

**General Pharmaceutical Council**  
**Fitness to Practise Committee**  
**Principal Hearing**  
**Remote video-link hearing**  
**22 and 23 February 2022**

<b>Registrant name:</b>	Rebin Abdullah
<b>Registration number:</b>	2213446
<b>Part of the register:</b>	Pharmacist
<b>Type of Case:</b>	Misconduct
<b>Committee Members:</b>	Mr Philip Geering (Chair) Mr Jed Hewitt (Registrant member) Ms Anne Johnstone (Lay member)
<b>Clinical Adviser:</b>	Dr Jennifer Bearn
<b>Secretary:</b>	Ms Zainab Mohamad
<b>Registrant:</b>	Not present nor represented
<b>General Pharmaceutical Council:</b>	Represented by Ms Zahra Ahmed, Counsel, Case Presenter
<b>Facts proved:</b>	Particulars 1, 2 and 3 in full.
<b>Fitness to practise:</b>	Impaired
<b>Outcome:</b>	Suspension for 12 months with review
<b>Interim measures:</b>	Interim suspension

This decision including any finding of facts, impairment and sanction is an appealable decision under our rules. Therefore, this decision will not take effect until 25 March 2022 or, if an appeal is lodged, once that appeal has been concluded. However, the interim suspension set out in the decision takes effect immediately and will lapse when the decision takes effect or once any appeal is concluded

## DETERMINATION

### Introduction

1. This is the written determination of the Fitness to Practise Committee following a Principal Hearing concerning the Registrant, Rebin Abdullah.
2. The Registrant is registered with the General Pharmaceutical Council ("the Council") as a pharmacist having first registered on 15 October 2016. His registration number is 2213446.
3. It is alleged that his fitness to practise is impaired.
4. The hearing is governed by The Pharmacy Order 2010 ("the Order") and The General Pharmaceutical Council (Fitness to Practise and Disqualification etc.) Rules 2010 ("the Rules"). The Committee takes into account the Council's guidance document "*Good decision making: Fitness to practise hearings and sanctions guidance*" revised March 2017.

### Preliminary Matters.

5. Mode of Hearing: the hearing was conducted by way of video link connecting all those directly involved in the hearing.
6. Representation: the Registrant did not attend the hearing nor was he represented. The Council was represented by Ms Zahra Ahmed of Counsel.
7. Service: the Committee was shown a copy of a letter dated 19 January 2022 headed 'Notice of Hearing' addressed to the Registrant at his registered address and emailed to him using his registered email address.
8. In the light of the above, the Committee was satisfied that proper service within the relevant Rules had been effected.
9. Application to Proceed in the Absence of the Registrant: on behalf of the Council, an application was made for the hearing to proceed in the absence of the Registrant, submitting that the Registrant had voluntarily absented themselves, had not applied for an adjournment, there was no suggestion that the Registrant would attend on a later date, and the nature of the hearing meant that it was in the public interest for the hearing to proceed in the Registrant's absence. Counsel made specific reference to the familiar authority of *R v Jones* EWCA [2001] Crim 168 along with the more recent authority of *GMC v Adeogba* [2016] EWCA Civ 162.
10. In support of the application the Committee was provided with a 'Proceeding in Absence Bundle' paginated to page 80 and which contained documents including copy correspondence sent to the Registrant by post and email, File Notes of recent efforts made to telephone him, an email from him referred to below, Post Office Track-and-Trace printouts, copy of the relevant Rule and legal judgements.

11. Having retired to consider the matter the Committee determined that the hearing should proceed in the absence of the Registrant for the reasons given below.
12. When a registrant is absent from a hearing, and not represented, the Committee may nevertheless proceed if it is satisfied that (a) service of the Notice of Hearing has been properly effected, or (b) all reasonable efforts have been made to serve the registrant with the Notice (Rule 25). The Committee therefore has a discretion, in certain circumstances, to determine that the hearing proceed in the absence of the registrant. The Committee approached its consideration of the application with care and caution.
13. The Committee had already determined that the Notice of Hearing had been properly effected.
14. The Committee took account of the following:
  - a. An email from the Registrant dated 20 February 2022 to the Council stating that *"I am thinking I will skip the following hearings..."*, the email coming via the Egress secure email system in his name;
  - b. Evidence that he had not been responding to emails and letters sent to him which were headed with the details of today's hearing;
  - c. Evidence that calls made to his registered telephone number were not being connected;
  - d. He had not provided any possibly justifiable reason for not attending such as being indisposed with poor health;
  - e. He had not sought an adjournment; and
  - f. There was no evidence to support a prospect of the Registrant attending the hearing at a later date.
15. The Committee was satisfied that the Registrant had voluntarily absented himself as he had indicated what he had in mind.
16. The Committee also took account of the nature of the allegations and evidence against this Registrant and the public interest in the timely fair resolution of legal proceedings. On the face of the allegations and without undertaking any fact-finding exercise, the information available to the Committee gave rise to concerns regarding the Registrant's fitness to practise. Accordingly, there was a public interest in this hearing being undertaken without undue delay.
17. Having taken the circumstances of this matter into account, particularly those described above, the Committee was satisfied that the balance of interests was clearly in favour of proceeding in the absence of the Registrant.
18. The Committee therefore determined that the hearing should proceed in the absence of the Registrant.
19. Papers: prior to the hearing, and confirmed at the start of the hearing, the Committee was provided with:

- a. A bundle of documents paginated to page 76 containing the Particulars of Allegation, witness statements and exhibits adduced on behalf of the Council;
  - b. A bundle of 11 pages of XXXXXX (Redacted) and
  - c. A Statement of Case and Skeleton Argument on behalf of the Council dated 4/2/2022 attached to which was Annex A being a proposed Amended Allegation.
20. The following papers were made available to the Committee during the hearing:
- a. An additional bundle prepared for the Principal Hearing paginated to page 24, a bundle that had previously been provided to the Registrant for the purposes of this hearing;
  - b. XXXXXX (Redacted) – this report was received whilst the Committee was in private; and
  - c. An additional Statement of Case and Skeleton Argument on behalf of the Council dated 7/1/2022, a copy of which had been previously provided to the Registrant for the purposes of this hearing.
  - d. A copy of the Fitness to Practise Committee determination following the Principal Review Hearing concerning the Registrant on 17 July 2019, a determination recording a hearing the Registrant attended and a copy of which would have previously been provided to the Registrant.
21. Application to Amend the Allegation: on behalf of the Council, an application was made to amend the allegation. The current Allegation provides a time period of “*between January 2020 and July 2020*” alleging the use of cannabis. The proposed amendment is to change the time period to read “*between March 2020 and August 2020*”. On behalf of the Council, it was submitted that this time period more accurately reflected the evidence. Notification of the application to amend was sent to the Registrant by email dated 16/2/2021 with no response. It was submitted that the amendment could be made without unfairness.
22. Rule 41 provides that the Committee may amend the particulars of the allegation provided that to do so will not prejudice the fairness of the hearing. Having considered the matter, the Committee was content to grant the application to amend the particulars of the Allegation, there being no unfairness to the Registrant nor prejudice to the hearing.
23. In reaching this decision the Committee was satisfied that the amendment more accurately reflected the evidence, including the reported admissions the Registrant made in the course of a medical assessment. In one respect the amendment favoured the Registrant given that it moved forward in time the alleged start date of XXXXXX (Redacted) from January 2020 to March 2020, although the alleged end date of his XXXXXX (Redacted) was also moved forward in time from July 2020 to August 2020, with the overall time period of his alleged XXXXXX (Redacted) being reduced from seven months to six months.
24. Accordingly, the application to amend Particular 1.1 in the terms set out above was granted.
25. In the course of dealing with this application the Committee raised with Ms Ahmed the issue of cocaine. In doing so the Committee had in mind the overarching statutory objectives for regulation, the application of the Committee’s remit to inquire into matters before it, and the responsibility the Committee has to guard against ‘under prosecution’. Within the papers before the Committee were references to XXXXXX (Redacted). The concern of the Committee was whether or not the Allegation should include a Particular relating to XXXXXX

(Redacted). In response, Ms Ahmed provided the Committee with the XXXXXX (Redacted) referred to above and made submissions in relation to that report. In doing so, Ms Ahmed made an application for this part of the hearing to be in private under Rule 39, which the Committee granted on the basis that the XXXXXX (Redacted) referred to the Registrant and related matters personal to him that did not relate to the Allegation as then drafted. Having considered the XXXXXX (Redacted), in particular the terms of the conclusion in that report, and Ms Ahmed's submissions, the Committee was content that there was no Particular in the Allegation in relation to XXXXXX (Redacted). Thereafter, the Committee put out of its mind the XXXXXX (Redacted) neither of which were relied upon by the Council.

26. Rule 28: the first Skeleton Argument provided by the Council (dated 4 February 2022) referred to Rule 28 and indicated that the Council would invite the Committee to proceed in accordance with Rule 28.
27. Rule 28, in brief summary, applies when an allegation relates to more than one category of impairment and one of those grounds is a criminal conviction/caution, and provides for the Committee to make findings of fact concerning the non-conviction/caution ground first before making findings of fact regarding the conviction/caution ground and only thereafter to make a determination on impairment.
28. It was apparent that the arrangement the Council intended to pursue was to serve the complete case on the Registrant before the hearing, but only to provide the Committee before the hearing with the first half of the case papers. i.e. The first half of the Allegation alleges misconduct (alleging consumption of cannabis) and the related documentary evidence, and only revealing to the Committee the second half of the papers once it had made a finding of fact on Particular 1. i.e. Only then to provide Particulars 2 and 3 and the full grounds on which impairment is alleged (misconduct and conviction) and the remaining case papers relating to Particulars 2 and 3.
29. The consequences of this approach included the following:
  - a. The Council's reference to Rule 28 from the beginning made no sense to the Committee since at that early stage the Allegation as presented to the Committee only alleged misconduct and made no reference to conviction or caution;
  - b. It presented the Committee member responsible for Chairing the hearing from fulfilling the responsibility placed on the Chair of ensuring Rule 28 was followed by adapting the procedures; and
  - c. Was causing the Committee some difficulties already in its consideration of the application to proceed in absence and the application to amend.
30. Responding to the Committee's concerns, Ms Ahmed sought and received further instructions. As a result of that, and following submissions from Ms Ahmed, the following occurred:
  - a. The Committee was provided with a complete copy of the Allegation which consisted of Particulars 1,2 and 3; and

- b. It was agreed that the Committee should, in line with Rule 28, consider and make a finding of fact in relation to Particular 1 (alleging cannabis use) before evidence was presented in relation to Particular 2 (conviction).
31. That left Particular 3 to be considered (alleging the Registrant's failure to notify the Council within 7 days of his conviction). In the submission of the Council, the Committee was invited to consider Particulars 2 and 3 together though accepting that it was inevitable when making findings of fact the Committee would have to resolve Particular 2 (conviction) first before resolving Particular 3 (failure to notify). This was because the Committee would have to determine that there had, as a matter of fact, been a conviction before concluding there had been a failure to notify the Council of the conviction.
32. Before making a decision with regard to how to proceed with Particulars 2 and 3, the Committee challenged Ms Ahmed and itself to consider what, if any, unfairness there might be to the Registrant in proceeding in the way the Council proposed. Careful consideration was given to this. No unfairness could be identified, nor any other way of resolving the issue other than by adopting the Council's proposal. Ms Ahmed indicated that she was aware of at least one case when this approach had been adopted.
33. Accordingly, the Committee determined that once it had made a finding of fact in relating to Particular 1, it would then, and only then, receive evidence and submissions relating to Particulars 2 and 3 together, and consider the two together, though it would necessarily have to make a finding of fact regarding Particular 2 (conviction) first before making a finding of fact on Particular 3 (failure to notify).

#### **The Allegation – Particular 1 and misconduct**

34. The Allegation as regards Particular 1 and as amended was read out:

*You, a registered Pharmacist,*

1. *Having been found impaired by reason of misconduct of using cannabis on 5 February 2019 and suspended for 5 months:*

- 1.1. *on occasion(s) between March 2020 and August 2020, you consumed cannabis, a Class B controlled drug.*

*By reason of the matters set out above, your fitness to practise is impaired by reason of your misconduct.*

35. Given the absence of the Registrant the Committee went on to receive evidence and submissions regarding the allegation.

### **Background – Particular 1 (previously impaired, subsequently used cannabis)**

36. On 17 January 2019 the Registrant appeared before the Committee in relation to an Allegation with three particulars. The Committee found proved the first two relating to the Registrant XXXXXX (Redacted) between mid-March and mid-June 2017 and the Registrant using Cannabis between December 2017 to July 2018. It did not find the third matter proved.
37. On 5 February 2019 the Committee determined that the Registrant's Fitness to Practise was impaired on the ground of misconduct and imposed a sanction of suspension for a period of five months.
38. On 17 July 2019 the Registrant appeared before the Committee for a Principal Hearing Review. That Committee determined that the Registrant had remedied his misconduct and were satisfied the Registrant's fitness to practise was no longer impaired.
39. On 19 March 2020 at 1:50pm the Registrant was arrested by Police Officers from Cleveland Police. He had been stopped by traffic officers whilst driving a car. On speaking with him, officers could smell what was believed to be cannabis. On questioning the Registrant he produced what is described as 'a small clear plastic bag ... [which] contained a green leaf substance'. A road-side test was conducted on the Registrant which proved positive for drugs. He was arrested and conveyed to a police station. In interview under caution the Registrant confirmed the substance to be to be cannabis and that it was for his use.

### **Fact Finding – Particular 1**

40. The Committee had available to it the documentation referred to above and also received oral evidence from Witness A who affirmed.
41. On behalf of the Council, it was submitted that the evidence was sufficient to prove the facts alleged in Particular 1.
42. The Committee reminded itself that the burden for proving factual allegations rested on the Council and that to find a factual allegation proved the Committee must be satisfied on the balance of probabilities.
43. The Committee was satisfied as a matter of fact that on 5/2/2019 the Registrant had appeared before this Committee, his fitness to practise was determined to be impaired, and that the Committee then determined to suspend the Registrant's registration for five months. In reaching this conclusion the Committee had available to it a copy of the Committee's written determination from the 5/2/2019 hearing.
44. The Committee was further satisfied that on occasions (plural) between March 2020 and August 2020, the Registrant consumed cannabis, a Class B controlled drug.
45. In reaching this conclusion, the Committee had the benefit of the following pieces of evidence:

- a. The letter from Cleveland Police dated 20 November 2020 that enclosed the following documentation and information:
  - i. The police Incident Report log concerning the police interaction with the Registrant on 19/3/2020 when the police had cause to stop a car he was driving and on speaking to him in the car an officer detected a smell of cannabis. Following police questions about whether he had cannabis in the car the Registrant is reported to have produced what is described in the police report as a *“small clear plastic bag...[which] contained a green leaf substance”* identified by the officer as cannabis. The Registrant was also found to be in possession of what is referred to as *“1 x joint”* and *“1 x pipe”*. He was arrested. He is reported as stating that these items were for his *“personal use”*;
  - ii. The report of the arresting police officer records that in interview under police caution, the Registrant is reported to have admitted that the substance was cannabis, that it was his property and for his personal use, saying that he had paid £10 for it though he *“refused to state where he obtained it from”*, but that *“he intended to smoke it”*;
  - iii. He provided a positive police-administered road-side test for cannabis use; XXXXXX (Redacted)

b. XXXXXX (Redacted)

- i. XXXXXX (Redacted)
- ii. XXXXX (Redacted)
- iii. XXXXX (Redacted)

46. Having affirmed Witness A gave oral evidence to the Committee. In doing so he confirmed the signed declaration in the report as to the accuracy of the contents of the report. XXXXX (Redacted)

47. XXXXX (Redacted)

48. The Committee accepted the accuracy of the information in the police documents which had been provided by the police service for the purpose of this hearing. The Committee was also satisfied about the reliability and credibility of the evidence of Witness A, his report having been written just two weeks after the assessment, and his oral evidence demonstrating a recollection of the Registrant and what he had said.

49. There is no evidence direct from the Registrant to this Committee, either in writing or in oral evidence, regarding the allegation that he consumed cannabis in the period March 2020 to August 2020. However, there is no indication that he has at any time challenged the information from the Cleveland Police – indeed, there is every indication that he accepts the accuracy of the police information. XXXXX (Redacted)

50. In the light of the above evidence and the assessment of that evidence set out above, the Committee is satisfied to the civil law standard that the facts alleged in Particular 1 of the Allegation are proved. Insofar as Particular 1.1 is drafted to allege cannabis consumptions *“on occasion(s)”*, the Committee is satisfied that the Registrant was consuming cannabis on



multiple occasions over the period alleged given that (a) this reflects his past manner of using cannabis when he has been using it, and (b) his admission to progressing to using “larger” amounts of cannabis over time.

51. Accordingly, the Committee finds Particular 1 proved in its entirety.

### **The Allegation – Particular 2 and 3, misconduct and conviction**

52. The Allegation as regards Particulars 2 and 3 were read out:

*You, a registered Pharmacist,*

2. *On 11 September 2020, were convicted at Cleveland Magistrates Court for the following offence:*

*2.2 on 19 March 2020, at Billingham had in your possession a quantity of Cannabis a controlled drug of class B in contravention of 5(1) of the Misuse of Drugs Act 1971. Contrary to section 5(2) of and Schedule 4 to the Misuse of Drugs Act 1971.*

3. *Failed to declare the conviction in 2 above to the General Pharmaceutical Council within 7 days as required by Rule 4 (2) (a) of The General Pharmaceutical Council (Fitness to Practise and Disqualification etc. Rules) Order of Council 2010.*

*By reason of the matters set out above, your fitness to practise is impaired by reason of your:*

- a. Conviction  
b. Misconduct.*

53. Given the absence of the Registrant the Committee went on to receive evidence and submissions regarding the allegation.

### **Background – Particular 2 (conviction) and 3 (failure to notify)**

54. The determination above refers to the arrest of the Registrant on 19 March 2020 having been found in possession of a ‘small bag’ of cannabis, a ‘joint’ and a ‘pipe’, and his admission under police caution that he was in possession of cannabis and that it was for his personal use.
55. It is apparent that the police subsequently charged the Registrant with a criminal offence.
56. On 11 September 2020, the Registrant was convicted at Cleveland Magistrates Court for the offence of possession of cannabis in contravention of 5(1) of the Misuse of Drugs Act 1971, contrary to section 5(2) and schedule 4 of the Misuse of Drugs Act 1971. The signed

memorandum of conviction obtained from Cleveland Magistrates' Court indicates he pleaded guilty and received a fine of £80, ordered to pay a victim surcharge of £32, and costs of £85.

57. The Council has obtained a witness statement from Witness B, Senior Monitoring and Concerns Officer at the Council dated 24 May 2021. Witness B confirms that a conviction must be declared within 7 days in accordance with Rule (4)(2)(i) of the Council's Rules. Registrants are required to complete a "*Something to Declare Form*". Witness B confirms that no self-declaration has been received by the Council from the Registrant.

### **Finding of Fact regarding Particulars 2 and 3**

58. The Committee had available to it the documentation referred to above. No further oral evidence was received.
59. On behalf of the Council, it was submitted that the evidence was sufficient to prove the facts alleged in Particulars 2 and 3.
60. The Committee reminded itself that the burden for proving factual allegations rests on the Council and that to find a factual allegation proved the Committee must be satisfied on the balance of probabilities.
61. The Committee was satisfied as a matter of fact the Registrant was convicted of possession of a quantity of Cannabis, a controlled drug of Class B, in contravention of section 5(1) and section 5(2) of the Misuse of Drugs Act 1971 and Schedule 4 to the Misuse of Drugs Act 1971.
62. In reaching this conclusion, the Committee had regard to the copy of a Memorandum of an Entry in the Register of Cleveland Magistrates' Court for 11 September 2020 on which is recorded the Registrant's name, a copy of which was in the hearing bundle. Rule 24 provides that such a document is admissible as conclusive proof of the conviction. The Registrant has not provided evidence to contradict the Memorandum and there is no evidence that he has sought to appeal the conviction. The Memorandum records that the Registrant attended the court hearing.
63. Accordingly, the Committee finds Particular 2 proved as a matter of fact.
64. The Committee was satisfied as a matter of fact the Registrant had failed to notify the Council of the fact of his conviction within seven days.
65. In reaching this conclusion, the Committee had regard to Rule 4 and the statement of SL.
66. Rule 4(1) and Rule 4(2)(i) expressly creates a duty on registrants to notify the Registrar within 7 days of a conviction as follows:

*"Duty to provide information to the Registrar*

4. (1) *A registrant must notify the Registrar in writing of the events specified in paragraph (2) within the period of 7 days starting on the day on which the event occurs.*

(2) *Those events are if the registrant—*

*(a) is convicted of any criminal offence;...*

67. The statement of Witness B is that of a Senior Monitoring and Concerns Officer at the Council. Her statement has been prepared for this hearing and includes a signed declaration as to the truthfulness of the statement. Her statement makes it clear that she has made appropriate checks of Council records and has found no notification by the Registrant within seven days of the fact of his conviction, nor it would appear from the statement that he has made any declaration to the Council up to the date of Witness B's witness statement being 24 May 2021.
68. It is noted here that the hearing bundles for this case include a statement by Witness C, a Paralegal working for the Council. Her statement is dated 4/2/2022, and includes a signed declaration as to the truthfulness of the contents of her statement. It is her statement that produces the documentary evidence from Cleveland Police relating to the arrest of the registrant on 19/3/2020. It appears that the first the Council knew of the Registrant's arrest on 19/3/2020 was only on 7/7/2020, nearly four months after the arrest, when the Council was in contact with the police. It is reasonable to infer that the Council may well therefore have known that the Registrant was also charged with an offence. Nonetheless, responsibility for notifying the Council of the outcome of his arrest and charge, being a conviction, rested on the Registrant. There is no evidence to show that he did notify the Council of his conviction.
69. Given the above, the Committee finds Particular 3 proved as a matter of fact.

## **Grounds and Impairment**

### The Law and Guidance

70. Article 51(1) of the Order provides, so far as is relevant for this hearing: *"A person's fitness to practise is to be regarded as "impaired" for the purposes of this Order only by reasons of (a) misconduct; ... (e) a conviction in the British Islands for a criminal offence..."*
71. Thus, misconduct and a criminal conviction each provide what may be described as a gateway to considering impairment. If that gateway is passed, then by way of Article 54(1) of the Order the Committee must then consider whether the Registrant's fitness is impaired.
72. The Committee took account of the guidance given to the meaning of 'fitness to practise' in the Council's publication "Good decision-making" (Revised March 2017) Paragraph 2.11

*states "A pharmacy professional is 'fit to practise' when they have the skills, knowledge, character, behaviour and health needed to work as a pharmacist...safely and effectively. In practical terms, this means maintaining appropriate standards of competence, demonstrating good character, and also adhering to the principles of good practice set out in your various standards, guidance and advice."*

73. The relevant and well-established case law was adequately set out in the Council's Skeleton argument.

The evidence

74. The Committee has available to it the documentary evidence referred to above, in particular the two hearing bundles and the additional transcript of the Committee's determination from the July 2019 Review hearing.

75. XXXXX (Redacted)

76. XXXXX (Redacted)

77. XXXXX (Redacted)

78. XXXXX (Redacted)

79. XXXXX (Redacted)

The advice of the Clinical Adviser.

80. Dr Bearn gave her advice to the Committee while in private. What is recorded here can be in public.

81. XXXXX (Redacted)

82. XXXXX (Redacted)

83. XXXXX (Redacted)

84. XXXXX (Redacted)

85. XXXXX (Redacted)

86. XXXXX (Redacted)

87. XXXXX (Redacted)

**Submissions on grounds and impairment.**

88. On behalf of the Council, it was submitted that the facts found proved in Particulars 1, 2 and 3 established misconduct and a relevant conviction. It was further submitted that the Committee should, as a result, find current impairment and should do so on the grounds that he presented an actual or potential risk to patients or the public, has brought or may bring the profession into disrepute and had breached the one of the fundamental principles of pharmacy (referring to Rule 5(2)(a)(b) and (c)).

**The Committee's decision on grounds.**

89. The Allegation brought by the Council relied on impairment being found on two grounds, namely misconduct and conviction.
90. The Committee considered first whether the factual finding that the Registrant had consumed cannabis on multiple occasions over the period March 2020 to August 2020 did amount to misconduct. The Committee concluded that it did for the following reasons.
91. The Committee regards the Registrant's XXXXX (Redacted) during March 2020 to August 2020 as a serious matter in its own right. The Registrant has denied consuming cannabis at work and there is no evidence to the contrary. XXXXX (Redacted)
92. The Committee accepts Dr Bearn's clinical advice that XXXXX (Redacted). The evidence of Witness A and the advice of Dr Bearn as to the potential risk to patients was accepted by the Committee: XXXXX (Redacted) can lead to dispensing errors that can have a harmful impact on patients. As a pharmacist the Registrant ought to have known how cannabis could affect his performance and that he was taking a risk in relation to patient safety using cannabis in the period before being in work.
93. The Committee further regards the Registrant's consumption of cannabis during March 2020 to August 2020 as a serious matter given the wider context within which it occurred. That context, set out chronologically, includes the following:
- a. The Registrant's evidence to this Committee when he was before it in 2019, and repeated in his account to Witness A, was that his use of cannabis started in his first year at university, which would have been in the period preceding 2017, by when he was working as a pharmacist. His evidence was that his cannabis use escalated in his third year at the end of which he failed his exams. By the time of his appearance before this Committee in July 2019 he acknowledged that his escalating use of cannabis was a cause for him failing his exams;
  - b. When he appeared before this Committee in January 2019, XXXXX (Redacted) during the period mid-March 2017 to mid-June 2017, and to having used cannabis between December 2017 and July 2018, periods when he would have be working as a pharmacist;
  - c. By July 2019 XXXXX (Redacted)
  - d. At the July 2019 Committee hearing the Registrant gave evidence of his insight, referring to a realisation that cannabis XXXXX (Redacted) use was not acceptable for a Pharmacist, a realisation of how substance misuse had affected his ability to concentrate, and how his past conduct had put the public at risk of harm and damaged the reputation of the

profession, he said had adopted a healthy life-style by eating, sleeping and exercising, had a good supportive relationship with his family, and that he had XXXXX (Redacted)

e. Approximately two months after the July 2019 hearing, when he was free to return to unrestricted practice, he was working as a pharmacist and just six months after that he was arrested in possession of cannabis and admitted it was for his own use, which had increased over time.

94. Given this context, the Committee's finding that he was using cannabis during March to August 2020 can be seen not to be a short-lived affair but part of a continuum, albeit episodic in nature. His use of cannabis has been sustained since starting sometime before 2017. In addition, his use of cannabis has persisted despite it having been damaging to him and despite the learning he might have been expected to show from past events. The damage and short-comings in his learning is evidenced by: (a) the circumstances involving the police (when he was a victim) that brought him before this Committee in 2019, (b) circumstances that led him to being suspended and to losing his employment at that time, (c) by his continuing to use cannabis even at a time when he knew he was under investigation by the Council, and (d) his subsequent use of cannabis despite the insights and reassurances he evidenced when before this Committee in both January 2019 and July 2019.
95. Given the above, his use of cannabis during March to August 2020 as set out in Particular 1 is, in this Committee's judgment, to be regarded as serious and amounting to misconduct.
96. The Committee regards the conviction of the Registrant as a serious matter. The offence of possession of cannabis is a serious matter in its own right and particularly so for the Registrant being a registered professional. It is all the more serious when this has occurred after he has previously been before his regulator and suspended for previously consuming cannabis XXXXX (Redacted) and had given evidence that he understood how consuming cannabis was unprofessional. To have been found in possession of cannabis, arrested by the police, investigated for drug-driving and charged with possession with the inevitable court hearing, is serious, no matter that the offence was dealt with by way of a fine.
97. Given the above, the Committee is satisfied that the gateway to a consideration of impairment is established by reason of the ground of conviction on the basis of Particular 2.
98. Finally, the Committee regards the failure to notify the Council of the conviction as serious. The system of regulation depends, in part, on professionals being open and honest with their regulator. The importance of this is underscored by the fact that a duty to notify is written into the Rules. The ability of the regulator to meet the statutory objectives of regulation depends in part on the honesty and openness of professionals. The Registrant's failure to be open and honest and his failure to comply with the Rules put at risk the Regulator's ability to meet the over-arching objectives of regulation, the primary purpose of which is the protection of the public.
99. Having had previous experience with regulation he would have been more alert to notifying his regulator making his failure all the more serious. Aside from the impact on the regulator, his failure to notify the Council of the conviction creates the appearance (whether true or

not) that he may have done so deliberately in order to avoid the professional consequence of his conviction.

100. Given the above, the Committee is satisfied that the gateway to a consideration of impairment is established by reason of misconduct on the basis of Particular 3.
101. In reaching these conclusions, the Committee has considered whether the Registrant breached any of the Council's Standards for Pharmacy Professionals (May 2017). The Committee determined that there have been breaches of the following Standards:
  - a. Standard 5: Pharmacy professionals must use their professional judgement.
  - b. Standard 6: Pharmacy professionals must act in a professional manner.
  - c. Standard 8: Pharmacists must speak-up when things go wrong.
102. It is self-evident that the Registrant has failed to exercise professional judgement, and failed to act in a professional manner, by his continued possession and use of cannabis even after previously appearing before his regulator for the same behaviour, gained a criminal conviction, and failed to then notify the Council of his conviction.
103. The Committee bore in mind that the Standards may be taken into account when considering the issue of impairment but that a breach of the Standards does not automatically result in a finding of impairment (Rule 24(11) of the Rules).
104. Nonetheless, for the reasons already given, the Committee is satisfied that individually and collectively, Particulars 1, 2 and 3 do present significant breaches of professional standards and given the overall circumstances, establish the two grounds upon which impairment must be considered of misconduct and a conviction.
105. The Committee has therefore gone on to consider whether the Registrant's fitness to practise is impaired.

## **Impairment**

106. The Committee went on to consider what is referred to as the Personal and Public Components of impairment.
107. The Committee has considered whether the Registrant has insight in relation to the circumstances of his misconduct and the circumstances surrounding his conviction.
108. The Registrant has not provided oral or written evidence or submissions for this hearing. The July 2019 Reviewing Committee, when the Registrant did attend in person, provides an understanding of his evidence at that time. At that time, he gave evidence that he understood it was wrong for a professional to use cannabis, he understood the adverse

impact cannabis use can have on his ability to work as a pharmacist and the consequential risk to patient safety. He also gave evidence that he understood the impact of his behaviour on public confidence in the profession. He asserted that he was then living a healthy life-style, eating, sleeping and exercising well, away from negative peers and with the support of his family. He asserted that he had no thought of returning to cannabis use and was confident he would not XXXXX (Redacted).

109. Whilst some credit may be due to the Registrant given the evidence of a period of abstinence leading up to that July 2019 Review hearing, little weight can now be given to his evidence of insight given that it is now established that he did relapse over a prolonged period of time with multiple uses of larger amounts of cannabis, including at a time when he was working as a pharmacist (albeit not when actually at work). In this context 'actions speak louder than words': whilst he gave oral evidence of insight, within a matter of months of the July 2019 hearing he relapsed into using cannabis, whilst working as a pharmacist (although on his account not using cannabis at work), was arrested in March 2020, and, on his own account, continued to use cannabis until August 2020. In doing so he has not put into practice what he had said about professional expectations, the risk to patients or his declared commitment to abstinence. If he was struggling with work his professional responsibility was to manage that stress professionally, not resort to cannabis use as a coping mechanism. He could have stepped away from work, reduced his work, and/or sought support and treatment XXXXX (Redacted) or cannabis use from the several support opportunities that are available, but did not do so.
110. The Committee has no evidence of what, if any, remedial steps he may have taken since being arrested on 19 March 2020 beyond that which he related in March 2021 to Witness A. The information then was that there was evidence of a period of abstinence, but he had not received treatment or support to address misuse and was again asserting that he was maintaining a healthy life-style with support from family.
111. In addition, the Committee cannot be confident of what motivations, triggers and drivers relate to his use of cannabis. He has in the past denied links to XXXXX (Redacted). He has subsequently linked his failing to pass his third year University exams to cannabis misuse. His substance misuse during 2017/18 which led to the 2019 fitness to practise proceedings appears to have been linked XXXXX (Redacted) which he subsequently said were resolved. The Medical Report of Witness A in March 2021 and Witness A's oral evidence indicates a link between XXXXX (Redacted) and cannabis use. However, without further evidence, including from the Registrant, the Committee cannot be confident about identifying the motivations, triggers and drivers for cannabis use and cannot be confident that they have been addressed, nor even that at this time that he has remained abstinent. XXXXX (Redacted).
112. In these circumstances, the Committee accepts Witness A's evidence and Dr Bearn's advice that the risk of XXXXX (Redacted) is currently understood to be moderate-to-high and that he therefore presents a risk of causing serious harm to the public were he to return to work.
113. The Committee has also considered the impact of the Registrant's conduct on public confidence in the profession and the regulator. The Committee is satisfied that the public



would be concerned to know that a pharmacist was attending work in a period after using cannabis creating a risk of dispensing errors and patient harm. This must inevitably undermine public confidence in the profession. His conviction for possessing cannabis, when put in context of the Registrant who had previously been held to account by his regulator for cannabis use, will also cause public concern and undermine confidence in the profession. His failure to notify the Council of his conviction will again undermine public confidence in the profession to do the right thing by being candid, and undermine public confidence in the regulator's ability to perform its function of protecting the public.

114. In these circumstances, the Committee is satisfied that there should be a finding of impairment in order to maintain public confidence by making clear that the Registrant's behaviour is unacceptable.
115. The Committee has also concluded that there should be a finding of impairment to uphold professional standards. The message to other professionals must be clear, that putting patients at risk through cannabis use and attracting criminal conviction, along with the failure to notify the Council of a conviction, represent unacceptable behaviours.
116. Accordingly, the Committee finds the Registrant's fitness to practise to be currently impaired on all three heads of the statutory objectives for regulation, namely public protection, upholding public confidence and promoting professional standards.
117. Given the Committee's analysis and conclusions set out above, the Committee is satisfied that Rule 5(2)(a), (b), and (c) are engaged.
118. The Committee considered Rule 5(2)(d) (lack of integrity). The Committee expresses concern about the Registrant's integrity: he has previously admitted to XXXXX (Redacted); he continued to use cannabis when under investigation by the regulator before the 2019 hearings; Witness A has identified instances when the Registrant appears to have been less than forthcoming about his use of cannabis; and he failed to notify the Council about his conviction. However, at this time and without inhibiting any further review should there be one, to assess integrity the Committee would benefit from understanding more about the Registrant's circumstances. Without that information, and at this time, the Committee stops short of finding a lack of integrity.

## **Sanction**

119. Having found impairment, the Committee has gone on to consider the matter of sanction.

### The Law and Guidance

120. The Committee's powers are set out in Article 54(2) of the Order.
121. In determining the appropriate sanction, the Council submits that the Committee should consider the range of sanctions in Article 54 in ascending order from least restrictive to most

restrictive to identify the appropriate and proportionate sanction that meets the circumstances of the case.

122. The Committee must also have regard to the Council's 'Good decision making: Fitness to practise hearings and sanctions guidance' to inform its decision.
123. The Committee is entitled to give greater weight to public interest over the consequences to the Registrant of the imposition of any particular sanction. Sir Thomas Bingham MR (with whom Rose and Waite LJ agreed) said in *Bolton v Law Society* (1994) 1 WLR 512: *'The reputation of the profession is more important than the fortunes of any individual member. Membership of a profession brings many benefits, but that is part of the price'*

#### Council's submissions on sanction

124. On behalf of the Council, having identified aggravating features, and mitigating features, it was submitted that the Committee should consider a sanction of removal, highlighting that this was the second time the Registrant had appeared before his regulator on the same or similar matter, having failed to learn the lessons from his previous appearance and having gained a criminal conviction; as a conviction that could not be viewed in isolation but part of a continuum of drug misuse.

#### The Committee's decision on sanction.

125. In considering sanction, the Committee recognised the need to act proportionately, in other words that the sanction should be no more serious than it needs to be to achieve its aims. The Committee was mindful that the purpose of sanction in regulatory proceedings is not to punish the registrant but to protect patients and the wider public interest.
126. The Committee bore in mind the Council's publication "Good decision-making: fitness to practise hearings and sanctions guidance" (revised March 2017). The Committee took full account of the submissions made on behalf of the Council.
127. The Committee first considered the aggravating and mitigating factors.
128. The Committee identified a number of aggravating factors, including:
  - a. This is the second time the Registrant has appeared before his regulator and when the same issues relating to XXXXX (Redacted) and the impact on his professionalism have arisen.
  - b. The second appearance before his regulator comes after he gave evidence of insight as to his previous wrong-doing including the impact of cannabis use on his professionalism and the reputation of the profession. He previously gave evidence of changes he had made for the better in his life-style, and expressed a commitment to remaining abstinent, an abstinence that came to an end within a matter of months. The circumstances of XXXXX (Redacted) and conviction indicate that whatever insight he may once possibly have had, and whatever reassurances he may previously have given, now count for little.

- c. On this his second appearance before his regulator he now has a criminal conviction for possession of cannabis, a serious matter given that it is not in isolation but forms part of a continuum of cannabis use and after his previously having been held to account for cannabis use.
  - d. On his own admission, he continued to use cannabis after his arrest in March 2020 until August 2020, shortly before his appearance at court.
  - e. He has undermined trust in him by his failure to notify the Council of his conviction.
129. In terms of mitigation, it appears he made admissions to the police when arrested and pleaded guilty at the first opportunity at court. It is fair to record that he engaged with the regulatory process to the extent of attending the Medical Assessment but has subsequently withdrawn his engagement. In addition, the fact that he has maintained periods of abstinence is a matter that should count as mitigation.
130. The Committee approached the issue of sanction by considering, in turn, each available sanction in ascending order.
131. The Committee first considered whether it should take no action. The Committee concluded that this would not be appropriate as it would not address the risk of future harm it had identified, nor would it be adequate to maintain confidence in the profession or the regulatory process, nor would it be sufficient to declare and uphold professional standards.
132. The Committee next considered whether a warning would be appropriate. It concluded that a warning would not be appropriate for the same reasons as with taking no action: a warning would not address the risk of future harm it had identified, nor would it be adequate to maintain confidence in the profession or the regulatory process, nor would it be sufficient to declare and uphold professional standards.
133. The Committee next considered the imposition of conditions. This is not a case involving an allegation of clinical failings. It is a case that involves a lack of judgement and a failure to live up to the expectations of being a professional. The Committee was not satisfied that Conditions of Practice would be sufficient to mark the seriousness of what has occurred, and would therefore fail to reassure the public that the profession takes this matter seriously, and would fail to send a clear enough message to the profession as to the standards expected of being a member of the profession. In any event, with no up-to-date information about the Registrant, and given his absence from the proceedings, the Committee could not be confident that Conditions would either be currently appropriate nor that they would be complied with.
134. The Committee next considered whether suspension would be a proportionate sanction. The Committee noted the Council's guidance which indicates that suspension may be appropriate where: *"The Committee considers that a warning or conditions are insufficient to deal with any risk to patient safety or to protect the public, or would undermine public confidence. It may be required when necessary to highlight to the profession and to the public that the conduct of the registrant is unacceptable and unbefitting a member of the pharmacy profession. Also, when public confidence in the profession demands no lesser sanction."*

135. In its deliberations the Committee took careful account of the submissions made on behalf of the Council favouring removal. In an earlier submission (in the context of impairment) it was submitted that the findings against the Registrant were possibly remediable. The Committee agrees: it is, just, possible, and depending on a number of matters, that the Registrant could remediate the failings that have been identified. To do so may require a great deal of effort on the part of the Registrant and a considerable amount of evidence may be required to establish remediation. As an early step, he would need to re-engage with his regulator, as well as seek appropriate support to address his use of cannabis and any other issues he may be facing that motivates, triggers or drives his use of cannabis. The Registrant's non-attendance at this hearing has not helped in this regard. However, at this stage, on the information the Committee has, the Committee cannot rule out the possibility that the Registrant may be able to remediate his failings.
136. The Committee also has in mind the importance of determining a sanction that will maintain public confidence in the profession and the regulator, and which will uphold professional standards by deterring other professionals from behaving as the Registrant has behaved. In colloquial terms, the Committee can only take a very dim view of, and takes very seriously, the fact that this Registrant was previously held to account for using drugs, gave assurances to this Committee as to his future conduct, and then within a matter of months repeated his previous misconduct, and gained a conviction in doing so.
137. The Committee has also taken into account the Registrant's own interest in balancing the factors. In particular, the Committee recognises the financial and reputational impact of a sanction on the Registrant.
138. With those conclusions in mind, the Committee has decided that at this stage, the appropriate sanction is that of a suspension order and that it should be for the maximum length possible, namely 12 months. Such an order acts to protect the public, and the Committee is satisfied that such an order does send a clear enough message to the public and the profession that the Registrant's behaviour is not acceptable.
139. The Committee is satisfied that suspension for twelve months is the least period necessary to mark the seriousness of the case and to allow the Registrant the opportunity to engage with the regulatory process and whatever support opportunities there may be for him, to develop his insight and further remediate his failings. It also takes into account the Registrant's own interests including his ability to work and earn as a pharmacist.
- 140. The Committee therefore Orders that the Registrar should Suspend the name of Rebin Abdullah from the register for a period of 12 months starting on the date that this Order comes into effect.**
141. The Committee orders that there should be a review of this case before the Order comes to an end so that the Registrant's fitness to practise can be further assessed.
142. At the review, the Committee is likely to be assisted by:
- a. A reflective piece dealing with the issues of concern identified by the Committee, showing insight on why he made the wrong decisions that he did;

- b. Evidence demonstrating how he has sought to address his use of cannabis and such other issues that may be associated with his cannabis misuse including his skills in coping with stress;
  - c. Independent objective evidence demonstrating sustained abstinence from illegal drugs using hair or other appropriate testing;
  - d. Information on how he has been maintaining his CPD;
  - e. An update on what if any work, voluntary or paid, he has been undertaking; and
  - f. Any testimonials that he wishes to provide.
143. For the sake of completeness, the Committee gave consideration to the next sanction, namely removal from the register. At this time, on the information presently available, the Committee concludes that removal would be disproportionate. The Committee makes clear that at the time when the Order of Suspension is reviewed, all sanction options will be open to the Committee, including removal, though the decision of the Committee will depend on the available evidence at that time.

#### **Interim Order of Suspension.**

144. Ms Ahmed for the Council advised the Committee that the Registrant has been subject to an Interim Order of Suspension which was last reviewed by the High Court in January 2022 and extended for a year to January 2023. However, Ms Ahmed advised that the Interim Order of Suspension is now attached to a second regulatory matter which is continuing. In these circumstances, Ms Ahmed's instructions are to not ask the Committee to revoke the Interim Order as might otherwise have occurred.

#### **Interim Measure**

145. On behalf of the Council, Ms Ahmed advised that she was not instructed to apply for an Interim Measures Order as she might ordinarily have done. This was because, according to her instruction, an Interim Measures Order was not necessary because the existing Interim Order of Suspension (referred to above) provided protection for the public. However, she acknowledged that the matter was for the Committee to decide. She provided in outline an indication of the other matter.
146. The Committee took the view that its responsibilities in accordance with the statutory overarching objectives required the Committee to take appropriate steps to ensure the protection of the public over any appeal period. The hearing had been provided with limited information about the other regulatory matter. Since the Committee could not be assured that the other matter would not end during an appeal period it decided to impose an Interim Measure of Suspension for the protection of the public. This decision is based on the Committee's findings above that the Registrant presents a risk of causing harm to members of the public and that an Interim Measure of Conditions would not be adequate or workable.
- 147. Accordingly, the Committee orders that an Interim Measure of Suspension be in place to cover any appeal period.**
148. This concludes the determination of this matter.