

**General Pharmaceutical Council**

**Fitness to Practise Committee**

**Principal Hearing**

Nursing and Midwifery Council, 2 Stratford Place, London, E20 1EJ

**2 - 3 May 2023**

<b>Registrant name:</b>	Chioma Cynthia Uzoma
<b>Registration number:</b>	2212749
<b>Part of the register:</b>	Pharmacist
<b>Type of Case:</b>	Misconduct
<b>Committee Members:</b>	Angela Black (Chair) Stephen Simbler (Registrant member) Claire Bonnet (Lay member)
<b>Secretary:</b>	Zainab Mohamad
<b>Registrant:</b>	Present and represented by Tim Haines of VHS Solicitors
<b>General Pharmaceutical Council:</b>	Represented by Alex Lawson, Case Presenter
<b>Facts proved by admission:</b>	All
<b>Fitness to practise:</b>	Impaired
<b>Outcome:</b>	Suspension for 6 months with a review hearing
<b>Interim measures:</b>	Interim suspension

This decision including any finding of facts, impairment and sanction is an appealable decision under our rules. Therefore, this decision will not take effect until 2 June 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.

1. This is the principal hearing of an allegation of impaired fitness to practise by reason of misconduct laid against Ms Chioma Cynthia Uzoma, a pharmacist registered with the General Pharmaceutical Council (“the Council”).

### Preliminary Issues

2. Of its own motion the Committee identified two potential typographical errors in the drafting of the first allegation. It proposed that, insofar as paragraph 1 of the allegation was concerned, the word “you” be inserted before “reported in sick”. It was also proposed that the word “you” be inserted at paragraph 6.1 before the words “were employed/contracted to work for PCH at the same time as Arden & GEM CSU”. The Committee invited submissions on these proposed amendments. Both parties’ representatives agreed that the amendments were appropriate. The Committee therefore amended the allegation as proposed, pursuant to Rule 41(1) of the General Pharmaceutical Council (Fitness to Practise and Disqualification etc Rules) Order of Council 2010.
3. The Committee also noted the allegation at paragraph 2 that “Your conduct at 1 above was dishonest in that: 2.1. when you were ill and having reported in sick to Arden & GEM CSU you then worked a shift at Peterborough City Hospital (PCH)”. The Committee suggested to the parties that whether or not the Registrant was ill on that day was irrelevant to the core issue of the Registrant’s alleged dishonesty in “having reported in sick to Arden & GEM CSU [she] then worked a shift at Peterborough City Hospital (PCH)” on 30 April 2021. The Committee invited submissions on whether the phrase “when you were ill and” should be deleted from paragraph 2.1 of the Particulars of Allegation.
4. Mr Lawson, for the Council, submitted that the Council was “neutral” on this issue; he indicated that it was not the Council’s case that the Registrant was not unwell on that date. Mr Haines submitted that a “potential sticking point” was that there was “genuine illness on that particular day” and that, despite being ill, she had worked at PCH on that date. While it was accepted her actions were dishonest, and the Registrant would make admissions to that effect in due course, it was relevant to the Registrant that she had been unwell on that date. This was the context in which she would be making admissions to the allegations. Mr Haines accepted that perhaps the phrase did not have a bearing on the alleged dishonesty, and indeed when the allegations were

drawn this phrase was not included, but the phrase was important to the Registrant. It was accepted the Registrant was not so ill that she could not work at PCH on that day. The Registrant therefore objected, through Mr Haines, to the proposed amendment.

5. Having heard the parties' submissions, the Committee decided that the overarching objective was not undermined by the inclusion of this phrase. Mr Haines had asserted its inclusion was important to the Registrant in setting the scene of the dishonesty. For these reasons, the Committee concluded there was no need to amend the Particulars of Allegation at paragraph 2.1 as it had proposed.

### Allegation

6. The amended allegation was read into the record as follows:

“You, a registered pharmacist, were employed by NHS Arden and Greater East Midlands Commissioning Support Unit (Arden & GEM CSU) as a Medicines Optimisation Pharmacist, Monday to Friday from 9.00 am to 5.00 pm effective from 6 April 2021.

1. On 30 April 2021, you reported in sick to Arden & GEM CSU.

2. Your conduct at 1 above was dishonest in that:

2.1. when you were ill and having reported in sick to Arden & GEM CSU you then worked a shift at Peterborough City Hospital (PCH).

3. Between 6 April 2021 and 30 April 2021 whilst employed to only work for Arden and GEM CSU to work from 9.00 am to 5.00 pm Mondays to Fridays, you also worked for PCH on the following days:

3.1. Tuesday 6 April 2021

3.2. Thursday 15 April 2021

3.3. Friday 16 April 2021

3.4. Monday 19 April 2021

3.5. Thursday 22 April 2021

3.6. Friday 23 April 2021

3.7. Thursday 29 April 2021.

4. Your conduct at 3 above was dishonest and/or you acted without integrity in that whilst you purported to carry out your duties for one employer, you were in fact also completing duties for another employer.

5. You confirmed to Arden & GEM CSU that your role as a Medicines Optimisation Pharmacist was your only job in circumstances where you remained employed/contracted to work for PCH.

6. Your conduct at 5 above was dishonest in that:

6.1. you knew you were employed/contracted to work for PCH at the same time as Arden & GEM CSU.

6.2. You worked at PCH in circumstances set out at 3 above.

6.3. You worked for PCH in circumstances set out at 1 above.

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

7. With effect from 6 April 2021 the Registrant was employed by Arden & GEM CSU as a Medicines Optimisation Support Pharmacist within the Medicines Optimisation Team for 37.5 hours a week, Monday to Friday, 9am – 5pm. Her working hours were included in her employment contract.
8. Due to the COVID-19 pandemic, the majority of Arden & GEM CSU staff, including the Registrant, were working from home.
9. As part of the recruitment process the Registrant completed a questionnaire on 2 March 2021 in which she confirmed her employment with Arden & GEM CSU would be her only job. The Registrant acknowledged in the form that she understood that if she had “knowingly provided false information or [had] failed to update [Arden & GEM CSU] of any changes to [her] responses prior to [her] start date, [she] could be liable to disciplinary, civil and criminal sanctions”.
10. Due to concerns raised by colleagues about the Registrant’s environment while working remotely, Ms 1, Head of Service: Medicines Optimisation and Individual Funding Requests, Arden & GEM CSU, undertook a preliminary check of the Registrant’s LinkedIn profile to see her previous work history. The Registrant’s profile listed her active employment as:
  - a. Medicines Optimisation Pharmacist, Arden & GEM CSU, April 2021- present.
  - b. Lead Medicine Information and Hospice Pharmacist, Peterborough City Hospital (PCH), October 2019 – present.
11. On 30 April 2021 the Registrant’s colleague, Mr 2, Medicines Optimisation Pharmacist at Arden & GEM CSU, was unable to make contact with her. The Registrant messaged him at 10.53am stating she had “a very bad tummy” and was sorry she could not call in as she was “only gaining a bit of energy. Been in toilet all morning”. She was asked whether she would be working that day and replied “oh no not in this state. Will concentrate on getting better”. This raised suspicions because it was considered unusual for staff with stomach issues not to be able to make contact with their line manager according to the employer’s Attendance Management Policy. Mr 2 approached Ms 1, his line manager, on 30 April 2021 to raise concerns about the Registrant’s performance and he emailed her later in the day.

12. Subsequently, in the "Return to Work Interview Record Form" which was based on a discussion with the Registrant on 4 May 2021 and countersigned by her, the following was noted: the Registrant's reason for absence was "upset stomach", the Registrant stated she was better now and had improved by Friday night and Saturday morning, and the upset stomach had been due to stomach irritation from particular food. In the Sickness Self Certificate the Registrant completed she declared her absence on 30 April 2021. She stated the reason for absence was "stomach upset". The Registrant certified that the information given in this form was "correct".
13. On 4 May 2021 Ms 1 emailed Mr 3, Chief Pharmacist at Peterborough City Hospital ("PCH"). A remote meeting between them was scheduled for the same day. During that meeting Mr 3 confirmed the Registrant was employed by the PCH, with effect from October 2019 to cover a full-time vacancy: the Trust's Medicines Information Pharmacist post. The Registrant was booked by Asprey Medical Services in February 2021 for various shifts between 31 March 2021 to 30 June 2021. He said that, towards the end of her contract, in April 2021, the Registrant negotiated a reduction in working hours to 2 days a week (Thursdays and Fridays) due to child-minding issues.
14. On 4 May 2021 the Registrant attended a remote meeting with her employer and was notified her employment was suspended. She emailed Arden & GEM CSU on that date in the following terms: "please accept this as my one week notice for the termination of my contact with Arden and Gem. Thanks". On 5 May 2021 the Registrant further emailed that she was "unable to carry on and will want her termination of contract with immediate effect".
15. On 5 May 2021 the Registrant was notified in writing of her suspension from work at Arden & GEM CSU. She was also informed that she remained bound by her terms and conditions of employment and that she "must not .... Undertake any paid employment for a third party whilst on suspension". On that date Arden & GEM CSU also notified the Registrant by email that her resignation was not accepted.
16. Mr 3's evidence is that the Registrant declared to PCH that she had worked two 7 ½ hour shifts at the Trust on 29 and 30 April 2021 for which she was paid £597.96. She worked on site on both those dates. A "Temporary Worker Timesheet" issued by Asprey Medical Services and signed by

the Registrant on 30 April 2021 indicates that the Registrant had submitted her working hours at PCH as being “09:14” to “17:00” with a 16 minute break in the working day. She claimed to have worked 7.5 hours on that day at PCH. The form was countersigned by the “Principal Pharmacist” on that date.

17. The Registrant admitted at a meeting with Ms 1 and others at Arden & GEM CSU that she had been working for both Arden & GEM CSU and PCH on Thursdays and Fridays. She said that PCH were aware of her job with Arden & GEM CSU but not her working days or hours. The Registrant stated she had worked through the night to complete her work at Arden & GEM CSU.
18. Following this meeting the Registrant was suspended from her employment on full pay and an investigation undertaken by Ms 1. Ms 1 concluded the Registrant had undertaken and been paid for both roles at the same time on Thursdays and Fridays. She had also reported in sick on 30 April 2021, when she was scheduled to work at Arden & GEM CSU, while actually working at PCH. It was concluded that the Registrant’s statement that she was not fit for work was not true. She was paid for her purported work at Arden & GEM CSU on 30 April 2021.
19. The Registrant did not attend the disciplinary hearing on 14 May 2021; she was summarily dismissed from her employment by Arden & GEM CSU with effect from 11 May 2021, due to gross misconduct.

## **FINDINGS OF FACT**

20. The Registrant admitted the alleged facts in full.
21. The Chair therefore announced all the facts, as set out in paragraphs 1-6 of the amended Particulars of Allegation, were found proved. There were no remaining facts in dispute.

## **IMPAIRMENT**

### Evidence

22. The Committee has been provided with a bundle of evidence which has been agreed by the parties as being relevant to the issues to be decided. It includes not only the evidence of the Council in support of the allegations but also that relied upon by the Registrant, including references and testimonials. The Registrant has also provided a bundle of evidence, including her own statement, various references and testimonials, her reflective statement and a CPD certificate. In addition, at the hearing, she also provided testimonials from her mother and sister.
23. In her statement of 25 April 2023, and in her reflective statement of the same date, the Registrant admits she “worked for PCH and Arden and GEM simultaneously for up to 8 days in the month”. She says this “behaviour is wrong and should not have happened at all”. She describes herself as having been “naïve”. She regretted her behaviour and it led to her attempted resignation from Arden & GEM CSU. She says the “decision to work both jobs simultaneously was a poor decision and I have regretted every bit of it”. The Registrant’s evidence is that she had sought to “retrace [her] steps to how [she] led [her]self into making such poor decisions and conduct”. She said she was “juggling a lot of things at the time and was avoiding having any quiet time to properly evaluate what [she] was doing, this way of working is detrimental to [her] professional life and career and could subsequently transfer adversely to the quality of [her] work...”. Her evidence is as follows:

“I was struggling [PRIVATE]. At the material time, I was in a very difficult and stressed place and was still trying to outperform myself. I am aware on [sic] how I failed to give myself time to process the situations around (personal and professional) but rather moved on with everything at [sic] same time without applying professional judgment in my decisions regarding working in and out of contracted hours. It was an unsafe way of working and I have learnt immensely from this conduct. If I am presented with similar scenario, I will break the task into bite-size and manageable chunks rather than taking all of them at same time. [PRIVATE]. I would take up role that worked around my childcare arrangement and ensure I am continuously reflecting on what I am doing and how to make better. ...

.... In my years of practice, I have never thought of working 2 jobs simultaneously and I was and still livid that I made such mistake in April 2021 and afterwards have never engaged in such conduct. ...

I was pleased to update my LinkedIn for my connections to be informed that I have now started a role with Arden and GEM and working with PCH as I felt it will be for a very short time to support PCH whilst I smoothly transition to Arden and GEM. This thought process was wrong and I shouldn't have put myself in such a position.

If I am faced with the same or similar scenario again, I will ensure that I take up these roles on a part time basis and inform both employers of the specific time I will be working the 2 jobs in a way that doesn't conflict with each other. This is to ensure that there is no potential risk to patients/public and the integrity of my profession is firmly upheld.

24. The Committee heard the oral evidence of the Registrant at this stage. She told the Committee, in summary, she was married with two children; her husband was a project manager for NHS England. The couple owned their own home, which was subject to a mortgage. She asserted it would not be possible to maintain the house and family on one income. The Registrant explained her career to date. She said that, following the car accident in 2020 she had lost confidence in driving; her husband had to drive her to and from work. This had put her husband and the marriage under strain. At material times the Registrant had also been studying for a post graduate diploma.
25. The Registrant's oral evidence was that she had started work at PCH in October 2019, working full time. She had applied for the job with Arden & GEM CSU because it would enable her to work remotely; her intention had been to resign from her role at PCH (where she had already reduced her working hours) once she had handed over to a colleague. The handover occurred on 30 April 2021 and it had been the Registrant's intention to resign, giving a week's notice, finishing "in the first week of May". The Registrant told the Committee she had reduced her hours at PCH "from February 2021".

26. The Registrant told the Committee that she had applied for the job at Arden & GEM CRU in February and had been interviewed on 14 February 2021. She had commenced work there on 6 April 2021. She had been contracted to work full-time, 9am – 5pm. She told the Committee that she had managed the two jobs by working “through the night and early morning”.
27. The Registrant assured the Committee that since the incident she had reflected on her actions; she had taken guidance and counselling from church members, she had attended (on the recommendation of her line manager at her current place of employment) a course on probity and ethics; she had completed this on 14 April 2023. The Registrant assured the Committee that her actions would not be repeated; she recognised the detrimental impact on the profession and patients. In particular, she acknowledged that her actions could have been detrimental to patient safety. The Registrant was remorseful and regretful of her actions.

### Submissions

28. The Committee heard the oral submissions of Mr Lawson for the Council and Mr Haines for the Registrant. In addition, both representatives had provided the Committee with skeleton arguments for which the Committee was grateful.
29. In summary, Mr Lawson submitted that the Registrant’s fitness to practise was impaired on grounds of her misconduct. He submitted the Registrant’s conduct and dishonesty demonstrated an attitudinal shortcoming which was difficult to remedy. It was submitted her conduct posed a potential risk to patients as there was a risk arising from her working while exhausted. The conduct breached the fundamental tenet of honesty and trustworthiness expected of all Registrants. Her actions would be seen by members of the public as bringing the profession into disrepute and not befitting a member of the pharmacy profession. It was submitted for the Council that all four limbs in Rule 5(2) of the Rules were engaged.
30. Mr Haines submitted, in summary, that the Registrant had admitted failings within her practice as a pharmacist; she conceded that these failings amounted to a breach of professional standards. The Registrant conceded, by virtue of her admissions to the allegations, that her conduct was likely to amount to “misconduct”. She conceded also that her actions in April 2021 gave rise to a

potential risk to patients but time had passed and she no longer posed either an actual or potential risk. While the Registrant may in the past have brought the profession into disrepute and/or breached a fundamental principle of the profession, she had since recovered. Mr Haines referred to various legal authorities in support of this proposition. He submitted in summary that the fitness to practise of the Registrant was no longer impaired and such a finding was not necessary.

31. The Committee has taken into account the points made by both parties on the issue of impairment. It has also taken into account the documentary and oral evidence.
32. 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 (revised March 2017)*.
33. Consideration of whether the Registrant is fit to practise as a pharmacist is a two-stage process.

#### Misconduct

34. 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.
35. The Registrant has been dishonest with her employer, Arden & GEM CSU, both during the recruitment process and in the course of her employment. She has admitted various acts of dishonesty, as set out in the Particulars of Allegation. The Registrant breached the trust placed in her by her employer.

36. The Registrant has breached the following standards for pharmacy professionals (as set out in the Council's guidance: Standards for pharmacy professionals issued in May 2017): Standard 5, Standard 6 and Standard 9. The most significant and serious breach is however that of Standard 6 which requires pharmacy professional to be trustworthy and act with honesty and integrity. That said, not all conduct in breach of the Council's Standards for pharmacy professionals, published in May 2017, will necessarily be sufficiently serious that it amounts misconduct.
37. It is a fundamental tenet of the profession that registered pharmacists practise according to their professional standards. The Registrant's dishonest actions were disgraceful and showed a palpable lack of professional judgment unbecoming a registered pharmacist. The Registrant's dishonesty in the context of her pharmacy practice would be viewed by professional colleagues and members of the public as deplorable. The Committee is in no doubt that the Registrant's dishonest actions amount to misconduct.

#### Current Impairment

38. The Committee has therefore turned to the issue of current impairment.
39. 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.*

40. 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.
41. 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.”*

42. The Committee has concluded that a well-informed member of the public, with knowledge of the facts of this case, would consider that the Registrant’s dishonesty in the course of her pharmacy practice was very serious indeed given that her working hours on two days a week were excessive. This had the potential to cause harm to members of the public. Indeed the Registrant, to her credit, accepts this was the case.
43. As set out above the Committee is satisfied that the Registrant breached the following fundamental principles of the profession, as follows:

a. **Standard 5**

Pharmacy professionals must use their professional judgement.

The Registrant failed to “use [her] judgement to make ... professional decisions with ... others”. She was required to practise only when fit to do so but by her own admission she was working excessive hours and this may have impaired her professional judgment. The Registrant deliberately misrepresented her employment status to her employer at Arden & GEM CRU. The Registrant’s actions amounted to a gross failure of this standard.

b. Standard 6

Pharmacy professionals must behave in a professional manner.

The Registrant did not behave with honesty and integrity: she lied on the mandatory questionnaire about her employment status. The Registrant's employer, Arden GEM & CSU trusted her to act professionally and with honesty and integrity when applying for employment. She breached the trust of that organisation and her work colleagues within it

c. Standard 9

Pharmacy professionals must demonstrate leadership.

As a registered pharmacist the Registrant should have demonstrated leadership to colleagues and staff. Instead those colleagues had cause to suspect she was working in breach of the terms and conditions of her employment and that there was a risk to the security of data as a result. She did not lead by example.

44. The Registrant has failed to abide by three fundamental principles of her profession. She abused the trust of her employer, Arden & GEM CSU, and her work colleagues there. She acted without honesty or integrity within the practice of pharmacy.
45. The Registrant admitted her dishonesty immediately to her employer but she had little option but to do so given the circumstances. She also admitted the Particulars of Allegation in these proceedings in full. These early admissions are to her credit.
46. The Committee acknowledges the Registrant has engaged in counselling with her local church. By way of example, the Registrant says she has used the counselling sessions to learn lessons from her "poor decision". This description does not reflect the seriousness of her misconduct.
47. The Registrant has undertaken 1 ½ hours CPD on "Ethics and Ethical Standards for Pharmacists" on 14 April 2023. That course is of relevance to her misconduct.
48. The Committee notes the Registrant's remorse, embarrassment and regret. This is undoubtedly genuine.

49. Dishonesty is a state of mind; it is a deep-seated attitudinal issue. The Committee has a number of concerns about the quality and consistency of the Registrant's evidence in these proceedings and the following are examples:

- a. The Registrant asserts she was intending to resign from her locum post at PCH in early May 2021 and that she had attended work there on 30 April 2021 to deal with a handover. There is no independent contemporaneous evidence that the Registrant was intending to resign from this post. Indeed the evidence of Mr 3, the Chief Pharmacist, is that the Registrant "towards the end of her contract (April 2021), ... negotiated a reduction in working hours to 2 days a week (Thursdays and Fridays ...) due to child-minding issues." Furthermore, Mr 3 produced a copy of the Client Booking Confirmation from Asprey Medical Services dated 17 February 2021 which detailed shifts booked for the Registrant from 31 March 2021 to 30 June 2021. This evidence is not consistent with the Registrant's assertion that she was intending to resign from her employment with PCH shortly after 30 April 2021, giving one week's notice.
- b. There is also an inconsistency in the evidence about the timing of the reduction of the Registrant's hours at PCH. She told the Committee she had reduced her hours from February 2021 but this evidence is discordant with the evidence of Mr 3 that she negotiated a reduction in working hours in April 2021. The latter is consistent with the Registrant's starting work at Arden & Gem CSU on 6 April 2021.
- c. The timeline produced by Ms 1 as part of the disciplinary process records information which was purportedly given by the Registrant at a meeting on 4 May 2021. The Registrant is recorded as having said at the meeting "when taking on the role at the CSU, she felt that she wanted to retain some of her role within PCH in case she did not feel that her new role suited her, and therefore did not want to cut her ties with the trust and potentially lose that job. Hence why she retained employment". The Committee sought to clarify this with the Registrant and asked whether this was an accurate reflection of her explanation given in the meeting on 4 May 2021. The Registrant denied this. She told the Committee that, at that meeting, she had said she needed to finish the handover and

her engagement with the hospice; she had not got a replacement and felt the need to carry on so she could hand over the role to somebody who could replace her. She said she had not been worried about losing her job. The Registrant's oral evidence on this issue is completely at odds with the content of the written record of the meeting. There is no reasonable explanation for this. The Registrant told the Committee she had seen this document previously yet there is no rebuttal in her witness statement. If the Registrant had considered the record to be inaccurate the Committee would expect her to have addressed this in her statement or in oral examination in chief.

- d. The Registrant was asked whether PCH was aware of her working contemporaneously at Arden & GEM CSU. She replied that she assumed this to be the case because her line manager had given her a professional reference for the latter job. She referred to having discussed the job with her line manager during tea breaks. It is implausible that her line manager would have been aware (and implicitly condoned) the Registrant working for two NHS organisations at the same time.
- e. The Registrant relies on a reference from her current employer, (Cambridgeshire & Peterborough Integrated Care System) dated 25 April 2023 asserting she has been open with her employer about the allegations against her. However, the letter from her employer states they were made aware by the Registrant on her application received 11<sup>th</sup> March 2022 that at that time she was subject to fitness to practise investigation/proceedings by a regulatory licensing body with further information supplied in the application as "GPhC – Working for 2 organisations that might have a conflict of interest". This declaration by the Registrant is not an accurate reflection of the seriousness of the allegation against the Registrant which was one of dishonesty. The declaration appears to minimise the allegation. Unlike other references and testimonials the author has not appended a copy of the Particulars of Allegation which also suggests the Registrant may not have been open and transparent with her current employer about the allegations against her (despite her evidence to the contrary).
- f. The Registrant says she put the needs of others ahead of her own in attending work at PCH on 30 April but this is not consistent with her attending a face to face meeting with a

pregnant colleague while suffering from a gastro-intestinal condition at the time such that she needed to absent herself frequently in the course of the day to use the bathroom. She knew her colleague was pregnant and in such circumstances it is arguable she did not put her colleague's interests above her own.

- g. The Registrant asserted she had resigned from her PCH role because she felt she needed to “remove all employment, realign [her]self and reflect, how [she] had made such naïve decisions.” Her oral evidence is that she cancelled her shifts at PCH on 5 May 2021. However, on 5 May 2021 the Registrant was notified in writing of her suspension from work at Arden & Gem CSU. She was also informed that she remained bound by her terms and conditions of employment and that she “must not .... Undertake any paid employment for a third party whilst on suspension”. On that date Arden & GEM CSU also notified the Registrant by email that her resignation was not accepted. The latter evidence calls into question the Registrant's claimed reason for cancellation of her shifts at PCH.
- h. There were occasions during examination of the Registrant when she failed to answer questions directly or at all. By way of example, she was asked in examination in chief whether she had taken any steps towards the latter part of her employment with PCH to reduce her working hours. She replied that the impact of her contract with PCH, when she took up the Arden & GEM SCU role, was for her to work from home; she had wanted to do this. When working at PCH she was working in a way that she could finish and do her handover and she needed to terminate the work within a week; she had one week to finish up with PCH. Thus the Registrant did not answer the question. This is but one example of several where the Registrant's oral evidence was confused, rambling and not to the point.
- i. The principal focus of the Registrant's evidence, both documentary and oral, is her undertaking work for two employers simultaneously. She places little emphasis on the dishonesty of her actions. She refers to her actions as a “mistake” and “naïve” although serious. While she acknowledges the potential for risk of harm to patients as a result of

her working hours, and this is commendable, she appears to gloss over her dishonesty, giving it little emphasis in her evidence.

- j. The Registrant says that “if such situation arises again, I will make right decisions by ensuring that I do not have to work simultaneously for 2 organisations in any circumstances”. This evidence does not address the issue of why she acted dishonestly. Indeed the suggestion that she had to work simultaneously for two organisations demonstrates she has not yet taken responsibility for the deception. Rather she appears to blame other factors than her own decision-making.

50. Taking the Registrant’s evidence as a whole, the Committee finds it is not wholly reliable as regards the circumstances and context of the misconduct. The Committee draws the conclusion that the Registrant has provided explanations which she perceives to be helpful to her case.
51. The Committee concludes that the Registrant has shown some insight into the impact of her misconduct: she acknowledges the impact on public confidence and professional colleagues; she recognises her actions could have caused a risk of harm to patients. However, she has not sufficiently identified or addressed the root cause of her actions or explained satisfactorily why they occurred. Nor has she sufficiently acknowledged the impact of her dishonesty in pharmacy practice.
52. In conclusion, the Committee determines the Registrant has not sufficiently remediated her misconduct. The Committee is unable to conclude that it is highly unlikely to be repeated, particularly if the Registrant finds herself in similar stressful circumstances. Were that to occur, she might be unable to resist repeating the dishonesty.
53. Fitness to practise is not limited to clinical competence; it also comprises the issues identified in Rule(2). Here the Committee determines that the Registrant’s fitness to practise is currently impaired as a result of her misconduct on the grounds of Rule 5(2)(a), (b), (c) and (d). 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

54. The Council has adduced no evidence at this stage. The Registrant relies on her documentary evidence, as contained in the Council's and her own bundle, and her oral evidence given at the impairment stage.

### Submissions

55. Mr Lawson took the Committee through the various options. He referred to the Good Decision Making guidance of March 2017. He submitted, in summary, that a warning and conditions may not be appropriate although supervision could be considered as a possible condition. He submitted that suspension for a shorter period might be the proportionate approach. He said this was not an "automatic strike off situation".
56. Mr Haines adopted his skeleton argument and identified various mitigating features. He submitted that a warning would be a "meaningful sanction" and would fulfil the needs of an informed public and/or profession. He observed that conditions were rarely seen as appropriate in cases of dishonesty but that they could have a purpose in this case; the notification requirements could be an appropriate sanction. Mr Haines observed that both employers affected by the Registrant's misconduct had had no concerns about her fitness to practise. She had resigned from the two employments in early May 2021 because she recognised her employment was not tenable. It was submitted that suspension was not needed in this case; given the mitigating factors and the context of the dishonesty, this was a "step too far". However, if the Committee did not agree, the shortest possible meaningful period should be imposed. Removal was not necessary in this case, it was submitted; it would not be a proportionate response. The circumstances in their totality did not fall into the "most serious" bracket and, as a result, removal of the Registrant's name from the register was not necessary.
57. The Committee has borne in mind its findings on impairment.

58. Throughout its deliberations on sanction, it has taken into account the aggravating and mitigating features in this case.
59. The Committee considered the following to be aggravating features:
- a. The misconduct amounted to a breach of trust between employer and employee.
  - b. The misconduct was self-serving.
  - c. The dishonesty occurred in the course of pharmacy practice.
  - d. The misconduct may have continued had Arden & GEM CSU not discovered it.
  - e. The Registrant has sought in these proceedings to minimise her dishonesty by claiming it arose from her positive intentions.
  - f. The Registrant's performance at Arden & GEM CSU and PCH was adversely affected by her failure to adhere to her contractual hours; this could have had a detrimental impact on patient safety.
  - g. The Registrant has only partial insight into the nature of her misconduct: she has focussed on her undertaking two jobs simultaneously during April 2021 whereas the dishonest misconduct started in March 2021 with the dishonest completion of the mandatory questionnaire. She has failed to appreciate the seriousness of her misconduct, particularly her dishonesty.
60. Insofar as mitigating features are concerned, the Committee has identified the following:
- a. The dishonest activity was sustained over a relative short period of about eight weeks, from the completion of the mandatory questionnaire signed on 2 March 2021.
  - b. The Registrant is a person of previous good character.
  - c. There is no evidence of patient harm.
  - d. The Registrant made early admissions to the allegations. She has cooperated with the investigation and these proceedings.
  - e. The Registrant has partially reflected on her misconduct and its impact on her employer, her profession, the public and her colleagues.
  - f. The Registrant has sought to remedy her misconduct by undertaking targeted work, mentoring and learning of relevance to the allegations.

- g. The Registrant has produced various positive testimonials and references, including from pharmacy colleagues aware of the allegations which the Registrant has since admitted.
- h. She has expressed remorse and regret.

61. The Committee has had regard to the Council's Good Decision Making guidance on dishonesty. This states, on the issue of dishonesty:

"6.8 Regulators ensure that public confidence in a profession is maintained. This is a long-established principle and our standards state that registrants should act with honesty and integrity to maintain public trust and confidence in the profession. There are some acts which, while not presenting a direct risk to the public, are so serious they undermine confidence in the profession as a whole. The GPhC believes that dishonesty damages public confidence, and undermines the integrity of pharmacists and pharmacy technicians. However, cases involving dishonesty can be complicated – committees should carefully consider the context and circumstances in which the dishonesty took place. Therefore, although serious, there is not a presumption of removal in all cases involving dishonesty.

6.9 Some acts of dishonesty are so serious that the committee should consider removal as the only proportionate and appropriate sanction. This includes allegations that involve intentionally defrauding the NHS or an employer, falsifying patient records, or dishonesty in clinical drug trials.

6.10. When deciding on the appropriate sanction in a case involving dishonesty, the committee should balance all the relevant issues, including any aggravating and mitigating factors. It is important to understand the context in which the dishonest act took place and make a decision considering the key factors. The committee should then put proper emphasis on the effect a finding of dishonesty has on public confidence in the profession."

62. The Committee has also had regard to the Guidance on a registrant's duty of candour, as follows:

“6.12. ... Registrants are expected to be open and honest with everyone involved in patient care. Committees should therefore see registrants’ candid explanations, expressions of empathy and apologies as positive steps before, and during, a hearing.”

63. The Committee has taken into account the various testimonials and references which attest to the Registrant’s honesty, integrity, reliability and trustworthiness. The authors (with the exception of the Registrant’s current employer) have seen the allegations against the Registrant. They attest to the Registrant’s honesty and reliability. However, they appear to some extent to rely on information provided to them by the Registrant herself. By way of example, Dr 4, a trainee GP, refers to the Registrant having gone to work even though she was not feeling well; this appears to be a reference to her working at PCH on 30 April 2021. While Dr 4 sees this is a positive attribute saying it is “testament to her hardworking nature and how much she values her work” he appears to have missed the point that her actions amounted to fraud and dishonesty. Furthermore, by meeting a pregnant colleague, whilst unwell, arguably she put that colleague’s well-being at risk. The Committee gives less weight to this testimonial for that reason. Mr 5, a registered pharmacist, refers to the Registrant’s having suffered a car accident in 2020 but also says he has only known the Registrant a short time. By inference, it appears he did not know the Registrant in 2020. Thus his reference to the circumstances of the accident are likely to have been relayed to him by the Registrant herself. This undermines the value of that particular testimonial. Nonetheless the Committee has taken into account the remaining testimonials which merit evidential weight.
64. The Committee has also had regard to the context and circumstances of the Registrant’s dishonesty. It considers that the Registrant’s dishonesty, while serious because it occurred in pharmacy practice, is not at the most serious end of the spectrum: it did not relate to her clinical practice but to the circumstances in which she was practising. It occurred over a relatively short period, although it may have continued had it not been discovered by Arden & GEM CSU. It is nonetheless relevant that the dishonesty was self-serving and could have put patients and the public at risk of harm.
65. The Committee’s decision on sanction is taken in the context of its difficulty ascertaining the motive for the Registrant’s misconduct. This difficulty arises from the quality of her evidence on

that issue, as set out in the Committee's determination on impairment. It is not to the Registrant's credit that she has sought to persuade the Committee that the dishonesty was for positive purposes, namely to enable her to hand over her work at PCH. The Committee does not accept that, given the inconsistencies in her evidence.

66. This is not a case where no action can be taken: members of the public, with knowledge of the dishonesty in pharmacy practice, would be appalled were no action to be taken. The Registrant's misconduct warrants action by this Committee to mark its disapproval of her actions. Indeed Mr Haines conceded as much.
67. For similar reasons, a warning is not sufficient to mark the damage done to the reputation of the profession by the Registrant's dishonesty. In any event, the Committee has found there is a continuing risk to patients and a warning would be wholly inappropriate in such circumstances, as is clear from the Council's guidance. The Registrant has not demonstrated sufficient remediation or sufficient insight for a warning to be imposed.
68. The Committee next considered whether to impose conditions of practice on the Registrant's registration but took the view that this was not appropriate given the seriousness of the Registrant's misconduct which occurred in the course of pharmacy practice. This is not a case where there is otherwise concern about the Registrant's professional performance or shortcomings in her practice which could be remediated; retraining or supervision would not address the dishonesty and lack of integrity she demonstrated. Furthermore, dishonesty is necessarily an activity which is undertaken clandestinely. Supervision (as proposed by Mr Lawson) would not address the risk of repetition. Even in the absence of that risk, conditions would not be sufficient to address the public interest in this case: the Registrant's actions have undermined public confidence in the profession and there is a need to demonstrate the importance of adherence to professional standards in the practice of pharmacy.
69. The Committee takes into account the Registrant's assertion that she would not act in a similar way again but, for the reasons set out above at the impairment stage, the Committee finds that the Registrant has not identified or addressed the context of her dishonesty; she has not taken full responsibility for it; she has been found (in the words of Mr Lawson) "not to be the most accurate

historian of her own narrative”.

70. The Committee has had regard to the Registrant’s own interests. She told the Committee her family required her income to maintain their home and support the family; this would not be possible on one salary. The Registrant values her profession; she is proud of it. The Committee acknowledges she would like to continue practising. There are no criticisms of her clinical judgment or practice. However, the Committee determines that, given there is insufficient evidence of remediation, the imposition of conditions on the Registrant’s registration is not sufficient to protect the public or the wider public interest.
71. The Committee therefore finds that conditions would not be workable, practicable or sufficient to protect the public or the wider public interest. An informed member of the public would expect this Committee to take more serious action given the Registrant’s dishonesty in pharmacy practice leading, as it did, to a risk of harm to patients and the public.
72. The Registrant was dishonest in pharmacy practice. She deceived her employer and her actions in so doing were deliberate and self-serving. She put her own interests before those of her employer and her patients. Her actions put the well-being of patients at risk (as she, to her credit, accepts). Her deception may have continued had it not been discovered by her employer. The Registrant’s misconduct in pharmacy practice gives rise to a significant public interest which demands suspension of the Registrant’s registration. The Committee recognises the serious detrimental impact this will have on the Registrant and her family: she is a joint breadwinner in the family with her husband and has two children, a mortgaged home and rising living costs. However, it should be possible for her to take on other work while suspended, for example as a dispenser or other work for which he does not require registration, to earn an income, albeit perhaps more modest. The Committee takes into account the submission that the Registrant has a right to work but is reminded of the guidance in **Law Society v Brendan John Salsbury [2008] EWCA Civ 1285**.
73. The Committee notes the decision making guidance to the effect 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 also notes the guidance

on removal to the effect that this is reserved for the most serious conduct where the registrant's behaviour is fundamentally incompatible with being a registered professional.

74. The Committee considered carefully the option of removal of the Registrant's name from the register and particularly Paragraph 6.9 of the guidance

“Some acts of dishonesty are so serious that the committee should consider removal as the only proportionate and appropriate sanction. This includes allegations that involve intentionally defrauding the NHS or an employer, falsifying patient records, or dishonesty in clinical drug trials. “

75. While the impact of the Registrant's actions was to defraud the NHS in that both her employers were NHS organisations, the Committee finds that it was not the intention of the Registrant to defraud the NHS.
76. The Committee has borne in mind the context and circumstances of the Registrant's dishonesty, as set out above, and its findings at the impairment stage. It notes paragraph 6.8 to the effect that “... although serious, there is not a presumption of removal in all cases involving dishonesty”.
77. The Committee takes into account the guidance on proportionality, namely that the sanction should be no more serious than it needs to be to achieve its aims, particularly whether it is sufficient to maintain public confidence in the profession and whether it is sufficient to maintain proper professional standards and conduct for members of the profession.
78. There are no criticisms of the Registrant's clinical performance. She was a pharmacist of good standing for many years prior to these proceedings.
79. The Committee has decided the appropriate and proportionate sanction is one of suspension for six months. The Registrant's misconduct is not fundamentally incompatible with being a registered professional. It considers a significant period of suspension to be appropriate and proportionate given the context of the Registrant's misconduct and the need to mark the public interest including protecting the public, maintaining public confidence in the profession and

maintaining proper standards of behaviour. It will also give the Registrant time to reflect further on her dishonesty and its context, together with this Committee's determination. She can then decide on how she intends to remediate her behaviour fully and to avoid any further breach of the standards required of her.

80. The Committee reiterates that, at each stage of its deliberations on sanction, it has borne in mind the aggravating and mitigating features and the Registrant's own interests, which are undoubtedly to continue in practice, restricted or otherwise. While the Committee acknowledges the progress made by the Registrant and that she has made efforts to remediate her misconduct, she needs to reflect more deeply on the context and root cause of her dishonesty. Until she does so and is honest with herself about the reasons for it, she will not be in a position to fully remediate her misconduct or demonstrate that it is highly unlikely to be repeated. Even if those concerns about the Registrant's evidence did not exist, the Committee would give greater weight to the need to protect the wider public interest, as set out above. The latter requires a significant period of suspension.
81. The Committee concludes therefore that the appropriate and proportionate sanction in this case, given the adverse impact on public confidence in the profession, is six months' suspension with a review before the end of that period. It considers that a fully informed member of the public would consider this to be an appropriate sanction.
82. 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. Evidence to demonstrate her past impairment has been addressed, such as a reflective statement on this Committee's findings and how the Registrant has accepted responsibility for her self-serving dishonesty, being honest with herself about her motivation for it. It may be helpful to have specific examples of instances which demonstrate full insight and remediation.
  - b. Evidence, such as a testimonial, from any person with whom she has engaged in a position of trust and who is aware of the findings of this Committee and the outcome of these proceedings.

- c. Evidence of targeted CPD and other study outside pharmacy which addresses the concerns of this Committee;
- d. Up-to-date evidence/testimonials from any work, paid or unpaid, undertaken prior to the review hearing. The authors should indicate whether or not they are aware of these proceedings and findings.
- e. Any other material the Registrant considers appropriate to demonstrate she has reflected on the root cause of her dishonesty and taken responsibility for it.

## **DIRECTION ON INTERIM MEASURES**

83. Mr Lawson made an application for interim measures under Article 60 of the Pharmacy Order 2010. He submitted, in summary, that in circumstances where all four limbs of Rule 5(2) were engaged, it was appropriate for interim measures to be imposed for the protection of patients and/or in the wider public interest.
84. For the Registrant, Mr Haines resisted the application by the Council. He submitted that the Registrant had worked unfettered for almost two years and free of criticism. There had been no interim order in place and “very little if any contact with the public”. He noted the Registrant worked remotely from home. Her current employer had spoken positively of her work. He submitted the Registrant did not present a risk to the public; there was no evidence of actual harm in this case. It was not in the Registrant’s interests to be subject to interim measures. There was nothing to suggest that it was in the public interest given the work she had done since May 2021 as a pharmacist. Such a direction was not necessary.
85. The decision to suspend the Registrant’s registration will not take effect until 28 days after she is formally notified of the outcome, or until any appeal is concluded. Until the conclusion of that period the Registrant would be free to practise without restriction.
86. The Committee is satisfied that an interim measure is necessary both in the interests of public protection and otherwise in the public interest. As it has made clear in its earlier determination on impairment, the Registrant has not satisfactorily demonstrated sufficient remediation and sufficient insight. Nor has she demonstrated that the misconduct is highly unlikely to be

repeated. This is a case where the Committee has found that all four limbs of Rule 5(2) are engaged. Not to impose interim measures would be wholly inconsistent with the Committee's decisions on impairment and sanction.

87. For these reasons, the Committee imposes an interim measure of suspension which is commensurate with the sanction it has determined to be appropriate in this case.