

General Pharmaceutical Council

Fitness to Practise Committee

Principal Hearing

Remote videolink hearing

21-24 February and 27 March 2023

Registrant name:	Nadeem Rafiq
Registration number:	2055528
Part of the register:	Pharmacist
Type of Case:	Misconduct
Committee Members:	Angela Black (Chair) Stephen Simbler (Registrant member) Claire Bonnet (Lay member)
Secretary:	Zainab Mohamad
Registrant:	Present, not represented
General Pharmaceutical Council:	Represented by Kay-Marie Tomlinson, Case Presenter
Facts proved:	All
Facts proved by admission:	Preamble and Paragraph 1
Facts not proved:	None
Fitness to practise:	Impaired
Outcome:	Suspension, 4 Months
Interim measures:	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 26 April 2023 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 ON FACTS

1. This is the principal hearing of an allegation of impaired fitness to practise by reason of misconduct against Mr Nadeem Rafiq (“the Registrant”), a pharmacist first registered with the Royal Pharmaceutical Society of Great Britain on 7 November 2002. His registration was subsequently transferred to the General Pharmaceutical Council (“the Council”).

The Hearing

Preliminary Issues

2. The Registrant had not received the final version of the Council’s bundle. Ms Tomlinson suggested that the draft bundle could be relied upon by the Registrant in the course of the hearing because the missing pages were those provided by the Registrant himself. However, these amounted to some 30 pages and the Committee did not consider it appropriate for an unrepresented registrant to be expected to rely on an incomplete bundle and various unpaginated supplementary pages. The correspondence before the Committee indicated that the Registrant was very anxious about the hearing and such a process may hamper his ability to engage with the proceedings meaningfully. The Committee asked Ms Tomlinson to arrange for a hard copy of the final bundle to be couriered or despatched to the Registrant to enable him to participate in the hearing as soon as he had had the opportunity to review it in full.
3. In tandem with the issue of documents missing from the Registrant’s bundle, the Chair also raised with the parties the content of an email from the Registrant’s partner, Ms (Redacted), which had been sent to Ms Tomlinson the day before the hearing. This email contained allegations, purportedly by the Registrant, about the Registrant’s colleagues at the Pharmacy and related to the issues in these proceedings. In essence, the allegation/s in the email were that others within the Pharmacy and the umbrella company were aware of the sale of codeine linctus. The Registrant informed the Committee that the email had been sent with his consent and he agreed

with the content.

4. The Committee bore in mind its overarching objective, including the protection of patients and the wider public interest, which includes the upholding of standards and maintenance of public confidence in the profession. The Chair told Ms Tomlinson that, in this context, the Committee wanted to know what action was being taken by the Council in the light of these allegations. Ms Tomlinson initially told the Chair that she had intended, as a preliminary matter, to establish with the Registrant whether he agreed with the content of the email and the apparent contradiction in his reflective statement where he stated he had not disclosed his concerns about the supply of codeine linctus. The Chair pointed out that this could not be achieved as a preliminary matter without opening the hearing and proceeding to cross-examination of the witness. The issue for the Committee was whether it was appropriate to proceed with the hearing into the fitness to practise of this Registrant when it was now his evidence that others had colluded in the alleged misconduct. It would be of assistance to the Committee to know what action was being taken in the context of (Redacted)'s email. After a short adjournment to take instructions, Ms Tomlinson told the Committee that the allegations would be triaged by the Council as a concern. It was the Council's position that there was no requirement for an adjournment of this hearing while that process was ongoing. No such application was being made. She also informed the Committee that a full bundle and skeleton argument would be despatched to the Registrant to arrive no later than 9am the following day.
5. The Chair proposed that an adjournment was required to enable the Registrant to consider the full bundle in the context of (Redacted)'s email (the content of which the Registrant confirmed was based on his account to her). The Chair asked the Registrant whether he would also take the opportunity to seek legal advice during an adjournment and he confirmed that he would look into it. The Chair proposed an adjournment to noon the following day. Both the Registrant and Ms Tomlinson agreed this was appropriate and the hearing was adjourned accordingly.
6. At the resumed hearing the following day, the Registrant confirmed he had received hard copies of the bundle and the Council's skeleton argument and that he had had sufficient time to read them and prepare for the hearing. He informed the Committee he would not be represented at the hearing and that he was ready to proceed.

7. Ms Tomlinson applied to amend the preamble of the particulars of allegation to extend the period of the alleged misconduct from “between October 2019 and July 2020” to “between October 2019 and 12 November 2020”. The application was made pursuant to Rule 41 of the General Pharmaceutical Council (Fitness to Practise and Disqualification etc. Rules) Order of Council 2010 (“the Rules”). Ms Tomlinson submitted that this amendment was required to reflect the evidence in the Council’s bundle, which had already been served on the Registrant. Ms Tomlinson submitted that the application did not arise as a result of new evidence; nor did the application take the case “out of the scope of the original referral as the remaining allegations remain[ed] unchanged”. It was submitted that the proposed amendment would reflect the evidence more accurately. Ms Tomlinson submitted no prejudice was caused to the Registrant as a result of the proposed amendment. Ms Tomlinson told the Committee that the Registrant had already informed the Council he had no objections to this application. The Registrant confirmed that was the case.
8. The Committee notified the parties, of its own motion, that it considered the terms of paragraph 2 may not reflect the evidence of Ms Harris, on whose evidence the Council relied for this aspect of the allegation. The Particulars alleged the Registrant “Supplied codeine linctus to between 4 and 5 patients up to 3 and 4 times a week ...” whereas the evidence of Ms Harris in her witness statement differed slightly. The Chair proposed that this paragraph should be amended to refer to “between 4 or 5 patients up to 3 to 4 times a week” to reflect the evidence of Ms Harris. Ms Tomlinson agreed. The Registrant said he did not accept the figures in the Particulars of Allegation but he agreed the amendment on the understanding it was for the Council to prove it; he also proposed that the word “patients” in paragraphs 2 and 3 should be amended to “people”. Ms Tomlinson did not object to this change.
9. The Committee bore in mind the overarching objective of these proceedings and the submissions of the parties. It finds there is no prejudice to the Registrant who has had the opportunity to review Ms Harris’ evidence for some months prior to the hearing. As regards the period of concern, it was in the public interest for the full period to be examined by this Committee. It would be a matter of proof whether the Council were able to adduce sufficient evidence to support the amendment allegation which covered an extended period. As regards the proposed

changes to paragraph 2 and 3, these were grounded in the evidence of Ms Harris and the Registrant himself.

10. The Committee had regard to the terms of Rule 41 which provided that the Committee may “amend the particulars of the allegation set out in the Notice of Hearing, unless it is of the view that the required amendment would prejudice the fairness of the proceedings”. It bore in mind the public interest in fitness to practise hearings addressing all relevant issues accurately.
11. The proposed amendments to the Particulars of Allegation were relevant; they were not prejudicial; nor did they raise matters which were more prejudicial than probative; there was no prejudice to the Registrant in the preparation of his case. The proposed amendments were principally matters of clarification; they added specificity to the allegation as a whole. They did not raise new matters of substance.
12. Rule 41 provides that the Committee may “amend the particulars of the allegation set out in the Notice of Hearing, unless it is of the view that the required amendment would prejudice the fairness of the proceedings”. It did not consider that the proposed amendments would prejudice the fairness of the proceedings and amended the Particulars of Allegation accordingly.
13. Prior to the start of the third day of the hearing, the Committee Secretary received an email from the Registrant as follows:

“Good morning, can you kindly inform the committee that I will not be attending the hearing today due to ill health, lack of food over several days and dehydration has caused a severe migraine. I will however give a statement tomorrow on Friday regarding oral evidence and my fitness to practice.

Kind regards

N Rafiq”

14. The Committee invited Ms Tomlinson to make submissions on whether the hearing should be

adjourned in the absence of the Registrant. Ms Tomlinson informed the Committee that the Council had no objection to the adjournment of the hearing for one day. The Committee considered the application pursuant to Rule 37. The Committee bore in mind the public interest in the expeditious disposal of the case, the potential inconvenience, the Registrant's conduct and fairness to the parties. The Registrant had told the Committee on the previous day, in passing, that he had not been eating since the start of the hearing. Thus his notification that he was ill was consistent with that earlier comment. The Registrant appeared to believe he would be in a position to participate in the hearing on the fourth day. The Committee took into account that any decision to adjourn was likely to cause the hearing to be part-heard (and thus delay disposal of the case) but it considered the interests of fairness to the Registrant outweighed that consideration. It was also relevant that the Council had no objection to adjournment for one day, in the circumstances.

15. The Registrant duly attended the hearing on the fourth day. He told the Committee that he had not eaten for seven days and that he would not eat until the Committee had made its decision on his fitness to practise. However, he wanted to give oral evidence on oath. The Committee was concerned to hear this, particularly as it was likely the hearing would be part-heard given the delays thus far. Ms Tomlinson was invited to make submissions on whether to proceed. She submitted that her concern was the Registrant's ability to concentrate and to recollect clearly. For his part, the Registrant reiterated his desire to give oral evidence. He was adamant he would be able to participate fully and that he was able to concentrate. The Committee discussed in private whether to proceed given the Registrant's declaration. It concluded that it was in the best interests of the Registrant and in the public interest to proceed with the hearing but to monitor the Registrant's participation; the decision not to adjourn could be revisited if the Registrant's health appeared to deteriorate.

Allegation

16. The hearing having been opened on the second day, the amended particulars of allegation were read into the record as follows:

“You, a registered pharmacist, and being the regular Responsible Pharmacist at Buchan

Chemist, 7 Perry Common Road, Erdington, Birmingham, B23 7AB, between October 2019 and 12 November 2020;

1. Sold and/or supervised the sale of large volumes of codeine linctus (a habit forming medicine liable to abuse or overuse) without having controls in place to:

- 1.1. monitor such purchases
- 1.2. monitor sales to customers
- 1.3. identify sales to repeat customers
- 1.4. identify the potential for patient misuse or addiction

2. Supplied codeine linctus to between 4 or 5 people up to 3 to 4 times a week in circumstances where there was no sufficient clinical justification.

3. In respect of 2 above you did so knowingly and/or suspecting that the people were abusing or overusing a habit-forming medicine.

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

Admissions

17. At the outset of the hearing, the Registrant admitted the preamble to the Particulars of Allegation and paragraph 1 in its entirety. He disputed paragraphs 2 and 3. Paragraph 1 was therefore found proved pursuant to Rule 31(6).

Background and the Council's case

18. The Registrant was registered as a pharmacist in 2002. At all relevant times he was employed as the responsible pharmacist at Buchan Chemist, Perry Common Road, Erdington, Birmingham (“the

Pharmacy”).

19. On 12 November 2020 Ms Vicky Harris, a Council inspector, carried out an inspection at the Pharmacy. This was an intelligence led and routine inspection. The Council had received intelligence from the Medicines Health Regulatory Authority (“the MHRA”) to the effect that the Pharmacy had obtained 232 x 200 ml bottles of codeine linctus from various wholesalers between October 2019 and July 2020.
20. The Registrant was the responsible pharmacist on duty at the time of the inspection. At the time he worked five days a week at the Pharmacy in that role.
21. Ms Harris checked the Pharmacy’s Standard Operating Procedures (“SOPs”) which recorded codeine linctus as being on the red flag list requiring requests for this to be referred to the pharmacist.
22. Ms Harris told the Registrant that intelligence had been received to the effect that the Pharmacy was obtaining unusually large volumes of codeine linctus from wholesalers. He was asked to explain this and initially suggested it may be an ordering error. He said the Pharmacy received one or two enquiries a day for codeine linctus and that during the COVID-19 pandemic he may have made two or three sales per week of codeine linctus. He said he gave warnings to patients about the potential for addiction and would only sell one bottle at a time.
23. A check of invoices issued in November was undertaken by Ms Harris who found five which were for codeine linctus in varying pack sizes of 200ml and 2L. Ms Harris’s evidence is that they showed that between 2 November 2020 and 11 November 2020 the Pharmacy had ordered 7.2L of codeine linctus.
24. Ms Harris’s evidence is that she did not identify any codeine linctus on the premises in the course of her inspection.
25. Ms Harris’s evidence is that, while she was documenting the invoices, the Registrant asked to speak to her privately. He acknowledged there were invoices which showed that the Pharmacy

had been buying codeine linctus; he wanted to provide some information. He told Ms Harris that in recent months he had felt under a lot of stress and pressure. He said there had been a high demand for codeine linctus and that the Pharmacy received a large number of requests. Ms Harris' evidence is that the Registrant told her he "had made supplies of codeine linctus regularly to four or five people and that the sales had taken place three to four times per week". When asked, he said he had supplied 200ml at a time. When asked to explain the recent invoices for 2L bottles he said he had packed these down into 200ml bottles, labelling each with a free text label.

26. The Registrant told Ms Harris that he had completed Level 2 Safeguarding training. He told Ms Harris that he had not raised concerns about codeine linctus with the police Controlled Drugs Liaison Officer ("CDLO") or the regional Controlled Drugs Accountable Officer ("CDAO"). Nor had he raised concerns with Pharmacy management, including the Superintendent Pharmacist.
27. Following the inspection, the Council imposed conditions on the Pharmacy preventing the sale and supply of codeine linctus. Mr Harris subsequently received email correspondence from the Superintendent Pharmacist and the Registrant detailing the action they had taken to comply with the Conditions imposed on the pharmacy and to improve practice.

The Registrant's case

28. The Registrant had no adverse fitness to practise or criminal history over his 20 year career as a registered pharmacist.
29. The Registrant admitted that, during the period October 2019 – 12 November 2020, while employed as the responsible pharmacist at Buchan Chemist, he had sold large volumes of codeine linctus without appropriate controls in place. He also admitted that codeine linctus was a habit-forming medicine liable to abuse or overuse. He admitted he had supplied codeine linctus to between 4 and 5 people but asserted he had done so only once or twice a week. He did accept that the sales were made without sufficient clinical justification. The Registrant also admitted that he had, over time, come to suspect that people who bought the codeine linctus were abusing or overusing it. He did not, at the time of purchase, know whether it was for their own use. He could not prove that the codeine linctus was being abused or overused.

Evidence

30. The Council provided a bundle of documents comprising witness statements by Ms Harris, Mr Ambrosios Paschalides, an inspection manager for the Council, a letter from the Registrant regarding the fitness to practise investigation, email correspondence between the Registrant and the Council, a file note relating to a telephone conversation between the Council and the Registrant, signatures of various people attesting to the Registrant's professionalism, references and testimonials provided by the Registrant, reflective statement of the Registrant provided to the Investigating Committee, further references, testimonials and signatures of support for the Registrant, his employment history, a further reflective account by the Registrant and a reference by (Redacted).
31. The Registrant's documents, including statements and references, are included in the Council's bundle. He has not provided a separate bundle. The Registrant told the Committee that he also relied on an email from his partner, (Redacted), to Ms Tomlinson dated 20 February 2023 which he adopted as his evidence. This email recorded the Registrant's account of the context of the events which gave rise to the Council's investigation.
32. At this fact finding stage, the Committee heard the oral evidence of Ms Harris who adopted her witness statement and exhibits. In the course of questioning by the Committee Ms Harris said she may have made entries in her notebook during the inspection of the Pharmacy. The hearing was therefore adjourned for a short period to enable her to locate and produce any relevant evidence in her notebook. She duly did so and this was passed to the parties and to the Committee. Ms Harris told the Committee that her notebook entries were made either at the inspection itself or shortly after. They were made on the day of inspection in any event.
33. The Council produced a statement by Mr Paschalides. As neither the Registrant nor the Committee had questions for this witness he was not called to give oral evidence.
34. The Registrant gave oral evidence at this stage. He told the Committee that he relied on the professional and personal references he had produced. He said they reflected his character as a

pharmacist. He particularly relied on the letter from (Redacted) who had known him for 15 years.

35. The following is a summary of the Registrant's evidence insofar as it relates to these proceedings:
- a. His employer company had been owned by (Redacted); it had been bought by (Redacted). He identified the dispenser at the Pharmacy, (Redacted), as having worked there for about 17 years. Another employer was (Redacted) who was employed in procurement; she was a buyer for the company.
 - b. The Registrant had started work at the Pharmacy in early 2019. A few months later he suffered a personal crisis (from which he had since recovered). It was possible that this personal crisis had affected his judgement. He was vulnerable at the time, at his weakest. This may have been a factor of relevance to what took place.
 - c. When he started work at Buchans some patients came into the Pharmacy for codeine linctus and he refused to sell it. He could not understand why they wanted it. He discussed the requests with (Redacted) who told him they had been sold codeine linctus in the past, that they needed it and that the Registrant's Superintendent Pharmacist, (Redacted), sold it "all the time" at ND Chemist. The Registrant said he was not prepared to do so. He referred those who requested it to ND Chemist where he believed (Redacted) and (Redacted) would supply it. These conversations with (Redacted) carried on for weeks.
 - d. When one patient came into the Pharmacy he told the Registrant he had a dry cough and asked for codeine linctus; the Registrant sold it to him. On that same day the Registrant telephoned (Redacted), his boss, told him what had happened and asked what he should do. He was seeking counsel and advice. The Registrant described (Redacted) as "blasé" and said words to the effect of "more money in the till, who cares what you did".
 - e. The "starting point" was the "level of support [he] had received from (Redacted)". The Registrant said that, until then, he had turned patients away.

- f. With regard to the evidence of Ms Harris that she had been in touch with the owner of the Pharmacy who had denied checking the invoices for drugs purchased, the Registrant described this as “absurd, financials are his very concern ... he’s acquired a new business and scrutinises all the invoices”. He referred to (Redacted) bringing invoices to him to highlight his spend on generic drugs. The Registrant said (Redacted) was aware of the codeine which had been ordered. He said (Redacted) had access to the Registrant’s ordering accounts. He also said she, (Redacted), had given him 2L bottles of codeine with instructions to pour the codeine into smaller bottles, as was done by the Superintendent Pharmacist, (Redacted).

- g. The Registrant’s conclusion is that the staff at the Pharmacy were trying to support him because they were implicated in the sale of codeine linctus. The Registrant’s evidence is that he had told (Redacted) that if this matter came to a fitness to practise hearing he would share his experience; he was not in the firing line on his own. The Registrant asserted that he had been put in this position through coercion. He pointed out to the Committee that his immediate family members were healthcare workers, including a GP, dentist and surgeon; there was no financial gain as a result of his action.

- h. The Registrant was going through a personal crisis in the early months of his employment at the Pharmacy; his vulnerability had been exploited. He said that patients who asked for codeine linctus at the pharmacy harassed and intimidated him; they were young adult males who embarked on a campaign of harassment against him; he was threatened with violence. His car’s tyres had been slashed.

- i. It was the Registrant’s view that (Redacted) was “innocent here”; he was an “amazing pharmacist, one of the best”. The Registrant believed (Redacted) was either oblivious or ignorant or had not appreciated the impact of what he had said to the Registrant when he sought counsel over the telephone; (Redacted) had had no idea where this would lead. On the other hand, contrary to the evidence of Ms Harris who was told by the dispenser she had not been aware of the sale of codeine linctus, the Registrant asserted that the dispenser, (Redacted), unpacked the deliveries and was aware of the supply of codeine linctus at scale. The Registrant had had many discussions with her about it.

- j. The Registrant had been honest and frank with the Committee. He had come to the hearing intending to answer all questions. He was a good pharmacist with the best interests of his patients at heart. He had been put in charge of the Pharmacy by (Redacted) He had increased items dispensed from 1,700 to 5,000. He said he could recall every patient's "needs and wants"; he had protected them and "never put them in harm's way"; he would never do that. He gave an example of checking up on a vulnerable patient whom he had not seen for a few weeks; the police discovered she had fallen downstairs in her home and died.
- k. The email from the Registrant's partner to Ms Tomlinson dated 20 February 2023 was 100% correct.
- l. Since the initiation of a fitness to practise investigation the Registrant had been undertaking voluntary work with addicts and those engaged in substance misuse; he had been looking into opiate misuse, addiction studies and substance misuse; he had passed an examination on this topic. He perceived this work to be part of his "reform".
- m. The Registrant apologised for his "mistake"; he would respect the Committee's decision. He felt "traumatised" even mentioning codeine linctus; he was deeply regretful and saddened. He was "glad" to be able to share the experience with the Committee; he found it a relief to do so and he felt "perfectly fine doing so". He felt "liberated because he was no longer part of the organisation and won't ever be in touch with them". The Registrant had resigned from his employment.
- n. It was accepted that he had supplied codeine linctus to between 4 or 5 people a week but he had only done so on one or two occasions a week. He explained that his inaccurate response to Ms Harris that he had sold it on 3-4 occasions a week was due to stress at the time. He also accepted the codeine linctus had been supplied with insufficient clinical justification. He said that some had come into the pharmacy asking for it and had not provided a reason for needing it.

- o. The Registrant accepted also that he had made those supplies suspecting that the people were abusing or overusing it. His suspicion had grown over time; he could not “prove” whether it was for their consumption or whether they were giving it to other people; he was not aware whether it was for “self-use”. Over time he became suspicious that people were abusing it; he thought this needed to stop.

- p. At the time of her inspection, the Registrant saw Ms Harris as an “angel” walking into his shop. He relied, however, on the assurances of (Redacted) and (Redacted) that the fitness to practise investigation would result in no action or a warning; he did not want to snitch on them to the inspector or the Council. He thought if it came to the “FtP stage”, he would “share everything”. He said as much to (Redacted) and (Redacted). The Registrant confided in his partner who persuaded him that the information about the involvement of colleagues should be shared with the Council. It had taken a period of introspection and reflection for him to piece everything together. He had questioned what had taken place, the how, the why, influences and coercion and subliminal messages even prior to one bottle being sold. It had taken time for him to understand where he was today. He had initially been told following an investigating committee meeting that a warning was being considered; it was only after a second investigating committee meeting that he realised his name may be removed from the register as a result of what he had done. He then became aware of the seriousness of this matter. Until then he had relied on the reassurances of (Redacted) and (Redacted). At the time of preparing for the hearing, he had believed he would be issued a warning only and was “elated”; he was “going to act on that and take that as a second chance in life”. He had a breakdown when informed that the investigation would proceed to a fitness to practise hearing.

- q. The Registrant was now surrounded by good moral mentors, reading books, making a journey of self-reflection, self-improvement and being mentally strong and mindful. He was reading good books from strong, correct individuals that inspired him. This was better than going out. He had surrounded himself with just, fair, honest and truthful people. This was how he intended to take his life forward. He was now a stronger person than he was when he had suffered a personal crisis in 2019. He had been at his lowest point at that time.

Submissions on Facts

36. For the Council, Ms Tomlinson submitted, in summary, that the allegations in paragraphs 2 and 3 were grounded in the evidence of Ms Harris and the Registrant himself who had made certain admissions. The Committee could therefore find these two paragraphs proved.
37. The Chair summarised her understanding of the Registrant's position and he confirmed this was accurate. He made no oral submissions. In essence, the Registrant admitted he had supplied codeine linctus to between 4 or 5 people on 1 or 2 occasions a week. He accepted there had not been sufficient justification for so doing. He also accepted that he had made those supplies suspecting that the people were abusing or overusing codeine linctus.

Findings of Fact

38. The Committee has borne in mind the burden of proof is on the Council and the standard is the balance of probabilities. It is not for the Registrant to disprove the allegation.
39. The Committee has borne in mind all the evidence which has been produced for the parties. It has also borne in mind the parties' submissions.
40. The Registrant has admitted that, while the Responsible Pharmacist at the Pharmacy, between October 2019 and 12 November 2020 he sold and/or supervised the sale of large volumes of codeine linctus without having the following controls in place: to monitor such purchases, to monitor sales to customers, to identify sales to repeat customers or to identify the potential for patient misuse or addiction.
41. The issues to be decided are whether the Registrant "supplied codeine linctus to between 4 or 5 people up to 3 to 4 times a week in circumstances where there was no sufficient clinical justification" and whether he "did so knowingly and/or suspecting that the people were abusing or overusing a habit-forming medicine".

42. The Council relies on the oral and documentary evidence of Ms Harris who belatedly produced her notebook recording events which took place in the course of her inspection of the Pharmacy on 12 November 2020. That notebook includes Ms Harris' notes of her conversation with the Registrant during that inspection. In particular, she notes the following:

“Registrant asked to speak in private. Provided background to himself. Acknowledged the invoices. Reiterated frequent calls to the pharmacy. Not experienced before and felt pressure. Supplying 4-5 regular people 3-4 times a week – 200ml.”

43. Ms Harris told the Committee that she either made this record in her notebook in the course of the inspection or on her return to the office after the conclusion of the inspection at 1310 hrs.

44. Ms Harris' notes were contemporaneous; they were made in the course of her inspection duties as a Council employee. The Committee has no cause to doubt they are an accurate reflection of the information provided to her by the Registrant in the course of the inspection.

45. The Registrant's own evidence is that he did indeed give that information to Ms Harris but that it was partially inaccurate because he had been under stress. He told the Committee that while he accepted he had supplied codeine linctus to 4 or 5 people he had only done so on 1 or 2 occasions a week, rather than “3 to 4 times a week”. However, this paragraph is drafted in such a way as to encompass the evidence of the Registrant as to the number of occasions a week he supplied codeine linctus.

46. The Registrant admitted in oral evidence that on some occasions no reasons were given by patients for requiring codeine linctus over the counter. He accepted that on other occasions there was insufficient justification for its supply.

47. For these reasons, the Committee finds that paragraph 2 of the allegation is proved.

48. Turning to paragraph 3, the Registrant admitted that he had had a growing suspicion by October 2019 that those who were supplied codeine linctus were abusing it themselves or passing it to

others. The Committee is satisfied the latter is a form of abuse. The Registrant has already admitted (see paragraph 1 of the allegation) that codeine linctus is a “habit forming medicine liable to abuse or overuse”). Taking the evidence in the round, the Committee also finds this paragraph proved.

49. The Registrant, in his oral evidence referred to several matters by way of mitigation. Those matters have no bearing at this stage of the hearing but will, if appropriate, be borne in mind by the Committee at one or more later stage/s.
50. In summary, the Committee finds all paragraphs of the allegation proved. In the light of these findings, the Committee will next consider whether the Registrant’s fitness to practise is impaired by reason of his misconduct.

DETERMINATION ON IMPAIRMENT

51. The issue of whether or not the fitness to practise of the Registrant is impaired is a matter of judgment for the Committee.

Evidence on Impairment

52. The Registrant provided additional documents at this stage of the hearing: 27 continuing professional development (“CPD”) certificates, a statement on his fitness to practise, an essay on drug addiction and an opiates study.
53. The Registrant gave oral evidence at this stage of the hearing. He was cross-examined by Ms Tomlinson for the Council and questioned by members of the Committee for clarification of his evidence. He told the Committee he was fit to practise, having undertaken CPD and remediated his conduct. He had reflected on his actions and had immediately put in place various practical steps to ensure that they were not repeated, either by himself or staff working with him. He described his actions as being out of character but accepted that members of the public would be “surprised” and “shocked” by what he had done; they would have “every right to be concerned”.

He accepted his actions would have an effect on “public trust”. The Registrant was not currently working and had not worked since the adjourned hearing the previous month.

54. (Redacted) had been asked by the Registrant to provide a character reference. With the agreement of Ms Tomlinson, his oral evidence was interposed at this stage of the hearing. He answered the Registrant’s questions and was cross-examined by Ms Tomlinson. He had not been aware of the precise allegations against the Registrant and was told the findings of fact. He gave a positive character reference for the Registrant. He had known the Registrant for about 8 years and had seen him on several occasions in pharmacy practice; he was employed as a representative by a drug company.

Submissions on Impairment

55. Ms Tomlinson submitted that the Registrant’s fitness to practise was currently impaired. She asserted the Registrant’s acts and omissions amounting to misconduct. It was asserted for the Council that the Registrant breached Standards 1, 2, 5, 8 and 9 of the Council’s Standards for pharmacy professionals dated May 2017 (“the Standards”). She described the Registrant’s conduct as reprehensible. Ms Tomlinson submitted, on the issue of current impairment, that Rule 5(2)(a)-(c) were engaged. It was accepted the Registrant had provided some reflection of his past misconduct. It was also accepted that there was a low risk of repetition. The Council was concerned about the level of the Registrant’s insight and, in particular, his appreciation of how his conduct had impacted on the wider public interest. It was accepted the Registrant had demonstrated remorse. It was submitted he was “on the road to demonstrating insight”; at the moment it was “limited”. A finding of impairment was required for public protection and in the wider public interest, the former because it could not be said there was no risk at all of repetition.
56. The Registrant submitted the risk to the public was “zero”. He had used the intervening period of two and half years to reflect; he was aware of the impact of addiction and substance misuse. He had gone out of his way to speak to patients in recovery and knew the gravity of the situation. He submitted that his actions were not “seriously reprehensible”; there was zero potential risk to patients. He accepted his actions had brought the profession into disrepute. He accepted also that he had breached some of the fundamental principles of the profession. He denied that his

integrity could not be relied upon. He initially denied there was any impact on public confidence in the profession but, when asked by a Committee member to clarify, he said he gave his patients the “best advice”; he had “got caught up” in the intimidation and harassment by people from other parts of the country who wanted medications over the counter; they were not his patients. He accepted, however, that those people needed the same support as patients and that his actions had had a “definite impact” on the profession.

Decision on Impairment

57. In reaching its determination on impairment, the Committee has taken into account the oral and documentary evidence. It has also had regard to the submissions of Ms Tomlinson for the Council and the Registrant’s own submissions on this issue.
58. The question of whether or not the Registrant’s fitness to practise is currently impaired is a matter for the Committee to determine by applying its judgment to the evidence in the context of the specific findings of fact. It is not a matter of proof. In forming its judgment, the Committee has also borne in mind paragraphs 2.11-2.16 of the Council’s guidance document entitled Good decision making: fitness to practise hearings and sanctions guidance (revised March 2017).
59. Consideration of whether a registrant’s fitness to practise as a pharmacist is a two-stage process.

Misconduct

60. The Committee has borne in mind the judgment in **GMC v Meadow [2006] EWCA Civ 1390** which sets out the need for conduct to fall seriously below the standards to be expected of a reasonable practitioner before it comes within the category of misconduct. It has also considered helpful the judgment of Collins J in **Nandi v GMC [2004] EWHC 2317 (Admin)** in which he observed that “seriousness” in other contexts has been referred to as “conduct which would be regarded as deplorable by fellow practitioners”. Each case is to be determined on its own individual facts.
61. In the course of about 13 months, the Registrant supplied large volumes of codeine linctus, which he knew to be habit-forming and potentially addictive, without appropriate controls in place. He

supplied it on a regular basis without sufficient clinical justification. He did so knowing or suspecting that the people to whom he supplied it were abusing or overusing a habit-forming medicine.

62. The Registrant's acts and omissions were unprofessional and showed a palpable lack of professional judgment unbefitting a registered pharmacist; his conduct could have put vulnerable patients at risk of harm (albeit there is no evidence of harm to others).
63. The Committee has concluded that a well-informed member of the public, with knowledge of the facts of this case, would consider that the uncontrolled supply of codeine linctus to potentially vulnerable members of the public was a serious matter; the Registrant failed to abide by the standards of his profession and the misconduct occurred in pharmacy practice.
64. The Registrant has breached several fundamental principles of the profession, as follows:

- a. Standard 1

Pharmacy professionals must provide person-centred care.

The care of patients is at the core of the pharmacy profession; here the Registrant supplied codeine linctus to potentially vulnerable people without oversight or supervision. He failed to ensure the safety of those to whom it was supplied. He did not enable those people to take informed decisions about their healthcare; he did not provide them with appropriate information about the potential for misuse of the medication.

- b. Standard 2

Pharmacy professionals must work in partnership with others.

The Registrant failed to notify others, such as the MHRA, about the inappropriate supply of codeine linctus in volume without appropriate controls in place. While he did notify the pharmacy owner, when he received a response which he considered to be inappropriate, he failed to take further action. He did not demonstrate effective team working. He did not take action to safeguard people. He did not give safe and effective

care and did not work with appropriate organisations: he did not signpost patients or take action to safeguard those to whom the codeine linctus was supplied.

c. Standard 5

Pharmacy professionals must use their professional judgement.

The Registrant failed to “use [his] judgement to make ... professional decisions with ... others”. He failed to act in the best interests of patients, eg to signpost them. He did not make clinical decisions with the people to whom he supplied the medication, despite knowing it was open to abuse. He did not have sufficient information about the people to whom he supplied the codeine linctus to enable appropriate care to be given. The supply did not address the care needs of the people to whom he supplied codeine linctus. The Registrant breached local SOPs. He did not take into account the impact of supplying codeine linctus in volume to potentially vulnerable people.

d. Standard 8

Pharmacy professionals must speak up when they have concerns or when things go wrong.

The Registrant had legitimate concerns about the uncontrolled supply of codeine linctus yet only reported these to the pharmacy owner and took no further action when his concerns were not appropriately addressed. He should have highlighted his concerns to others, eg the MHRA and/or the Council. He should also have highlighted them immediately to Ms Harris, the Council inspector, at the outset of her inspection visit. It was not until later in that visit that he did so when faced with incontrovertible evidence of codeine linctus being purchased by the pharmacy in volume.

e. Standard 9

Pharmacy professionals must demonstrate leadership.

As a registered pharmacist, and the responsible pharmacist, the Registrant should have demonstrated leadership to colleagues and staff at the pharmacy, including the dispenser. He did not lead by example. He did not assess the risks in the care he provided and keep those risks as low as possible. He sold the codeine linctus notwithstanding his concerns about it.

65. The Committee has had regard to the Registrant's fitness to practise statement which identifies relevant professional standards. However, this has largely been drafted by reference to other matters than the facts found proved in this case. Those facts demonstrate the Registrant failed to abide by many of the fundamental principles of his profession in the period October 2019 – November 2020. That said, not all conduct in breach of the Council's Standards, will necessarily be sufficiently serious that it amounts misconduct.
66. While the Committee has had regard to the mitigation of the Registrant, namely his personal anxiety and stressful work environment at material times, together with his previous good character, the Registrant was expected to practise pharmacy according to professional standards. There is no challenge to his general clinical competence or ability and the Committee is unable to find that his anxious state of mind at the time sufficiently explains his actions in providing large volumes of a potentially addictive medication to customers without clinical justification. He knew this was inappropriate and took steps to report his concerns to the pharmacy owner. He failed to follow his initial judgment; his action in continuing to supply codeine linctus regularly without appropriate controls was seriously reprehensible. The Registrant's supply of such medication amounted to practice which was significantly below the standards expected of a registered pharmacist.
67. The Committee finds the Registrant breached his core responsibilities as a so-called gatekeeper of medication which is liable to misuse. He potentially put vulnerable members of the public at risk of harm as a result of his supply of codeine linctus on a regular basis without clinical justification or appropriate controls in place (albeit there is no evidence of actual harm being caused).
68. For these reasons, the Committee concludes that the Registrant's actions amounted to misconduct.

Current Impairment

69. The Committee has therefore turned to the issue of current impairment.

70. The Committee has noted the requirements of Rule 5 of the Rules which provides that:

- 5(1) The Committee must have regard to the criteria specified in paragraph (2) or, where appropriate, (3), or, where appropriate, paragraphs (2) and (3), when deciding, in the case of any registrant, whether or not the requirements as to fitness to practise are met in relation to that registrant.*
- (2) In relation to evidence about the conduct or behaviour of the registrant which might cast doubt on whether the requirements as to fitness to practise are met in relation to the registrant, the Committee must have regard to whether or not that conduct or behaviour—*
- (a) presents an actual or potential risk to patients or to the public;*
 - (b) has brought, or might bring, the profession of pharmacy into disrepute;*
 - (c) has breached one of the fundamental principles of the profession of pharmacy;*
- or*
- (d) shows that the integrity of the registrant can no longer be relied upon.*

71. This rule mirrors the relevant case law and is consonant in particular with the guidance of Cox J in the case of **CHRE v NMC & Grant [2011] EWHC 927 (Admin)** as to the approach to be adopted by healthcare regulators generally to the question of current impairment.

72. The Committee bears in mind the guidance of Mrs Justice Cox at paragraph 74 of **Grant** where she stated:

*“In determining whether a practitioner’s fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not **only** whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.”*

73. The Registrant admitted his acts and omissions to the Council’s inspector in the course of her visit. He has made appropriate admissions in these proceedings. This demonstrates a degree of insight.

74. The Registrant does not have the benefit of legal representation. He has nonetheless acted on the suggestion of the Council's representative and provided various reflective statements. During the adjournment prior to dealing with impairment at the resumed hearing, the Registrant drafted additional documents which demonstrate remediation and remorse. He has undertaken CPD including studies into opiate misuse and undertakes voluntary work in an attempt to remediate his actions. He has disclosed poor pharmacy practice by professional colleagues. These matters are to his credit and demonstrate remediation and some insight.
75. The Registrant says he was coerced and pressured into supplying codeine linctus. He did so against his better judgment. The Committee accepts he has learned a lesson from these proceedings. He has taken considerable steps to ensure the misconduct does not occur again: he implemented steps in the pharmacy where he previously practised, for example by placing notices for staff. He told the Committee he has collated data about the supply of medications which are open to abuse to ensure there are appropriate records of the supply. He has undertaken these steps to avoid the risk of repetition by those all working at the pharmacy, including himself. The Committee is particularly impressed that he has taken such steps not only in relation to the supply of codeine linctus but also other medications of potential abuse such as co-codamol. Thus he has taken steps to address the wider risk of repetition, not merely the repetition of inappropriate supply of codeine linctus.
76. The Registrant also has taken steps to remediate his misconduct: he has attended a relevant two hour CPD course on "Addiction, misuse and dependency: A focus on over-the-counter and prescribed medicines" on 15 August 2022. This predates the start of this hearing and demonstrates he acknowledged at that time the need for remediation. It is a mark of his insight that he did so at that time, ie in the course of the Council's investigation and not simply in readiness for this hearing.
77. The Registrant has repeatedly apologised for his actions; he is remorseful.
78. The Committee has some concerns about the Registrant's appreciation of the detrimental impact of his misconduct on public confidence in the profession. He distinguished, in oral evidence, between his own patients and those from outside the community who harassed and intimidated

him for the supply of codeine linctus. While the Committee does not condone such harassment, that distinction is inappropriate in a caring profession. That said, the Registrant told the Committee he has since learned how to deal with such intimidation and harassment: he informs such people that the particular medication is not available for sale at the pharmacy.

79. The Committee considers the Registrant does not yet have full insight into the impact of his misconduct, particularly with regard to public confidence in the profession. While he referred briefly to the detrimental impact on “public trust”, he did not expand upon this. The Committee is concerned that he does not appear to appreciate that a lack of confidence in the profession may result in a person feeling reluctant to approach a pharmacist for help and support when needed.
80. In summary, the Committee is satisfied that the risk of repetition of the misconduct is extremely low. The Registrant is very remorseful; the impact of the Council’s investigation and these proceedings is such that he would not put his professional career at risk again. He has taken appropriate steps to ensure the misconduct is not repeated.
81. However, fitness to practise is not limited, as the Registrant appears to assume, to clinical competence; it also comprises the issues identified in Rule 5(2). Here the Committee determines that the Registrant’s fitness to practise is currently impaired as a result of his misconduct on the grounds of Rule 5(2)(b) and (c). To his credit, the Registrant accepts this. A finding of impairment is also required to declare and uphold proper standards of behaviour within the profession and to maintain public confidence in the profession.

DETERMINATION ON SANCTION

Evidence

82. At this third stage in the proceedings, the Registrant gave oral evidence. He told the Committee he was already in financial difficulties and, were he not able to practise as a pharmacist, the financial impact would be devastating for himself and his family: he was living on an overdraft and had used his savings. He has five children and while his wife worked as a schoolteacher, her income was not sufficient to support the family: they were paying bills in instalments.

Submissions

83. Ms Tomlinson adopted her skeleton argument; she submitted that, whereas the Council had initially advocated for removal, it may be the Committee considered a lengthy suspension was more appropriate given the Registrant's documentary and oral evidence. It was accepted he had demonstrated some insight; that insight was limited because he did not fully appreciate how his conduct impacted on public confidence in the profession. She submitted that, in light of the Registrant's remediation and journey to insight, a suspension of 12 months might be appropriate and proportionate.
84. The Registrant submitted that the imposition of conditions was sufficient; this would enable him to continue working. He had practised in compliance with conditions for two and a half years. Conditions would enable him to prove he was a worthy registrant and completely and utterly remorseful. He was looking forward to going back to work. He submitted he had done all he could to convince the Committee. He recognised this was a serious offence. He wanted to give back to the community. He had shown strength in these proceedings and would continue to do so; he would give everything he could. He wanted to "go back to how it used to be". He submitted that removal would devastate him and his family. He asked for a second chance.

Decision on Sanction

85. The Committee has borne in mind its findings of fact and on impairment. It has also had regard to the evidence of the Registrant at the earlier and current stages. It notes the submissions of Ms Tomlinson and the Registrant on the issue of sanction.
86. This is not a case where no action can be taken: members of the public, with knowledge of the Registrant's misconduct over a period of approximately 13 months would be appalled were that to be the case, notwithstanding the mitigating and extenuating features in this case and the Registrant's considerable remediation, his remorse and his developing insight. A significant public interest arises from the supply of medicine liable to abuse or overuse to potentially or actually

vulnerable members of the public without appropriate controls being in place. The Registrant's misconduct warrants action by this Committee to mark his impaired fitness to practise.

87. The Committee identified the following aggravating factors:
- a. The misconduct amounted to a pattern of repeated behaviour occurring over a period of just over a year and involved a large volume of codeine linctus.
 - b. The Registrant failed to escalate meaningfully his concerns about the supply.
 - c. When asked by the Council inspector to explain the order of unusually large volumes of codeine linctus from wholesalers, the Registrant initially suggested this was due to an ordering error. This was not a frank response.
 - d. Although there is no evidence of it, the Registrant's actions could have caused harm to vulnerable members of the public.
 - e. The repackaging of codeine linctus from 2 litre containers to smaller bottles was not in line with the Human Medicines Regulations 2012 because it altered the marketing authorisation of the codeine linctus which is a schedule 5 controlled drug. Therefore, the repackaging changed the classification of the medicine from a pharmacy (P) medicine to a prescription only medicine (POM).
 - f. The misconduct might have continued had the Council not received intelligence about high volumes of orders from wholesalers and taken action to address this.
88. The Committee recognises the factors in mitigation, namely
- a. The Registrant admitted the order and supply of codeine linctus during the inspection of the Pharmacy premises.
 - b. The Registrant made admissions at the outset of the hearing; while he did not make admissions to the whole of the allegation at that stage, his oral evidence constituted admissions to the entire allegation.
 - c. The Registrant had been working under considerable personal and professional stress at the time of the misconduct.
 - d. He has apologised for his actions and shown remorse.

- e. The Registrant has demonstrated considerable insight into the circumstances of his misconduct and the detrimental impact of it on patient safety. He has undertaken relevant CPD courses to address his failings. In the Pharmacy he immediately put in place practical measures to avoid the risk of repetition.
 - f. The Registrant did not act for personal financial gain.
 - g. The Registrant was subjected to harassment and intimidation by those seeking the supply of codeine linctus over the counter. He also felt coerced by his employer to supply the medication notwithstanding his reporting his concerns to his employer.
 - h. The misconduct related to one aspect of the Registrant's pharmacy practice, namely the supply of codeine linctus over the counter; his clinical practice is otherwise competent.
 - i. The Registrant has been undertaking voluntary work with addicts and those engaged in substance misuse; he has researched opiate and substance misuse and addiction as part of his "reform".
 - j. There are various positive testimonials and references.
89. The Committee has borne in mind, at each stage of its deliberations on sanction, the issue of proportionality, balancing the public interest and the Registrant's own interests. It takes into account the Registrant's desire to continue in practice. It recognises his lengthy career in pharmacy. It also acknowledges his request to be given a second chance in his chosen career. The Registrant told the Committee his financial circumstances are dire and that he needs his income as a pharmacist to support his family with his wife. He has five dependent children.
90. The Committee considers that a warning is not sufficient in this case. There is a need to take action in circumstances where there have been multiple breaches of professional standards and while the Registrant develops full insight into the wider impact of his misconduct. A warning is not sufficient to mark the gravity of the shortcomings in his professional practice or the wider public interest in maintaining public confidence in the profession and upholding proper professional standards.
91. The Committee next considered whether to impose conditions on the Registrant's practice. Such conditions might include a restriction on the supply of codeine linctus over the counter. This is not, however, a case where the Committee has identified a significant risk to patient protection; rather

the issue is the wider public interest. The Committee does not consider that the imposition of conditions would be sufficient to address that wider public interest, particularly the maintenance of public confidence in the profession and the upholding of professional standards. A fully informed member of the public would expect this Committee to take more serious action given the mitigating and aggravating features of this case and particularly the potential for harm arising from the Registrant's uncontrolled supply of codeine linctus to member of the public (albeit no such harm was identified).

92. The Committee fully accepts the Registrant was, until a month ago, undertaking a useful and valuable role within his profession. There is no criticism of his clinical competence apart from the misconduct at issue here. The Registrant has positive testimonials and good references. The Committee has no doubt that the Registrant would adhere to any conditions imposed. However, it considers that the imposition of conditions is not a sufficient step to mark the seriousness of the misconduct given the risk of serious harm to patients as a result of the Registrant's misconduct over a period of approximately 13 months. The Registrant's misconduct involved multiple breaches of professional standards; it may not have stopped had the scale of wholesale orders not been noted and reported to the Council. For all these reasons, the Committee determines that the imposition of conditions on the Registrant's registration is not sufficient to protect the wider public interest.
93. The Committee then turned to the option of suspension of the Registrant's registration. The Committee recognised the serious detrimental impact this would have on the Registrant and his family whom he supports financially. That said, he would be able to obtain other work in a pharmacy in a non-registered role. He could thus earn an income, albeit more modest than as a registered pharmacist.
94. The Committee considers the Registrant may draw some benefit from a period of suspension because it will enable him to reflect on the wider impact of his misconduct: he does not yet appreciate the need for this Committee to maintain public confidence in the profession and to uphold professional standards. By his misconduct he has undermined both that confidence and those standards.

95. The Committee acknowledges the Registrant's developing insight into his misconduct and its impact on patients and "public trust", his remorse and the positive feedback from Mr Khan who is aware of the findings of fact of this Committee. Irrespective of this, the Committee gives greater weight to the public interest and the need to mark the gravity of the Registrant's misconduct. That can only be done with the imposition of an appropriate sanction, thus sending a message to the public and profession that this Committee does not condone misconduct which puts patients and the public at risk of serious harm and undermines public confidence and the upholding of professional standards.
96. The Council's guidance indicates that suspension "may be required when necessary to highlight to the profession and the public that the conduct of the registrant is unacceptable and unbecoming a member of the pharmacy profession. Also when public confidence in the profession demands no lesser sanction". The Committee takes into account there is an insignificant risk of repetition; thus there is no perceptible risk to public protection; the sole issue here is the wider public interest.
97. The Committee considered that, in principle, given the Registrant's considerable insight, extensive remediation and the insignificant risk of repetition, that the wider public interest would be served by the imposition of a significant period of suspension. It considered that a fully informed member of the public would not expect this Committee to impose the maximum period of 12 months given the considerable strides the Registrant has taken to remediate his misconduct, his remorse and his journey to full insight. It concluded that a period of four months' suspension was the proportionate and appropriate period in the circumstances.
98. Before finalising its decision on sanction, the Committee considered the option of removal of the Registrant's registration. This course was initially advocated by the Council. The Committee has borne in mind the guidance in **Bolton v Law Society [1994] 1 WLR 512 CA (Civ Div)**. The Committee considered this was a disproportionate response to the risks identified, notwithstanding the significant public interest here. This is not a case which falls within the categories identified in the Council's good decision making guidance despite the gravity of the misconduct and the risk of harm to patients resulting from it.

99. The Council's guidance on the circumstances in which removal of a pharmacist's name from the register might be appropriate is as follows:

"Removing a registrant's registration is reserved for the most serious conduct. ... The committee should consider this sanction when the registrant's behaviour is fundamentally incompatible with being a registered pharmacist":.

100. The Committee considers that the Registrant's misconduct, while very serious, is not such that it is "fundamentally incompatible with being a registered pharmacist". The misconduct arose in relation to a discrete area of his practice, albeit an important one.

101. The Committee also gives considerable weight to the Registrant's fulsome and detailed evidence about poor practices within the pharmacy where he worked and another pharmacy within the same business. His willingness to act as a whistleblower is very much to his credit.

102. In conclusion, the Committee considered that suspension of the Registrant's name from the register for a period of four months was sufficient to address the wider public interest. It also determined that a review of the Registrant's fitness to practise was required before the end of that period. This would enable the Registrant to demonstrate he had reflected on the wider implications of his misconduct and the detrimental impact of it on public confidence in the profession.

103. While this Committee cannot, and does not seek to, fetter the reviewing Committee it considers that the reviewing Committee may be assisted by the following:

- a. A reflective piece by the Registrant in the context of this Committee's determinations on impairment and sanction, to include his activities since today's date. That piece could include the Registrant's thoughts on the wider impact of his misconduct on public confidence in the profession and the importance of that confidence for the well-being of the public.
- b. Evidence of CPD or other study undertaken in the period of suspension.

- c. Details of any work undertaken (whether or not related to pharmacy) in the period of suspension.

INTERIM MEASURES

104. Ms Tomlinson, for the Council, has made an application for interim measures under Article 60 of the Pharmacy Order 2010. The Registrant did not object to her application.
105. The Registrant has 28 days in which to pursue an appeal against the Committee's decision. If he were to do so he would be free to return to unrestricted practice because this Committee's decision would not take effect until the appeal proceedings were concluded.
106. The Committee has found there are no public protection issues. Consideration of interim measures falls to be determined on the basis of the wider public interest alone. Interim measures are by no means the default position and every case must be considered carefully to determine whether the bar for their imposition is met. That bar is high. The Committee takes into account its earlier findings and, in particular, that the misconduct occurred in the course of the Registrant's pharmacy practice.
107. The Committee is satisfied that, in the particular circumstances of this case, the public interest warrants the imposition of an interim measure of suspension. Public confidence in the profession will have been undermined by the Registrant's misconduct in pharmacy practice. An interim measure of suspension is therefore warranted. To find otherwise would be inconsistent with the Committee's findings on impairment and sanction. The Committee also takes account of the Registrant's own submission that an interim measure of suspension is appropriate.
108. The effect of this determination is that from today's date the Registrant's registration will be suspended until the substantive order of suspension takes effect.