

**General Pharmaceutical Council**  
**Fitness to Practise Committee**  
**Principal Review Hearing**  
**Remote videolink hearing**  
**Friday 22 October 2021**

<b>Registrant name:</b>	Mr Umar Bashir
<b>Registration number:</b>	2050976
<b>Part of the register:</b>	Pharmacist
<b>Type of Case:</b>	Misconduct
<b>Committee Members:</b>	Mr David Bleiman (Chair) Miss Pat North (Registrant member) Miss Victoria Smith (Lay member)
<b>Legal Adviser:</b>	Mr Ralph Shipway
<b>Secretary:</b>	Mr Adam Hern
<b>Registrant:</b>	Present but not represented
<b>General Pharmaceutical Council:</b>	Mr Gareth Thomas, Case Presenter
<b>Order being reviewed:</b>	Suspension (12 months)
<b>Fitness to practise:</b>	Impaired
<b>Outcome:</b>	Conditions (12 months)

*This decision is an appealable decision under our rules and will not take effect until 24 November or, if an appeal is lodged, when that appeal is concluded. Where an appeal is lodged, the Committee's previous direction will continue to have effect until the conclusion of the appeal.*

## **Introduction**

1. This is the fifth Principal Hearing Review relating to Mr Umar Bashir (“the Registrant”), a Pharmacist first registered with the Royal Pharmaceutical Society of Great Britain on 17 July 2000, and whose registration was transferred to the General Pharmaceutical Council (“the Council”) with registration number 2050976.

2. This review follows the determination of the Fitness to Practise Committee (“the Committee”) at a Principal Hearing that took place on 2-3 July 2018. The Committee found that the Registrant’s Fitness to Practise was impaired by reason of misconduct. The Committee went on to impose conditions on the Registrant’s practice for a period of nine months and directed that a review should be held before the order expired.

3. There have been four reviews– on 15 April 2019, 22 October 2019, 6 August 2020 and 22 April 2021. The Registrant has been suspended since the review hearing on 6 August 2020.

### **The Principal Hearing (2-3 July 2018)**

4. In summary, the allegations admitted and found proved concerned performance issues: recording errors, including in respect of controlled drugs; dispensing errors, including as to amounts, prescription out of date, and labelling; failing to keep controlled drugs locked away. The allegations cover a period of about three months in 2016-2017.

5. The Registrant accepted that his conduct had been “deplorable” [PRIVATE]. He said that there had been extenuating and mitigating circumstances at the time, including a lack of support from his employer.

6. The Committee found that the facts proved amounted to misconduct. The Committee found that the Registrant was genuinely remorseful and that his poor performance arose from a unique set of circumstances. [PRIVATE].

The Committee found that the Registrant's fitness to practise was impaired because his conduct presented an actual or potential risk to patients or to the public; it had brought, or might bring, the profession of pharmacy into disrepute; and it had breached one of the fundamental principles of the profession.

7. Conditions of practice were imposed for nine months. The Committee directed that there should be a review hearing prior to the expiry of the order.

### **The First Review Hearing (15 April 2019)**

8. The Registrant was not in attendance. The Committee noted that the Registrant had not complied with the conditions on his registration. The conditions were therefore insufficient to deal with any risk to patient safety and to protect the public. The Committee decided that suspension was necessary in order to highlight to the Registrant and the public that non-engagement and non-compliance was unacceptable.

9. The Committee suspended the Registrant's registration for a period of six months. This was considered the minimum necessary for the Registrant to re-engage with the Council, take medical assistance as necessary, and develop insight to facilitate a return to practice.

### **The Second Review (22 October 2019)**

10. On this occasion, the Registrant engaged and attended the hearing. He provided more information about developments in his private life, including matters of health.

11. The Registrant explained that [PRIVATE] he had not worked as a Pharmacist since December 2018; [PRIVATE] he recognised that he should not practise without conditions.

12. The Committee directed that the suspension should change back to conditions of practice (slightly varied on the previous conditions) for a period of nine months. The conditions would give the Registrant an opportunity to demonstrate that he had put in place

measures to ensure that previous failings were addressed and that the risk of error was minimised.

### **The Third Review (6 August 2020)**

13. In the months leading up to the third review, the Council's Monitoring Team had not received any correspondence or reply from the Registrant, and he had not provided any evidence of compliance with his conditions. However, in July 2020, a paralegal had spoken with the Registrant, who said that he had been working as a locum.

14. At the hearing, the Committee found that the Registrant had failed to update the Council on key aspects of his practice as required by the conditions, namely:

- Telling the GPhC before taking on any position for which he must be registered and providing details;
- Sending the GPhC copies of notifications sent to people about the restrictions on his practice;
- Sending the GPhC a copy of his personal development plan, drawn up with a Registered Pharmacist, to deal with the shortcomings in his practice, and arranging for reports on progress;
- Asking the GPhC to approve a workplace supervisor, and arranging for reports on progress;
- Sending the GPhC certificates of training he was to complete within six weeks of the previous review hearing;
- Sending a log of untoward medical incidents to the GPhC ahead of the review.

15. The Registrant participated in the remote review hearing and gave evidence. He said that he had relied on a locum agency to ensure that each employer / business was aware of his conditions. He had not checked for himself that this had been done. He mentioned that there had been a dispensing error in April or May 2020, but he had not informed the Council about this incident as required by the conditions.

16. The Committee found that the Registrant had complied with none of the Conditions set out in the order. The Registrant had shown a “woeful” lack of insight. The conditions were replaced with suspension for a period of nine months.

#### **The Fourth Review (22 April 2021)**

17. Following the third review, the Council made enquiries of some of the pharmacies included by the Registrant on a list he had provided. The Pharmacies were asked to confirm whether they were aware of the Registrant’s conditions at the time of engaging him and whether they had any concerns about his practice. Two of the responses (from Rowlands and Cohen’s pharmacies) reported that these pharmacies were unaware that the Registrant was subject to conditions of practice. In addition, concerns had been noted with his practice, including alleged errors. Rowlands pharmacy had written to the Registrant drawing attention to a dispensing error when he was the accuracy checker.

18. Prior to the hearing, the Registrant had submitted a reflective statement, testimonials and a certificate of completion of online training. He attended and gave evidence to the Committee.

19. The Committee observed that the Registrant appeared to have been honest and open in his evidence. It recognised that he had not been able to demonstrate remediation by way of practice during his period of suspension. However, the Committee had concerns about his explanations for his failure to comply with the conditions.

20. In respect of the Registrant’s reflections, the Committee said this:

*Although the Registrant stated that the most recent period of suspension had given him time to reflect, the Committee considered that, taken as a whole, his reflections did not adequately demonstrate full insight into the risks posed to public safety which were caused by his non-compliance with the conditions, nor an appreciation of what a member of the public might think if they were to hear that a pharmacist had continued to take on locum*

*work, in a number of different pharmacies, in full knowledge that he was in breach of conditions which had been put in place to ensure their protection.*

21. In respect of the report of further dispensing errors, the Committee said:

*The Committee fully appreciated that the alleged errors had not been formally proved at today's hearing, however the Registrant's lack of reflection and insight into the potential for errors of the sort described and ways to minimise future risk, suggested...a continuing grave lack of insight, and a lack of remediation.*

22. In considering whether to impose conditions and accept the Registrant's assurances that he would abide by them, the Committee said that:

*...it could attach limited weight to his assurances in this regard, given the apparent laxity with which he had observed the conditions imposed on the second occasion, and its assessment of his reasons for non-compliance. It did not consider that the Registrant had adequately availed himself of the period of suspension since the last review to reflect sufficiently or properly on his previous non-compliance, nor on the information supplied by the pharmacies in relation to dispensing errors he was alleged to have been involved in, such as to reassure this Committee that it could now rely on him to comply with any conditions it might decide to impose. There would, in the Committee's view, therefore, remain a risk of repetition and therefore of harm to the public, if the Registrant were permitted to return to practice albeit subject to conditions.*

23. The Committee made an order of suspension for six months with a review before expiry.

24. The Committee recommended that such a review would be assisted by:

- The Registrant's attendance;
- The provision of a reflective statement from the Registrant prior to the review, demonstrating his developed understanding of the importance of complying with

the requirements of the Regulator, the reasons for this, and the potential consequences of not doing so;

- The Registrant's reflections and insight in relation to the alleged dispensing errors which were uncovered by the Council's Monitoring service, information about which was supplied for the purposes of [the Fourth] review.

### **Fresh material available for this Fifth Review**

25. For clarity, as the fifth reviewing Committee, we refer to ourselves in the second person plural ["we"].

26. The Registrant has provided two documents in advance of this hearing, a two page reflective statement and a one page document entitled *Reflections & Insights Into Alleged Dispensing Errors*.

27. The Council's Monitoring team has provided a witness statement confirming that the Registrant reports being compliant with his suspension and that the Monitoring Team has received no concerns to suggest that he has been working as a registered pharmacist whilst his registration has been suspended.

### **Attendance at this hearing**

28. Mr Bashir attended in person and represented himself. The Council was represented by Mr Gareth Thomas.

### **Hearing to be held in part in private**

29. The Committee, having had and accepted legal advice, agreed to a proposal from Mr Thomas, supported by the Registrant, that any aspects relating to details of the Registrant's health, or confidential family matters, be heard in private.

### **Evidence**

30. Mr Bashir gave evidence under affirmation.

31. He adopted, as part of his evidence, the reflective statements already referred to.

In his first reflective statement, the Registrant acknowledged the Council's responsibility to its members (i.e. registrants) and to the general public. This was to ensure that pharmacists did not pose a risk to the safety of the public and to hold the profession to the highest standards.

32. He said that it was the member's responsibility to adhere to all conditions imposed and provide evidence as requested to show that the impairment had been addressed. By not adhering to such conditions, it would be hard for the Council to monitor performance or see if the member's impairment had been rectified. He said:

*This potentially can have fatal consequences for the public and also the reputation of the [Council] and confidence in the profession.*

He said that he now fully appreciated the importance of complying with the conditions set by the Council and the reasons for this and said:

*I will adhere to all conditions set, meet all deadlines and provide all evidence as required.*

He gave strong written assurances to this effect, which he repeated in his evidence and in his response to questions.

33. In his reflective statement relating to the three new dispensing errors, the Registrant did not deny that these errors had occurred, provided an analysis of the underlying reasons and indicated how he would review and improve his checking methods to avoid such errors in future. He acknowledged the potential of all dispensing errors to cause serious harm to the patient involved. He corrected a reference to the first of these errors as being "wrong drug", saying that this error had been "wrong strength".



34. In his oral evidence, the Registrant explained that, during the period of suspension, he had had time to appreciate all the consequences of his errors, not just for himself but for public safety and for confidence in the profession. He understood that the burden was on him to show that he was no longer impaired and that conditions were a way for him to prove that. He would now meet any conditions imposed in a timely manner.

35. In response to questioning, the Registrant identified the areas in his practice which required improvement relating to checking prescriptions, timely record keeping, storage and monitoring of controlled drugs. He said that he would keep a daily diary of any issues, review his own performance and be more proactive. For example, he would check the level of training of any staff in a pharmacy and be more vocal regarding the manner of working.

36. He said that he would need to make sure that his checking processes were robust and adjust these in the event of any errors. If in a stressful situation, such as a busy pharmacy, or in the event of interruptions, he said that the process “must be robust enough” [PRIVATE]. He would set up the pharmacy properly first thing in the morning, delegate tasks such as answering the phone and inform people, such as patients queuing, of a delay, rather than speeding up the checking process.

37. The Registrant was asked to explain his previous non-compliance with conditions of practice. He said that he had previously looked at the matter in a “quite insular” way, considering the consequences for himself. He was now looking at the fuller picture of consequences. Compliance with conditions was, he said, important, to keep the public safe, to maintain public confidence and to keep himself safe from the risk of harming others. It would also help him to prove that he had rectified the impairment of his fitness to practise.

38. The Registrant said that he would maintain good communications with the Council’s monitoring team.

## **Submissions**

39. Mr Thomas said that we faced two key issues. Firstly, whether conditions could manage the risks involved. Secondly, whether the Registrant could be trusted to comply with such conditions. If conditions were imposed, he invited us to consider whether prompt and relevant training was required, whether employed status work would be more easily monitored than locum work and he requested a fresh condition to keep the monitoring team updated on a monthly basis.

40. The Registrant said that he appreciated that conditions might be onerous but that he would comply. He had no objection to monthly contact with the monitoring team.

### **Legal advice**

41. The Committee heard and accepted the advice of the legal adviser, which included reference to the following cases.

42. The case of *Abrahaem v GMC [2008] EWHC 183 (Admin)* states that the Committee must consider whether the concerns raised in the initial hearing have been addressed and whether or not the Registrant now has the insight and understanding so as to assure the Committee that his fitness to practise is no longer impaired. Blake J said at paragraph 23:

*In my judgment, the statutory context for the rule relating to reviews must mean the review has to consider whether all the concerns raised in the original finding of impairment through misconduct had been sufficiently addressed to the panel's satisfaction. In practical terms there was a persuasive burden on the practitioner at a review to demonstrate that he or she has fully acknowledged why past professional performance was deficient, and that through insight, application, education, supervision or other achievement has sufficiently addressed past impairment.*

43. The function of a Review hearing was also considered by the Supreme Court in the Scottish case of *Khan v General Pharmaceutical Council [2017] 1 W.L.R. 169*. At paragraph 27, Lord Wilson JSC said:

*The review committee will note the particular concerns articulated by the original committee and seek to discern what steps, if any, the registrant has taken to allay them during the period of his suspension. The original committee will have found that his fitness to practise was impaired. The review committee asks: does his fitness to practise remain impaired?*

## **Findings**

### **Impairment**

44. We find that, having failed to comply with conditions of practice when there was the opportunity to do so and having since been suspended for an extended period, the Registrant has not been able to show that he has remedied the performance issues which led to the finding of impairment of fitness to practise. At today's hearing, the Registrant conceded that. He acknowledged that he needed to show that he was fit to practise and his case was that conditions, with which he would now comply, would give him the opportunity to do so.

45. We therefore find the Registrant's fitness to practise remains impaired.

### **Sanction**

46. We are clear that the misconduct in this case is remediable, as it relates to performance issues around care and competence in matters which can be broadly summarised as record keeping, checking of prescriptions and management of controlled drugs.

47. What has, up to this point, prevented remediation, has been the Registrant's failure to comply with conditions designed to facilitate that remediation. Underlying that have been some personal matters but mainly a lack of insight into the purpose of regulation and the full impact of a lack of compliance.

48. The Registrant has presented himself today as having had time to develop a better understanding. His evidence has given a clear account of the need for conditions of practice

and for full compliance with such conditions. He has shown that he is aware of the potentially serious consequences of non-compliance, including harm to patients, to the reputation of the profession and of the regulator.

49. We have given careful consideration to the question of whether the Registrant can now be trusted to comply with conditions, when he has not done so in the past. This has not been an easy matter but we must evaluate the risks based on the evidence available. In his written reflections and in the clarity of his analysis and the assurances given, under affirmation, today, the Registrant has invited us to trust him to conduct himself in a proper way if given a further opportunity to remedy his practice. We are satisfied that he understands the serious consequences of any repetition of a failure to comply with the spirit and letter of any conditions of practice.

50. We have considered whether an extension of the current suspension would be a more appropriate sanction. On balance, we do not consider that suspension is necessary to protect the public. It is not clear what further insight would be developed by the Registrant beyond that expressed in his evidence today. The risk is that a further period of suspension would simply delay the necessary remediation in his practice.

### **Conditions of practice**

51. We impose the following conditions of practice, for a period of 12 months, to take effect at the expiry of the period allowed for notice of an appeal:

1. *You must:*

- *tell the GPhC before you take on any position for which you must be registered with the GPhC*
- *give the GPhC details of the role and the hours you will work each week, including locum or relief work*
- *give the GPhC the contact details of your employer, superintendent pharmacist and/or pharmacy owner.*

- 2. If you are applying for work and if you are doing any paid or unpaid work for which you must be registered with the GPhC, you must immediately tell any prospective employer/employer, agency or contractor, about the restrictions imposed on your pharmacy practice.*

*You must tell the following people in writing about the restrictions imposed on your pharmacy practice, at the time of commencing any paid or unpaid work for which you must be registered with the GPhC:*

- superintendent pharmacists*
- responsible pharmacists*
- line managers*
- workplace supervisors*
- accountable officers for controlled drugs*

*You must send the GPhC a copy of this notification.*

- 3. You must tell the GPhC if you apply for work as a pharmacist or pharmacy technician outside Great Britain.*
- 4. You must:*
  - find a workplace supervisor (who must be a registered pharmacist but may provide remote supervision) and put yourself, and stay, under their supervision*
  - give the GPhC your permission to exchange information with your workplace supervisor about your efforts to improve your pharmacy practice*
- 5. You must work with your workplace supervisor to draw up a personal development plan, specifically designed to deal with the shortcomings in the following areas of your practice:*
  - safe handling and management of controlled drugs*
  - record keeping*
  - robust systems to prevent dispensing errors*

*You must send a copy of your personal development plan to the GPhC within two weeks of resuming pharmacy practice.*

6. *You must arrange for your workplace supervisor to provide a monthly report on your progress toward achieving the aims set out in your personal development plan.*
7. *You must, within 3 months, undertake further training in the following areas:*
  - *safe handling and management of controlled drugs*
  - *record keeping*
  - *prevention of dispensing errors*

*The training is to be paid for by you. You must send the GPhC completion certificates or arrange for written confirmation of completion from the course leader within 10 working days of the course being completed.*

8. *You must keep a log detailing every dispensing error or other medication incident related to your practice.*

*You must send a copy of this log to the GPhC before the next review hearing.*

9. *You must provide monthly declarations to the Council's monitoring team on whether you are working in a role which requires registration and, if not, whether you have sought such a position. You must also provide monthly reports on your overall progress towards remediation of your fitness to practise.*

52. The Committee directs that a review should take place before the end of the 12 months period.

### **Interim measures**

53. We have considered the question of whether to impose an interim measure to cover the period between the lapsing of the current suspension (on 5 November 2021) and the

imposition of the replacement conditions of practice (which can only come into effect after a 28 day period allowed for the Registrant to appeal, or when such an appeal is disposed of or otherwise ends).

54. We consider that, as there is a remaining risk to public protection were the Registrant to practice unrestricted, it is necessary to impose an interim measure.

55. Having heard from Mr Thomas and the Registrant and having heard and accepted legal advice, we have decided to impose as an interim measure, the same conditions of practice which we have imposed as substantive conditions. This will allow the Registrant to commence the remediation process, under conditions, on the expiry of the current period of suspension (but not before).