the case may be, unless the Board has requested the advice of the appropriate committee in relation thereto and considered the advice given pursuant to the request."

There are three statutory Advisory Committees:
- Advisory Committee for Human Medicines
- Advisory Committee for Medical Devices
- Advisory Committee for Veterinary Medicines

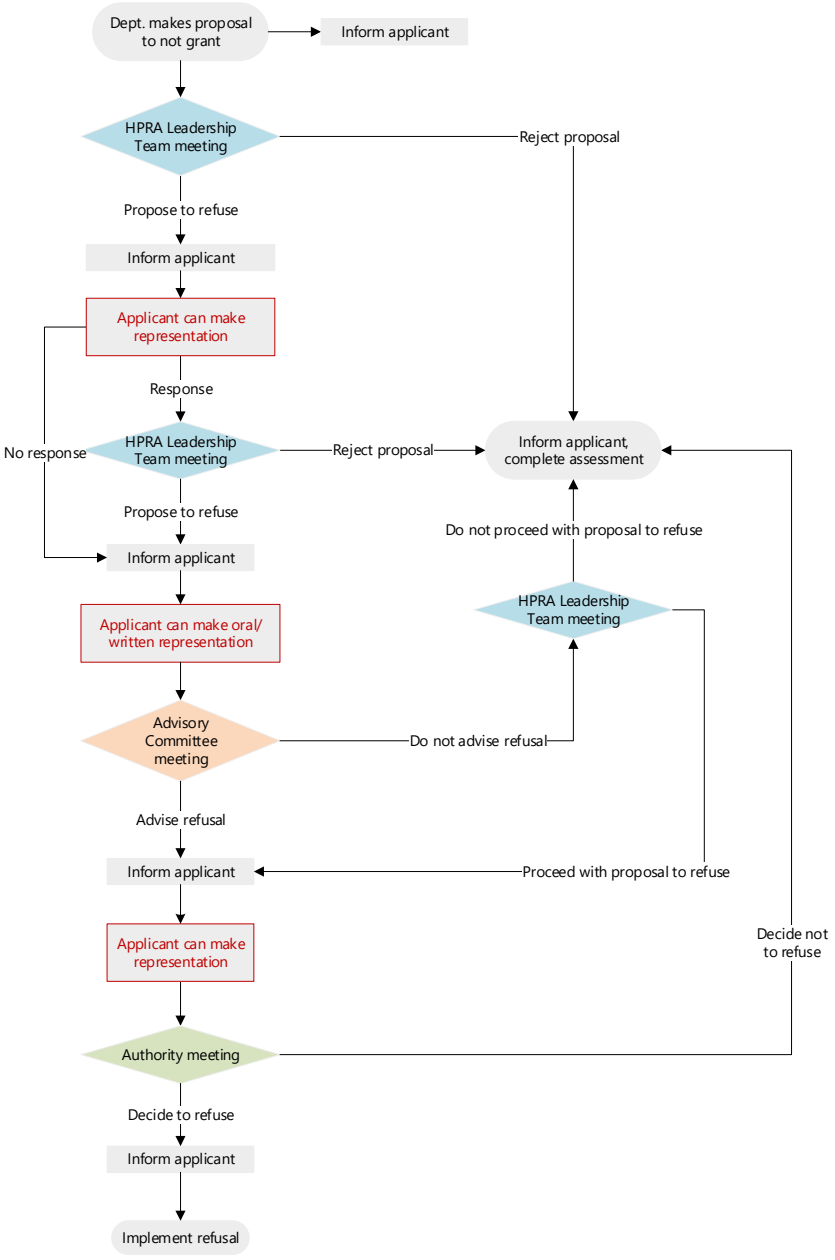
These committees meet approximately two to four times annually and offer independent, expert scientific advice to the Authority.

The refusals procedure is designed to comply with the requirements above and with the principles of proportionality, fairness, consistency and transparency. At each stage, separate

[3] Renamed as the Health Products Regulatory Authority by the Health (Pricing and Supply) Act 2013.

and independent reviews are taken with regard to the proposal to refuse. You will be kept informed at all stages and given copies of all documents presented to the committees or Authority. You will also be given the opportunity to make written or oral representations.

The detailed procedure for refusals is shown below.



When notified of an intention to refuse, you may wish to consider your response. You will be given the opportunity to make a written representation to the HPRA Leadership Team; if you

choose to do so, the response must be received within 30 days. Alternatively, you may decide to withdraw your application and notify us of this decision, which will end the refusals procedure. If you do not respond to the notification letter, the HPRA Leadership Team's proposal to refusal will be sent to the relevant Advisory Committee for its consideration and advice.

When the proposal to refuse is sent to the relevant Advisory Committee, you will be invited to make a written or oral submission for consideration at the meeting. Should you wish to make a submission, you must notify the Secretary to the Committees by the deadline specified. The Advisory Committee will consider the proposal to refuse and advise the Authority to accept or reject it, ensuring that the advice is based on adequate scientific or regulatory grounds and that it is proportionate in relation to the risk to public health. You will be notified of the committee's advice within a few days of the meeting.

The HPRA Leadership Team's proposal and the advice of the Advisory Committee are sent to the Authority. You will be notified of the Authority meeting date and given the opportunity to make any final representations. It is not permitted to make an oral representation to the Authority unless the same information has already been considered by the Advisory Committee. The reason for this is that the Authority must consider the advice of the Advisory Committee in reaching its decision. The Authority will consider all information regarding the proposal and make a decision to refuse the application or not. In coming to its decision, the Authority ensures that due process has been carried out and that its decision is fair, unbiased and based on the best available information and data. You will be notified of the decision within a few days of the meeting.

3 APPEALS

3.1 Introduction

The Authority is the competent authority for clinical trials on medicinal products and clinical investigations of medical devices. Where assessment of the application results in a letter of non-acceptance (for a clinical trial) or a letter of objection (for a clinical investigation) from the HPRA Leadership Team, the sponsor may submit an appeal to the relevant Advisory Committee within 28 days of the notification. The 'Guide to Fees' gives details of the fee that must accompany an appeal; please see the 'Publications and Forms' section of www.hpra.ie.

Appeals may also be made to decisions on the classification of products as veterinary medicinal products, medicines or medical devices. Applicants may appeal these decisions to the HPRA Leadership Team.

3.2 Procedure

The appeals procedure is designed to comply with the principles of proportionality, fairness, consistency and transparency. At each stage, separate and independent reviews are taken

with regard to the appeal. You will be kept informed at all stages and given copies of documents presented to the committees or Authority. You will also be given the opportunity to make written or oral representations.

The appeals procedure begins with the appeal received from the company to a decision regarding clinical trials, clinical investigations or classification. For appeals to the HPRA Leadership Team's non-acceptance of a clinical trial or objections to a clinical investigation, you should submit the appeal to the relevant Advisory Committee. For appeals to classification decisions, which are taken by an assessor or the Borderline Products Committee, you should submit the appeal to the HPRA Leadership Team.

The appeal notification should be accompanied by detailed grounds explaining why you believe the original decision should be overturned. You will then be notified of the date of the meeting at which it will be considered.

Before the meeting of the relevant Advisory Committee, you will be invited to make a written or oral submission for consideration at the meeting. Should you wish to do this, you must notify the Secretary to the Committees by the date specified. The Advisory Committee will consider the appeal and will advise the Authority to either accept or reject it, ensuring that their advice is based on adequate scientific or regulatory grounds and that it is proportionate in relation to the risk to public health. You will be notified of the committee's advice following the meeting.

The HPRA Leadership Team's decision (for clinical trials or clinical investigations) or recommendation (for classification decisions) and the advice of the relevant Advisory Committee are sent to the Authority. You will be notified of the Authority meeting date and given the opportunity to make representations. It is not permitted to make an oral representation to the Authority unless the same information has already been considered by the Advisory Committee. The reason for this is that the Authority must consider the advice of the Advisory Committee before reaching its decision. Should you wish to make a submission to the Authority, you must notify the Secretary to the Authority by the date specified. The Authority will consider all information regarding the proposal and make the decision to accept the appeal or not. The Authority ensures that due process has been carried out and that its decision is fair, unbiased and based on the best available information and data. You will be notified of the decision following the meeting.

4 SUBMISSION OF WRITTEN INFORMATION

Where written information is supplied at any stage of the refusals or appeal procedures, you should make sure that the submission addresses the issues raised. Written material should be supplied in electronic format (unless otherwise agreed with the Secretary to the Committees), by the date specified.

Written submissions will normally be reviewed by the assessor or inspector who was dealing with the case. They will provide a summary of the information and an assessment of it for the relevant meeting; you will be provided with copies of these documents before the meeting.

5 ORAL HEARINGS

If you wish to make an oral representation, you must submit any presentation and all supporting documentation by the specified deadline before the date of the advisory committee meeting. The documents should be submitted electronically.

No later than one week before the committee meeting, you should inform the Secretary to the Committees of the number of company representatives who will attend (usually not more than five) and the name of the chief spokesperson.

The committee members will have been sent all the material available on the matter (internal assessment reports and procedural documentation, and company data) before the meeting, and will be familiar with the data and the procedure thus far.

After a preliminary discussion among the committee members, you will be invited into the meeting room or virtual meeting room. Your presentation should take not more than 15 minutes and should specifically and directly address the scientific issues relating to the refusal or appeal. After your presentation, the committee members or staff members may ask questions relating to issues raised in your presentation or supporting data or may raise questions of clarification. Your company representatives should have the technical expertise to address these questions and the managerial authority to take decisions on behalf of your company. They should also be fluent in English.

Following the presentation and questions, you will be asked to leave the meeting room. The committee will consider the evidence provided and agree the advice it will give to the Authority. You will be notified of the committee's advice within a few days of the meeting.

6 CONTACT POINT FOR PROCEDURES

Secretary to the Committees
Tel: +353-1-6764971
Email: secretary@hpra.ie