

**General Pharmaceutical Council**

**Fitness to Practise Committee**

**Principal Review Hearing**

Remote videolink hearing

**Wednesday 2 November 2022**

<b>Registrant name:</b>	Umar Bashir
<b>Registration number:</b>	2050976
<b>Part of the register:</b>	Pharmacist
<b>Type of Case:</b>	Misconduct
<b>Committee Members:</b>	David Bleiman (Chair) Deborah Grayson (Registrant member) Sara Atkins (Lay member)
<b>Legal Adviser:</b>	Scott Ivil
<b>Secretary:</b>	Adam Hern
<b>Registrant:</b>	Present
<b>General Pharmaceutical Council:</b>	Represented by Gareth Thomas, Case Presenter
<b>Order being reviewed:</b>	Conditions (12 months)
<b>Fitness to practise:</b>	Impaired
<b>Outcome:</b>	Conditions (9 months)

*This decision is an appealable decision under our rules and will not take effect until 2 December 2022 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 sixth 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 Mr Bashir’s Fitness to Practise was impaired by reason of misconduct. The Committee went on to impose conditions on his practice for a period of nine months and directed that a review should be held before the order expired.
3. There have been five reviews– on 15 April 2019, 22 October 2019, 6 August 2020, 22 April 2021 and 22 October 2021. Mr Bashir is currently subject to conditional registration, the conditions having been imposed in place of suspension at the last review.

## **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recording errors, including in respect of controlled drugs; dispensing errors, including as to amounts, prescription out of date, and labelling; failing to keep controlled drugs locked away.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. Mr Bashir accepted that his conduct had been “deplorable” but linked his difficulties [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 Mr Bashir was genuinely remorseful and that his poor performance arose from a unique set of circumstances. However, the Committee was concerned about the
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potential impact of stressors in the future. The Committee found that Mr Bashir'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. Conditional registration was 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. Mr Bashir was not in attendance. The Committee noted that he 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 Mr Bashir and the public that non-engagement and non-compliance was unacceptable.

9. The Committee suspended Mr Bashir's registration for a period of six months. This was considered the minimum necessary for him 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, Mr Bashir engaged and attended the hearing. He provided more information about developments in his private life, including matters of health.

11. [PRIVATE]

12. The Committee directed that the suspension should change back to conditional registration (slightly varied from the previous conditions) for a period of nine months. The conditions would give Mr Bashir 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 Mr Bashir, and he had not provided any evidence of compliance with his conditions. However, in July 2020, a paralegal had spoken with him and Mr Bashir said that he had been working as a locum.

14. At the hearing, the Committee found that Mr Bashir 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. Mr Bashir 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 Mr Bashir had complied with none of the Conditions set out in the order. He 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 Mr Bashir on a list he had provided. The Pharmacies were asked to confirm whether they were aware of his 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 Mr Bashir was subject to conditions. In addition, concerns had been noted with his practice, including alleged errors. Rowlands pharmacy had written to Mr Bashir drawing attention to a dispensing error when he was the accuracy checker.

18. Prior to the hearing, Mr Bashir 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 Mr Bashir 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 Mr Bashir’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.

#### **The Fifth Review (22 October 2021)**

24. Mr Bashir provided two documents for the fifth review, a two-page reflective statement and a one page document entitled *Reflections & Insights Into Alleged Dispensing Errors*. The Council's Monitoring team confirmed that he had been compliant with his suspension.

25. Mr Bashir attended and gave evidence under affirmation.

26. 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.

27. In his reflective statement relating to the three new dispensing errors, Mr Bashir 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.

28. Mr Bashir 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.

29. Mr Bashir identified the areas in his practice which required improvement relating to checking prescriptions, timely record keeping, storage and monitoring of controlled drugs. He explained how he would ensure that processes were robust and avoid errors and how he would deal with stressful situations.

30. Mr Bashir was asked to explain his previous non-compliance with conditions. 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.

31. Mr Bashir assured the Committee that he would maintain good communications with the Council's monitoring team. He had no objection to monthly contact with the monitoring team.

32. The Committee found 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, Mr Bashir had not been able to show that he had remedied the performance issues which led to the finding of impairment of fitness to practise. The Committee found that his fitness to practise remained impaired but was potentially remediable. Mr Bashir had given a clear account of the need for conditions and for full compliance with such conditions. He had shown an awareness of the potentially serious consequences of non-compliance, including harm to patients, to the reputation of the profession and of the regulator.

33. The Committee stated:

*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.*

*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.*

34. The Committee replaced the suspension with the following conditions, for a period of 12 months:

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.*

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

35. We have been provided with a Combined Statement of Case and Skeleton argument from the Council, comprising 17 pages.

The Council's hearing bundle amounts to 513 pages, of which the new material is contained at pages 395- 513. This fresh material includes:

- Council's provisional application for an early review of the Order for conditions, with attachments;
- Determination and case management directions in respect of that request, in which it was directed (inter alia) that Mr Bashir was to comply with Condition 9 by providing the requisite information, by a deadline of 25 May 2022;
- Response from Mr Bashir dated 25 May 2022;
- Council's update email dated 10 June 2022, withdrawing the request for an early review but noting that any failure to provide a monthly update would be viewed as a breach of the conditions and that an early review might again be requested;
- Witness Statement of the GPhC's Case Administrator signed and dated 7 October 2022, with attachments, detailing communications with Mr Bashir from 24 May 2022 to the time of writing the statement, with particular reference to the extent of Mr Bashir's compliance with the reporting requirements contained in Condition 9.

### **Attendance at this hearing**

36. Mr Bashir attended in person and represented himself. The Council was represented by Mr Gareth Thomas, of Counsel.

### **Hearing to be heard, in part, in private**

37. Having heard and accepted legal advice, we agreed to an application from Mr Bashir, to which Mr Thomas did not object, that any aspects relating to health or confidential family matters, be heard in private. All other aspects of this hearing are to be heard in public.

### **Evidence**

38. Mr Bashir gave evidence under affirmation.

39. Mr Bashir explained, in private session, certain issues relating to his family life which had resulted in him having to take responsibility to help to run a family business, unrelated to pharmacy. The difficulties had arisen towards the end of November 2021 and the business had been sold around September of 2022. This responsibility had prevented Mr Bashir from being able to return to pharmacy practice since the last review.

40. Mr Bashir apologised for not having done more to comply with the conditions. He said that he had misunderstood Condition 9, thinking that the monthly declarations to the monitoring team were the same as reports from a workplace supervisor.

41. Mr Bashir described some preliminary steps which he had taken. He had been in touch with a locum agency, "Preferred Locums", although not recently. He believed that there would be work for him. Mr Bashir had identified a potential workplace supervisor, Mr Nishant Patel, who was aware of the conditions and, although they had not discussed the matter recently, Mr Bashir believed that Mr Patel would still be willing to act as a supervisor. Mr Bashir had checked and found that suitable courses were available.

42. Mr Bashir said that, the family issues now having been resolved, he would be able to give "utmost priority" to obtaining pharmacy work and demonstrating remediation of

his fitness to practise. He still intended to find locum work in community pharmacy and he hoped to be able to find such work within a matter of weeks.

## Submissions

43. Mr Thomas acknowledged that the concerns in this case were, in principle, remediable, but submitted that, as Mr Bashir had not taken up a role as a Pharmacist, he had not been able to demonstrate that he had remediated the concerns that led to the findings of the Principal Hearing. For that reason his fitness to practise remained impaired.
44. Mr Thomas submitted that condition 7, regarding undertaking training, was not contingent on securing work as a Pharmacist but Mr Bashir had failed to evidence having undertaken such training. He had frequently had to be chased, sometimes without success, for the reports required by condition 9 and had not, by the 7 October, provided such a report for the month of September.
45. Mr Thomas referred to the guidance relevant to sanction given in the cases of *Annon v The Nursing and Midwifery Council [2017] EWHC 1879 (Admin)* ["Annon"] and *Abbas v The Nursing and Midwifery Council [2019] EWHC 971 (Admin)* ["Abbas"]. Mr Thomas submitted that, as so little demonstrable progress had been made in the four years since the Principal Hearing, it was not in the public interest to allow matters to slide or for Mr Bashir to continue in limbo. He said that suspension would serve no useful purpose and that a sanction of removal would be premature. He submitted that conditions would remain proportionate but that a period of nine months would be sufficient and might help Mr Bashir to focus his mind on the need to make progress.
46. Mr Thomas invited us to set out expectations of what the next review Committee would be likely to find helpful and that, if nothing had been heard from Mr Bashir, the Council might be expected to consider requesting an early review.

47. Mr Bashir submitted that he was largely in agreement with the Council's submissions. He was committed to providing regular reports and he agreed that a time scale of nine months was realistic for him to show remediation of his fitness to practise.

### **Legal advice**

48. We heard and accepted the advice of the legal adviser, which included reference to the following cases and explained how the authorities of *Annon* and *Abbas* might be taken into account. He noted that these were fact-specific judgments and asked us to have regard to the particular circumstances of Mr Bashir's case.

49. 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.*

50. 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?*

51. He also referred to the cases of *Cohen v GMC [2008] EWHC 581*, *Meadow v GMC [2006] EWCA Civ 1390* and *Yeong v GMC [2009] EWHC 1923 (Admin)*.

### **Impairment decision**

52. We took into account all of the evidence before us, including Mr Bashir's frank admission that he had not made substantial progress towards remediation as he had not been in a position to resume pharmacy practice. There was a persuasive burden on him to show remediation but he did not seek to persuade us, rather he accepted that the work of remediation still lay ahead of him. We find that his fitness to practise remains impaired and the grounds of protection of the public and the wider public interest remain live.

### **Sanction**

53. We took into account the legal advice and the case authorities, including those of *Abbas* and *Annon*, which relate to the circumstances in which removal may or may not be proportionate, in circumstances where fitness to practise remains impaired after an extended period in which other sanctions have applied. We had regard to the Council's *Good decision making: Fitness to practise hearings and sanctions guidance* (March 2017).

54. We considered the available sanctions in ascending order. As this is a case concerning performance issues which are potentially remediable, conditional registration remains the sanction which provides an opportunity for Mr Bashir to work under restrictions designed to protect the public while providing him an opportunity to remediate. Suspension would prevent him from demonstrating the requisite remediation of the concerns which led to the finding of impairment in 2018. We considered whether the point had been reached when there was no longer a realistic prospect of Mr Bashir

remediating his pharmacy practice. While disappointed that Mr Bashir has made so little progress thus far and, in particular that he has not even undertaken training which might have been completed alongside working in a non-pharmacy setting, nor maintained a reliable level of communication with the monitoring team, we find that it would be premature to remove him from the register at this time.

55. We conclude that conditional registration remains proportionate, sufficient to protect the public and provides Mr Bashir with the opportunity to show that he has remediated his practice. We consider that Mr Bashir does need to have a very clear understanding that he is now under time limits with which he must comply, or, if unable to do so, explain his circumstances in a timely manner to the monitoring team. We consider a nine-month period sufficient to allow Mr Bashir to remediate his practice.

56. We continue the present conditions with some significant amendments. In Condition 4, we have clarified that Mr Bashir must find a workplace supervisor within 4 weeks, whether or not he has commenced relevant work within that timescale. He could, for example, start to develop a Personal Development Plan. In Condition 7, we insist that Mr Bashir “complete” rather than “undertake” the requisite training, within 3 months. In Condition 9, we clarify that the monthly reports which Mr Bashir must provide, each and every month, to the Council’s monitoring team, are required not only to report on his progress but also on any difficulties or delays which he might have encountered.

## **Conditions**

57. The conditions of registration are now as follows, for a period of nine months:

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 within 4 weeks (whether or not you are undertaking any paid or unpaid work for which you must be registered with the GPhC):
- 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, complete 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. Such reports should include any difficulties or delays which you have encountered.

58. A future Committee is likely to find it helpful to receive a comprehensive report from the Monitoring team which includes the monthly reports from Mr Bashir and a completed compliance declaration, along with evidence from Mr Bashir of his compliance with each of the detailed Conditions. We encourage Mr Bashir to read the Conditions carefully, to familiarise himself with the detail and to make every effort to comply with the letter of the Conditions.

### **Interim Measures**

59. Mr Thomas applied for the imposition of the same conditions of registration by way of an interim measure to take immediate effect. He explained that the amended conditions which we have imposed can only come into effect after a 28-day period allowed for a potential appeal, or when such an appeal is disposed of. The existing conditions were due to expire prior to the end of that 28-day period. Mr Bashir did not object to the imposition of interim conditions.

60. We heard and accepted legal advice. We consider that it is necessary to protect the public and is otherwise in the public interest for interim measures to be in place during the period when Mr Bashir might otherwise be free to protect the public. We have decided to impose as an interim measure, the same conditions which we have imposed as substantive conditions. This will protect the public, while allowing Mr Bashir to make progress in remediating his pharmacy practice, without unnecessary delay.