

General Pharmaceutical Council

Fitness to Practise Committee

Principal Hearing

In person at General Pharmaceutical Council, One Cabot Square, Canary Wharf,

London E14 4QJ

4-5 October 2023

Registrant name:	Dilip Dewa Modhvia
Registration number:	2050606
Part of the register:	Pharmacist
Type of Case:	Misconduct
Committee Members:	Angela Black (Chair) Surinder Bassan (Registrant member) Stephen Greep (Lay member)
Committee Secretary:	Gemma Staplehurst
Registrant:	Present and represented by Martin Hadley, VHS Fletchers
General Pharmaceutical Council:	Represented by Matthew Corrie, Blake Morgan
Facts proved by admission:	All
Fitness to practise:	Impaired
Outcome:	Suspension (4 months) with a review

This decision including any finding of facts, impairment and sanction is an appealable decision under *The General Pharmaceutical Council (Fitness to Practise and Disqualification etc. Rules) Order of Council 2010*. Therefore, this decision will not take effect until 7 November 2023 or, if an appeal is lodged, once that appeal has been concluded.

Particulars of Allegation (as amended)

You, a registered pharmacist: (2050606)

1. At all material times you worked as a locum pharmacist at the Rowlands Pharmacy ("the Pharmacy"). [ADMITTED]

2. You ordered medication using the Pharmacy's PMR system:

2.1. On one or more occasions on a date or dates unknown; and/or [ADMITTED]

2.2. On or around 3 August 2019 Pradaxa x 10. [ADMITTED]

3. You took the following stock from the Pharmacy:

3.1. On or around 25 July 2019 Prograf 1mg; and/or [ADMITTED]

3.2. On or around 25 July 2019 Macrobid 1 x 100mg; and/or [ADMITTED]

3.3. On or around 25 July 2019 Januvia 1 x 25mg; and/or [ADMITTED]

3.4. On or around 25 July 2019 Metformin 150 ml 500mg/5ml; and/or [ADMITTED]

3.5. On or around 31 July 2019 Otomize ear spray; and/or [ADMITTED]

3.6. On or around 31 July 2019 Prograf 1 x 50 5mg; and/or [ADMITTED]

3.7. [WITHDRAWN]

4. Your actions at 2 and/or 3 above were inappropriate in that:

4.1. **[WITHDRAWN]**

4.2. *There was no, or no adequate, audit trail; and/or* **[ADMITTED]**

4.3. *The medication was for use outside of the Pharmacy; and/or* **[ADMITTED]**

4.4. *You did not pay for the medication.* **[ADMITTED]**

5. *Whilst working as a locum at the Pharmacy you provided private prescriptions to patients including:*

5.1. *On or around 6 September 2019 15 Amoxicillin 500mg capsules to Patient A; and/or* **[ADMITTED]**

5.2. *On or around 13 July 2019 to Patient B: and/or*

5.2.1.1. *2 Amlodipine 5mg tablets; and/or* **[ADMITTED]**

5.2.1.2. *2 Atenolol 100 mg tablets; and/or* **[ADMITTED]**

5.2.1.3. *2 Ramipril 10 mg capsules.* **[ADMITTED]**

5.3. *On or around 27 July 2019 a Ventolin 100micrograms/dose Evohaler to Patient C; and/or* **[ADMITTED]**

5.4. *On or around 6 September 2019 28 Valsartan 80mg to Patient D.* **[ADMITTED]**

6. *Your actions at 5 above were inappropriate in that:*

6.1. *You did not have permission from Rowlands Pharmacy Group to issue private prescriptions whilst working as a locum at the Pharmacy; and/or* **[ADMITTED]**

6.2. You did not have indemnity insurance in place in respect of the issuing of private prescriptions whilst working as a locum at the Pharmacy; and/or [ADMITTED]

6.3. In relation to your conduct at 5.2 and/or 5.3 and/or 5.4 you did not supply the medications concerned under the emergency supply process. [ADMITTED]

7. In relation to the private prescriptions issued referred to at 6 above and/or one or more others you charged the patient a fee payable to you. [ADMITTED]

8. Your conduct at 7 above was inappropriate in that you did not have permission from Rowlands Pharmacy Group to charge a fee payable to you whilst working as a locum in the Pharmacy. [ADMITTED]

9. Your conduct in relation to 6.3 and 7 above was dishonest in that you knew that medications could have been supplied under the emergency supply process and in charging for a private prescription sought to make a financial gain for yourself at the patients' expense. [ADMITTED]

As a result of the matters set out above your fitness to practise is impaired by reason of your misconduct.

Documentation

Document 1 - GPhC hearing bundle

Document 2 - GPhC skeleton argument

Document 3 - Registrant's bundle

Document 4 – Registrant's skeleton argument

Witnesses

Witness A - Quality and Clinical Governance Manager within the Superintendent's Team at Rowlands Pharmacy Group – evidence as to fact taken as read

Witness B - Regional Leader, Rowlands Pharmacy - evidence as to fact taken as read

Witness C - Security Officer at Phoenix Healthcare (parent company of Rowlands) - evidence as to fact taken as read

Witness D - Treasury Supervisor at Phoenix Healthcare - evidence as to fact taken as read

Witness E - Pharmacy Technician at the Pharmacy - evidence as to fact taken as read

Registrant – gave oral evidence at the impairment stage

Determination

Introduction

1. This is the written determination of the Fitness to Practise Committee at the General Pharmaceutical Council ('the Council').
2. The hearing is governed by *The Pharmacy Order 2010* ("the Order") and *The General Pharmaceutical Council (Fitness to Practise and Disqualification etc. Rules) Order of Council 2010* ("the Rules").
3. The statutory overarching objectives for these regulatory proceedings are:
 - a. To protect, promote and maintain the health, safety and well-being of the public;
 - b. To promote and maintain public confidence in the professions regulated by the Council; and
 - c. To promote and maintain proper professional standards and conduct for members of those professions.
4. The Committee also has regard to the guidance contained in the Council's *Good decision making: Fitness to practise hearings and sanction guidance* as revised March 2017.

5. A Principal Hearing has up to three stages:

Stage 1. Findings of Fact – the Committee determines any disputed facts.

Stage 2. Findings of ground(s) of impairment and impairment – the Committee determines whether, on the facts as proved, a statutory ground for impairment is established and, if so, whether the Registrant’s fitness to practise is currently impaired.

Stage 3. Sanction – the Committee considers what, if any, sanction should be applied if the Registrant’s fitness to practise is found to be impaired.

Service of Notice of Hearing

6. The Committee has not been provided with the Notice of Hearing but as there has been no challenge on the issue of service, the Committee is satisfied there was good service of the Notice pursuant to Rules 3 and 16.

Application to amend the particulars of allegation

7. The Committee heard an application by Mr Corrie under Rule 41 to withdraw the particulars at sub-paragraphs 3.7 and 4.1, as follows:

1. *[You took the following stock from the Pharmacy: ...] 3.7 On or around 24 August 2019 Levothyroxine 1 x 75 mcg.*
2. *[Your actions at 2 and/or 3 above were inappropriate in that:] 4.1 You did not have formal permission from Rowlands Pharmacy Group; and/or”*

8. Mr Corrie submitted that, as there was no reasonable prospect of these sub-paragraphs being found proved on the evidence, it was appropriate for them to be withdrawn from the Particulars of Allegation. Mr Hadley, for the Registrant, did not oppose the application.

9. The Committee, having been referred to the evidence in question, considered it was in the interests of fairness, both to the Registrant and the public interest for these two sub-paragraphs to be withdrawn. There was no prejudice to either.

Application for the hearing to be held in Private

10. The Committee heard an application by Mr Hadley for the Registrant that parts of the hearing be held in private. He indicated that there would be reference to the Registrant's own and his son's health.
11. Mr Corrie did not oppose the application.
12. The Committee decided to hold certain parts of the hearing in private for the reasons given by Mr Hadley.

Registrant's response to Particulars of Allegation

13. The Registrant admitted the amended particulars in full.
14. In the light of the above, and by the application of Rule 31(6) of the Rules, the admitted factual particulars were found proved.
15. The Committee went on to consider whether the Registrant's fitness to practise is currently impaired which is a matter for the Committee's judgement.

Background and Context

16. On 9 August 2019 a member of the Superintendents Team at the Rowlands Pharmacy Group ("Rowlands") received notification of concerns about the Registrant who worked as a locum pharmacist for Rowlands at their pharmacy in Feltham ("the Pharmacy"). It was stated that the Registrant ordered a lot of stock into the Pharmacy, that the Registrant owned his own pharmacy and that the Registrant would take stock from the Pharmacy, saying he would bring it back. The caller was

concerned the Registrant was taking stock for use in his own pharmacy. The caller did not know whether the stock was returned but raised concerns that the process had not been documented appropriately.

17. MSK, Quality and Clinical Governance Manager within the Superintendent's Team at Rowlands initiated an investigation. MSK was concerned that Rowlands did not have a wholesaler licence permitting the supply or sale of stock for distribution to other pharmacies. There was a Standard Operating Procedure ("SOP") in place for situations where there was an emergency and it was necessary to supply to a patient through another pharmacy. An audit trail would be available in such circumstances. It was alleged that no such trail existed in relation to the Registrant's alleged activities in ordering and transferring stock out of the Pharmacy.
18. It also appeared there had been no payment for the medication taken from Rowlands Pharmacy.
19. In the course of the investigation, the Registrant said he had replaced some of the stock he had taken from the Pharmacy but MSK was concerned this gave rise to further risks, primarily in respect of patient safety: Rowlands could not be sure of the source of the medication brought into the Pharmacy by the Registrant and whether it had been appropriately checked and vetted prior to entering Rowlands' supply chain.
20. A further concern arose in September 2019 when the Pharmacy Manager, HS, notified the finance team of a cash shortage in the till. HS gave the reason for the shortage: the Registrant had been conducting private consultations and charging patients for these consultations on Saturdays; on some occasions the patients would pay for the consultations by card and the Registrant would remove the cash from the till. HS stated that, as the Registrant was an independent prescriber, when the Registrant was unable to provide over the counter medications to patients, he would conduct a private clinic and treat patients as his own private patients. HS reported that the Registrant would charge each patient £20 for the consultation and would keep the money for himself. The Registrant then self-dispensed the medications.
21. According to Rowlands the Registrant's alleged prescribing and dispensing activities were not authorised; it was not considered appropriate for the Registrant to provide

an independent prescribing service to customers. Nor had the Registrant's private charges been authorised by Rowlands. Appropriate SOPs and insurance were not in place for such a service to customers. Furthermore, Rowlands was concerned that some of the medication prescribed by the Registrant was available over the counter without prescription (eg Hydrocortisone).

22. The Pharmacy was visited in the course of Rowlands' investigation. The regional leader for Rowlands, TM, a registered pharmacist, had conversations with HS and the Registrant. The Registrant is said to have admitted that he would order drugs for his own pharmacy through Rowlands PMR system and the Registrant disclosed a handwritten record of various specific drugs ordered and/or taken by the Registrant. TM noted that the list was placed on the wall in front of HS's checking area at the Pharmacy. The list was headed words to the effect: "Dilip owes".
23. The Registrant told TM that he ordered drugs when he was on locum shift as Responsible Pharmacist ("RP") and collected them from the Pharmacy on one of his days off when HS was on shift as the RP. He claimed that HS would provide him with the drugs he had previously ordered. The Registrant reported that he had not paid for any of the medication he had taken or ordered from the Pharmacy.
24. During the course of this visit the Registrant admitted to TM that he had issued private prescriptions and charged patients for the consultation; he was not aware the Pharmacy did not permit him to prescribe private prescriptions independently; he said that HS had been aware of his doing so. TM was provided by the Registrant with two prescriptions which he had issued privately; TM also located two further such prescriptions. On the date of this visit, none of these prescriptions had been noted in the private prescription book on the Pharmacy premises.
25. On 14 September 2019 TM spoke to the Registrant about patients being charged for emergency medication supplies. The Registrant admitted charging patients for private prescriptions. The practice at Rowlands was that the patient was only charged for the cost of the medication required, and not for the supply. However, the Registrant admitted charging patients £10 for emergency supplies on top of the Rowlands pharmacy charge. The Registrant admitted he took the £10 personally and

justified this as a fee for writing the patients a private prescription (as opposed to making an emergency supply).

Misconduct and Impairment

26. Having found all the amended particulars of allegation proved, the Committee went on to consider whether the particulars found proved amounted to misconduct and, if so, whether the Registrant's fitness to practise is currently impaired.

27. The Committee took account of the guidance given to the meaning of 'fitness to practise' in the Council's publication "*Good decision-making*" (Revised March 2017). Paragraph 2.11 reads:

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

28. The Committee took into account the submissions for the Council and for the Registrant. It also heard evidence from the Registrant.

29. The Registrant adopted his witness statement and his reflective account, both prepared for these proceedings. In summary, his evidence is that he acted with the full knowledge of the staff and Pharmacy Manager. Since the allegations were made he has not worked at the Pharmacy and has not prescribed any medication to anyone. He has undergone mentorship and appraisal under the guidance of other prescribing professionals. He has reflected on his actions and particularly why he prescribed as alleged. He had just received his qualification in June 2019 and was eager to use it. He also saw pharmacists doing it regularly in other community

pharmacies. The fee he charged was “purely selfish and opportunistic”; he felt that because he had written out the prescription he was due a fee but now accepts this was dishonest. The Registrant described the actions taken to remediate his conduct; he has engaged in mentoring programmes, he has been supervised, he has undertaken case studies and undertaken CPD including a probity and ethics course. He described his family circumstances and the detrimental impact of not practising for a period. He is the sole earner in the household. The Registrant said he fully recognised the detrimental impact of his actions on public confidence and the reputation of the profession. He admitted breached various professional standards. He asserted he would not repeat his acts and omissions.

30. Mr Corrie submitted, in brief, that the Registrant had breached the following Standards for Pharmacy Professionals: 5, 6 and 9. It was submitted that the Registrant’s conduct fell considerably sort of the conduct required of a registered pharmacist. Furthermore, he did not have indemnity cover and so patient safety was put at risk. He had acted dishonestly for personal financial benefit. There were patient safety issues arising from his ordering and borrowing medication “off books” and outside proper processes. The Registrant’s fitness to practise was currently impaired due to his dishonesty, his lack of insight or remediation, the risk of repetition and wider public interest factors.
31. For the Registrant, Mr Hadley submitted, in summary, that the Registrant accepted by virtue of his admissions to the allegations that his conduct was likely to amount to misconduct. He submitted, however, that the allegations which did not involve dishonesty and the lack of indemnity might not be seen as serious. That said, he conceded that the totality of the facts found proved were likely to do so. On the issue of current impairment, it was accepted that this case involved not only performance issues but also behavioural issues. It was submitted that the individual factors of this case showed that the Registrant’s fitness to practise was no longer impaired and that the public and/or profession, fully informed of all the details of the case, would not need a finding of impairment. The Committee had the option of advising or warning the Registrant about his future conduct if it found the Registrant’s fitness to practise were not impaired.

Decision on misconduct

32. When considering whether the particulars found proved amounted to misconduct the Committee took into account the *Good Decision making guidance*.
33. The Committee considered whether the Registrant had breached any of the Council's Standards for Pharmacy Professionals (May 2017). The Committee determined that there had been breaches of the Standards as follows:

- a. Standard 1 – Pharmacy professionals must provide person-centred care

In taking stock from the Pharmacy and failing to keep an adequate audit trail, the Registrant failed to act in the best interests of the patients who were subsequently supplied those medications. His actions in issuing private prescriptions without appropriate indemnity cover in place was not in the interests of patients. His charging patients for private prescriptions when medications could have been supplied under the emergency supply process or by way of over the counter sale; this resulted in patients paying unnecessarily. He did not give patients all relevant information so they could make informed decisions and choices about the supply of medication. The Registrant did not take responsibility for ensuring that person-centred care was not compromised because of his eagerness to issue prescriptions as a recently-qualified Pharmacist Independent Prescriber ("PIP").

- b. Standard 2 – Pharmacy professionals must work in partnership with others;

The Registrant did not work with the patients under his care. He did not demonstrate effective team working regarding the requisition of medications for his own Pharmacy. He did not comply with the SOP in that regard. The Registrant did not engage in effective team working with the Pharmacy Manager. He was the RP on duty when the Pharmacy Manager was not present and should have acted professionally in partnership with other staff at the Pharmacy.

- c. Standard 3 – Pharmacy professionals must communicate effectively;

The Registrant did not communicate properly with colleagues and patients. As a result patients did not receive appropriate care: they paid for care when they need not have done so.

- d. Standard 4 – Pharmacy professionals must maintain, develop and use their professional knowledge and skills

The Registrant did not use his professional knowledge about emergency supplies. He did not recognise and work in compliance with SOPs in force at the time albeit he knew of their existence, relevance and applicability. He did not use his knowledge about emergency supplies.

- e. Standard 5 – Pharmacy professionals must use their professional judgement.

The Registrant did not make the care of patients his first concern and act in their best interests. He exercised poor judgment. He prioritised his own interests (obtaining stock for his own pharmacy while failing to keep an adequate audit trail, issuing private prescriptions and charging for them) over those of his patients. He failed to manage his personal goal of issuing private prescriptions. His judgement was clouded by his eagerness to issue them. He did not ensure he had professional indemnity cover in place.

- f. Standard 6 – Pharmacy professionals must behave in a professional manner;

This is the most serious breach. The Registrant did not act with honesty and integrity; he failed to treat his patients with respect. He put his own interests above those of his patients, colleagues and employer.

- g. Standard 9 – Pharmacy professionals must demonstrate leadership

The Registrant qualified as a pharmacist in 1999 yet a student pharmacist recognised his activities were wrong and sufficiently so as to warrant report to

their employer. This is a mark of the seriousness of his actions. He failed to set a good example to those he was supervising. It was evident to others that he was abusing his position as RP. He failed to lead by example, in particular to those who are working towards registration as a pharmacy professional.

34. The Committee bore in mind that the Standards may be taken into account when considering the issues of grounds and impairment but that a breach of the Standards does not automatically result in a finding of misconduct (Rule 24(11) of the Rules).
35. To the Registrant's credit he has conceded that the findings of fact may amount to misconduct (albeit it is a matter of judgment for the Committee).
36. The Registrant was an experienced pharmacist qualified for nearly 20 years at the time of the alleged misconduct. He had considerable experience working as a locum. He was aware of the existence, in general terms, of SOPs and their purpose. His actions in relation to the ordering and removal of stock from the Pharmacy for use in his own pharmacy was casual, at best. It demonstrated poor working practices. The Committee accepts the Pharmacy was busy but adherence to SOPs should be ingrained into a pharmacist's practice rather than ignored completely. The Registrant's actions led to financial loss for Rowlands in that the Registrant did not pay for stock taken for his pharmacy's use. There are various breaches of standards arising from his failure to adhere to SOPs regarding the requisitioning of stock. That failure gave rise to a potential risk of harm to patients, as the Registrant now admits. That said, there is no evidence of actual patient harm.
37. Insofar as the Registrant's prescribing is concerned, again the Registrant failed to adhere to relevant SOPs. There were inherent risks in failing to do so. Furthermore, he was engaged in prescribing without indemnity insurance cover. This was a serious matter for a professional person whose role is to provide care to the vulnerable in society. As the Registrant himself admitted, he may not have had sufficient financial resources to pay any compensation to which the patient/s might be entitled.
38. The Registrant's dishonest conduct occurred on multiple occasions albeit over a relatively short period. He prioritised his own interests, including his financial

interests, over those of his patients. His dishonesty occurred in the course of his pharmacy practice, a particularly serious feature.

39. Accordingly, the Committee concluded that, in its judgment, the ground of misconduct is established when taking into account the Registrant's conduct overall.
40. The Committee therefore went on to consider whether the Registrant's fitness to practise is currently impaired.

Decision on Impairment

41. Having found that the particulars of allegation amounted to misconduct, the Committee went on to consider whether the Registrant's fitness to practise is currently impaired. In doing so the Committee considered whether the particulars found proved show that actions / omissions of the Registrant:
 - *present an actual or potential risk to patients or to the public*
 - *has brought, or might bring, the profession of pharmacy into disrepute*
 - *has breached one of the fundamental principles of the profession of pharmacy*
 - *means that the integrity of the Registrant can no longer be relied upon*
42. Insofar as the Registrant's poor performance, namely the taking and returning of stock is concerned, the Committee finds that this is remediable. Furthermore, the Committee accepts he has sufficient insight into the impact of his casual attitude to this aspect of his practice that he is likely not to repeat it. He now acknowledges and recognises the purpose and importance of adhering to SOPs to ensure the safe movement of medications between pharmacies. The Registrant's actions in this regard arose from his cutting corners and engaging, with the Pharmacy Manager, in a casual attitude to paperwork. It would not be difficult for him to remediate his practice to address his failings in this area and the Committee accepts he would do so on return to practice.

43. For similar reasons, the Committee accepts the Registrant will not issue, in future, private prescriptions without indemnity cover and without the authority of his employer. The Committee is satisfied the Registrant has learned a lesson from these proceedings such that he would check and adhere to SOPs in the future.
44. The Committee has had more difficulty with the issue of the Registrant's attitude of mind. This has a bearing on his honesty and integrity.
45. It is mindful that attitudinal issues may be harder to remediate.
46. The Committee has considered carefully the context of the Registrant's dishonesty. It occurred on pharmacy premises, in the course of his practice. He acted for financial gain but the sums involved were relatively small. He did not conduct the dishonest actions clandestinely but in an open and transparent way: staff were aware he was issuing prescriptions and charging patients for them. They knew he was not adhering to the emergency medications process. That said, he defrauded patients who are potentially vulnerable members of society. The Registrant had been qualified for nearly 20 years and was very experienced. He abused the trust of his employer. Taking the evidence of his dishonesty as a whole, the Committee finds it is not at the most serious end of the spectrum, particularly as his actions were conducted in plain sight of his colleagues, including the Pharmacy Manager. Rather it is at the lower end of the spectrum. As the Registrant himself has said, his actions were largely opportunistic.
47. The Registrant has undertaken a considerable number of activities to demonstrate he has developed insight and remediated his misconduct. The Committee gives him credit for those activities. However, of significant concern to the Committee is the inability of the Registrant to explain the trigger for his dishonest conduct. This is an important consideration in identifying whether he has put in place protective measures to ensure he is not tempted in the future to act dishonestly. In his statement the Registrant says he has learned a number of lessons including not to allow his personal emotions to cloud his judgment, to follow ethical standards, not to think about short term gains and to avoid thought of financial recompense when engaged in patient care. However, when asked in cross-examination why he had

acted as he had, he had been unable to reply, stating only that he did not know. Given that the Registrant claims to have engaged in self-reflection the Committee would expect him to be able to explain why he had acted dishonestly in the course of pharmacy practice. He has told the Committee only that he was keen to issue prescriptions having recently qualified as a PIP but this does not explain his decisions to charge patients and to issue prescriptions in circumstances where it was wholly inappropriate to do so.

48. The Registrant's behaviour in acting dishonestly in plain sight at the Pharmacy suggests to the Committee that he did not, at material times, appreciate that he was acting incorrectly. Generally, a person who was engaged in dishonest activity would not do so in the presence of colleagues such that they would be aware of his activities. The circumstances of the dishonest actions suggest to the Committee that the Registrant did not appreciate that his actions were dishonest until he was told as much. While he now fully acknowledges his dishonesty, this does call into question his judgment at the time. The quality of his judgment in 2019 in combination with his inability now to explain the trigger for his dishonest behaviour causes the Committee to conclude that he has not sufficiently reflected on his behaviour such as to demonstrate that he is able to avoid a recurrence.
49. In addition, the Committee notes that the Registrant has avoided acting as a PIP since the allegations came to light. He is not therefore in a position to demonstrate to the Committee that he is able to undertake prescribing activities without risk of recurrence. He could, for example, have kept a proper record of such consultations, prescriptions and attendant indemnity cover. Instead, he has engaged in various activities (excluding prescribing) where he has been supervised by others. It is understandable that he might be reticent about returning to prescribing while these proceedings are ongoing. His learning is creditable but the case studies and learning are not evidence he is able to exercise appropriate independent judgment without supervision. In any event, the Committee reiterates that without evidence of the Registrant having reflected on and identified the trigger/s for his poor judgment the Committee is unable to conclude that he has demonstrated full remediation or full

insight such that the dishonest conduct is highly unlikely to occur again (**Cohen v GMC [2008] EWHC 581 (Admin)**).

50. The Committee emphasises that the Registrant has put considerable effort into engaging in learning and CPD to demonstrate remediation and insight. He has obtained many testimonials from informed colleagues and other professionals. There is no evidence of adverse events either before or after the misconduct. However, in the absence of meaningful in-depth self-reflection on the cause/s of and trigger/s for his dishonesty these are not sufficient to assuage the Committee's concern about the Registrant's poor value judgments in the past and the risk of repetition in the future.
51. The Registrant must be given credit for having made full admissions; he has acknowledged what happened and the impact of what happened. However, he has not demonstrated that he understands why it happened. This is an essential factor which is required to enable the Registrant to ensure it is not repeated. Without that understanding he cannot put in place measures to ensure the dishonest misconduct is not repeated. The Registrant is well on the road towards full remediation and insight but he has not yet reached the conclusion of his journey, despite the passage of time since the misconduct.
52. The Committee acknowledges there is no evidence of actual harm to patients (save to their financial well-being). Were the dishonest conduct to be repeated, this would present a risk of harm to patients and employers but that harm is unlikely to be physical or serious. It would more likely damage the reputation of the profession and public confidence in it (which in turn could have a harmful effect on the well-being of patients, as the Registrant's accepts). Nonetheless given the existence of that risk the Committee finds the Registrant's fitness to practise impaired on patient protection grounds in that his lack of full insight and remediation gives rise to a potential risk to patients or to the public.
53. The Registrant has brought the profession of pharmacy into disrepute and, given the Committee's conclusions, there is a risk he would do so again. He has breached, by his own admission various fundamental principles of the profession. For the reasons set out above, the Committee has found the evidence of remediation and insight is

not sufficient for a finding that the integrity of the Registrant can be relied upon currently.

54. The wider public interest, namely maintaining public confidence and upholding professional standards, requires a finding of impairment because, irrespective of any future risk of harm, it is necessary to mark the seriousness of what has occurred and thereby maintain public confidence and promote professional standards by making clear to other professionals what is expected and deterring other professionals from failing to meet standards.
55. The Committee therefore finds the Registrant's current fitness to practise is currently impaired on public protection and public interest grounds. It finds that Rule 5(2)(a)-(d) are engaged here.

Decision on Sanction

56. Having found impairment, the Committee has gone on to consider the matter of sanction. The Committee's powers are set out in Article 54(2) of the Order. The Committee should consider the available sanctions in ascending order from least restrictive, take no action, to most restrictive, removal from the register, in order to identify the appropriate and proportionate sanction that meets the circumstances of the case.
57. The purpose of sanction is not to be punitive, though a sanction may in fact have a punitive effect. The purpose of the sanction is to meet the overarching objectives of regulation, namely the protection of the public, the maintenance of public confidence and to promote professional standards. The Committee is therefore entitled to give greater weight to the public interest over the Registrant's interests.
58. The Committee had regard to the Council's '*Good decision making: Fitness to practise hearings and sanctions guidance*' to inform its decision.
59. The Committee took into account the submissions of Mr Corrie and Mr Hadley. It also had regard to the documentary evidence and the oral evidence of the Registrant at the impairment stage. Mr Corrie invited the Committee to direct the Registrant's

registration be suspended for between 9 and 12 months and that a review hearing be conducted before the end of that period. Mr Hadley's principal submission was that, taking into account all the feature of this case, a warning was appropriate. Both parties were of the view that the imposition of conditions of practice was not appropriate given the finding of dishonesty.

60. The Committee has had regard to its findings at the impairment stage. It has also had regard to the evidence of the parties including the oral evidence of the Registrant at the second stage.
61. The Committee first considered what, if any, aggravating and mitigating factors there may be.
62. The Committee identified some aggravating factors, including:
 - a. The misconduct occurred in the course of the Registrant's pharmacy practice. It constituted an abuse of trust between pharmacist and employer.
 - b. There was a degree of repetition insofar as the requisitions and issue of private prescriptions were concerned albeit over a relatively short period.
 - c. The Registrant put his own interests before those of his patients and colleagues.
 - d. There were multiple breaches of professional standards.
 - e. The Registrant acted for personal financial gain, albeit involving small sums.
 - f. The Registrant did not stop the misconduct voluntarily. It might have continued unchecked had his actions not been reported by a junior colleague.
63. The Committee identified some mitigating features including:
 - a. The Registrant made early admissions to his employer, the Council and this Committee. He has been open and honest with the Committee.
 - b. He has apologised to all concerned. He has shown remorse and contrition.

- c. He has demonstrated good, but insufficient, insight in relation to his dishonesty and full insight in relation to the professional practice issues.
 - d. The misconduct occurred over a relatively short period and on a limited number of occasions.
 - e. The Registrant has no adverse regulatory history over a long career of about 24 years. He is a man of otherwise good character. There are no subsequent fitness to practise concerns in the four years since the misconduct.
 - f. There is no evidence of actual harm to patients (other than to their financial well-being).
 - g. There are various positive informed testimonials and references.
 - h. The personal financial gain involved small sums.
64. At each stage of its consideration the Committee has had regard to the aggravating and mitigating features.
65. The Committee has taken into account the various detailed and comprehensive testimonials and references which attest to the Registrant's honesty, reliability and trustworthiness. The authors are aware of the Registrant intention to admit the allegations, including dishonesty. These references and testimonials warrant significant evidential weight. They are positive and complimentary about the Registrant as a pharmacist and as a person. They attest to his honesty and trustworthiness.
66. The Committee also considered the following factors to be relevant. The professional practice concerns are unlikely to be repeated. The Registrant's dishonest conduct was at the lower end of the spectrum of dishonesty and, somewhat unusually, occurred in plain sight of colleagues; it was not clandestine. It was opportunistic rather than calculated although it occurred in the course of a series of events: consultation with patients, issue of prescriptions and charging for those prescriptions. The Committee

acknowledges the Registrant has reflected on his misconduct but the Committee remains concerned about the extent of the Registrant's insight, as set out above.

67. This is not a case where no action can be taken: members of the public, with knowledge of the misconduct, particularly the dishonesty in the provision of pharmacy care, would be appalled were no action to be taken in the context of the Registrant's incomplete insight and remediation. The Registrant's misconduct warrants action by this Committee to mark its disapproval of his actions. For similar reasons, a warning is not sufficient to address the risk of repetition or to mark the damage done to the reputation of the profession by the Registrant's behaviour. The Committee does not accept Mr Hadley's submissions in that regard.
68. The Committee next considered the imposition of conditions of practice. A conditions of practice order would allow the Registrant to practise albeit with restrictions. The Committee must determine whether a conditions of practice order would be appropriate given the concerns identified regarding the Registrant's practice, in particular whether conditions would protect the public from harm, be sufficient to mark the seriousness of the matter so as to maintain public confidence in the Registrant, the profession and the regulator, and sufficient to promote professional standards within the profession.
69. Both Mr Corrie and Mr Hadley submitted that conditions of practice were not appropriate here.
70. The Committee finds that conditions would be sufficient to address the risks arising from the Registrant's poor pharmacy practice. For the reasons set out at the impairment stage the Registrant has sufficient insight now to recognise that adherence to SOPs and other guidance is essential to safe pharmacy practice. The Committee is in no doubt he would check and adhere to SOPs as a matter of routine in the future.
71. However, it is generally considered that the imposition of conditions is not

appropriate where the risks arise from a Registrant's attitude of mind. This is such a case. As has been set out earlier, he exercised poor judgment in 2019 yet did not appear to appreciate what he was doing. To his credit he now does. The Committee's outstanding concern is that he has not sufficiently demonstrated that he understands why he acted dishonestly. He has identified his actions as opportunistic but the trigger for that opportunism is not clear either to the Registrant or this Committee. The Registrant has engaged in self-reflection but has not fully addressed the reasons for his dishonesty. Until he does so his insight and remediation of his dishonest conduct is not yet complete.

72. If conditions are to be imposed, the conditions must be relevant and proportionate to the concerns identified regarding the Registrant's practice. Conditions must be workable and susceptible to being monitored. The Committee must also be satisfied that the Registrant will comply with any conditions imposed.

73. The Committee is confident the Registrant would comply with conditions; he has been diligent in gathering evidence to demonstrate insight and remediation. He has made early admissions and has complied with these proceedings. It would be possible to impose conditions relating to the Registrant's previous poor pharmacy practice, namely his adherence to SOPs. These would be measurable and capable of being monitored. However, measurable conditions are not capable of being imposed to address the risks arising from the Registrant's attitude of mind and history of dishonesty. The Committee agrees with the parties that conditions would not be appropriate in this case. In any event, conditions would not be sufficient to address the wider public interest: upholding public confidence in the profession and the maintenance of professional standards. An informed member of the public would expect a more onerous sanction even in circumstances where the dishonesty was at the lower end of the spectrum. This is because it occurred in pharmacy practice and had a detrimental impact on patients.

74. The Committee next considered whether suspension would be a proportionate sanction. The Committee noted the Council's guidance which indicates that

suspension may be appropriate where:

“The Committee considers that a warning or conditions are insufficient to deal with any risk to patient safety or to protect the public, or would undermine public confidence. It may be required when necessary to highlight to the profession and to the public that the conduct of the Registrant is unacceptable and unbecoming a member of the pharmacy profession. Also, when public confidence in the profession demands no lesser sanction.”

75. The Committee has borne in mind the impact of suspension on the Registrant himself and his family. The Registrant told the Committee that if he were unable to practise it would have a “disastrous” impact on his pharmacy business. Under cross-examination he was unable to give detailed evidence as to the nature of the impact if he were unable to practise for a finite period. The Committee acknowledges the Registrant is the owner and Superintendent Pharmacist of his own pharmacy. He is the sole earner in the household. The family’s home is mortgaged. However, the Registrant could still work, while suspended from the register, in his own or other pharmacies in a non-registered role. He would thus continue to have an income, albeit probably a reduced one. He could employ a locum pharmacist in his business. He could continue to run the business, albeit not as a registered pharmacist; he could manage it.
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. The Committee has decided the appropriate and proportionate sanction is one of suspension for four months. It considers this a significant period of suspension which is 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 give the Registrant time to reflect further on his dishonesty and its context, together with this Committee's determination. He can then decide on how he intends to remediate his dishonesty fully and to avoid any further breach of the standards required of him.
79. 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 considerable progress made by the Registrant and that he has made efforts to remediate his misconduct, he needs to reflect more deeply on the context and root cause of his dishonesty. Until he does so and finds clarity about the reasons for it, he will not be in a position to fully remediate his misconduct or demonstrate that it is highly unlikely to be repeated. In any event, irrespective of the Registrant's limited reflection, the Committee would give greater weight to the need to protect the wider public interest, as set out above.
80. The Committee concludes therefore that the appropriate and proportionate sanction in this case, given the adverse impact on public confidence in the profession, is four 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 given the extent of the Registrant's developing insight and his remediation to date.
81. The Committee agrees with the parties that removal is not the appropriate or proportionate sanction in this case: the Registrant's dishonesty, being at the lower end of the spectrum, is not fundamentally incompatible with his registration as a pharmacist.

82. The Committee therefore directs that the Registrar suspend the Registrant's registration for a period of 4 months with a review hearing to be held prior to the conclusion of that period.

Review Hearing

83. 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. Further self-reflection to include his understanding of why he acted dishonestly and any steps he has taken and will take in the future to ensure it is not repeated.
 - b. A statement of his learning and reflections on the probity and ethics training he received in September 2023, with particular application to his own dishonest conduct.

Interim Measures

84. Mr Corrie has not made an application for interim measures under Article 60 of the Pharmacy Order 2010 but the Committee has considered this of its own motion.
85. The decision to suspend the Registrant's registration will not take effect until 28 days after he 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 of suspension of the Registrant's registration, in similar terms to that imposed in the substantive direction, is not necessary in the interests of public protection or otherwise in the public interest. It is not required to maintain public confidence in the pharmacy profession given the findings of the Committee, at the impairment stage, on the issue of risk.

87. The Committee does not therefore impose an interim measure.

88. That concludes this hearing.