

General Pharmaceutical Council

Fitness to Practise Committee

Principal Hearing

Remote videolink hearing

Monday 16- Wednesday 18 October 2023

Registrant name:	Pawan Kumar Taneja
Registration number:	2048709
Part of the register:	Pharmacist
Type of Case:	Misconduct
Committee Members:	Manuela Grayson (Chair) Surinder Bassan (Registrant member) Stephen Greep (Lay member)
Committee Secretary:	Adam Hern
Registrant:	Present and represented by Mr Kevin McCartney
General Pharmaceutical Council:	Represented by Bianca Vaghela, Case Presenter
Facts proved:	3 (proved in part)
Facts proved by admission:	1, 2, 4, 5, 6, 7
Fitness to practise:	Impaired
Outcome:	Suspension of three months, no review
Interim measures:	None

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 15 November 2023 or, if an appeal is lodged, once that appeal has been concluded.

Particulars of Allegation

“You, a registered pharmacist and as the owner of Elders Chemist, St Annes Road, Dyfed, SA73 3LL (“the pharmacy”):

- 1. Failed to ensure you had appropriate indemnity insurance for the pharmacy between 6 April 2010 and 29 November 2020.*
- 2. During the renewal of your GPHC registration you selected that you had appropriate professional indemnity insurance for yourself on the following dates:*
 - 2.1. 24 November 2009;*
 - 2.2. 24 November 2010;*
 - 2.3. 5 September 2011;*
 - 2.4. 6 September 2012;*
 - 2.5. 22 August 2013;*
 - 2.6. 29 August 2014;*
 - 2.7. 8 September 2015;*
 - 2.8. 22 August 2016;*
 - 2.9. 23 August 2017;*
 - 2.10. 7 September 2018;*
 - 2.11. 20 September 2019;*
 - 2.12. 4 October 2020.*
- 3. In relation to Particulars 2.1, 2.2, 2.3, 2.4, 2.5, 2.6, 2.7, 2.8, 2.9, 2.10, 2.11 and/or 2.12 above were dishonest in that you:*
 - 3.1. knew that you were required to have professional indemnity insurance for yourself;*
 - 3.2. knew that you did not have professional indemnity insurance in place for yourself.*
- 4. On or around 2 December 2020 stated to a GPHC Inspector that your indemnity insurance for the pharmacy had lapsed in September.*
- 5. Constituted a lack of integrity in relation to Particular 4 above in that you:*
 - 5.1. did not state which year your cover had lapsed in; and/or*
 - 5.2. provided your answer to the GPhC Inspector without having first verified the date on which your cover lapsed for the pharmacy.*
- 6. In an email dated 31 January 2021 stated to the GPhC that your indemnity insurance for the pharmacy had been overlooked “since the start of the pandemic in March/April” or words to that effect.*
- 7. Were dishonest in relation to Particular 6 above in that you:*
 - 7.1. knew that your indemnity insurance for the pharmacy had lapsed prior to March 2020;*

7.2. sought to conceal the full length of time that the pharmacy operated without indemnity insurance.

OR IN THE ALTERNATIVE

8. Constituted a lack of integrity in relation to Particular 6 above in that you provided a response to your regulator without verifying whether the information you provided was correct.

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

Documentation

Document 1- GPhC agreed hearing bundle, 140 pages. This included witness statements and accompanying exhibits from a GPhC Operations Support Officer, and a GPhC Inspector. It also included documentation provided on behalf of the Registrant, including the Registrant's witness statements of 1 June 2022 and 26 September 2023, together with reflections, and various positive testimonials;

Document 2- GPhC skeleton argument, 15 pages, dated 5 October 2023;

Document 3 – The Particulars of Allegation, 2 pages, as set out for the purposes of a previous listing of the Principal Hearing, which was postponed.

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 seen a letter dated 5 September 2023 from the Council headed 'Notice of Hearing' addressed to the Registrant. The Committee was satisfied that there had been good service of the Notice in accordance with Rules 3 and 16.

Application for the hearing to be held in Private

7. The Committee heard an application from Mr McCartney under Rule 39(3) to hold parts of the hearing in private if the Registrant's health was to be referred to.
8. Ms Vaghela did not object to the application.
9. The Committee decided to hold any parts of the hearing which concerned matters of the Registrant's health in private.

Registrant's response to Particulars of Allegation

10. The Registrant admitted particulars 1, 2, 4, 5, 6 and 7 of the Allegation. He denied particular 3 in its entirety.

Announcement that admitted facts have been found proved

11. In the light of the above, and by the application of Rule 31(6) of the Rules, the Chair announced that the admitted factual particulars were found proved.
12. Given that particular 7 and particular 8 were presented as alternatives, and that the Registrant admitted the dishonesty set out at particular 7, it followed that particular 8, in relation to the Registrant's integrity, fell away.
13. The Committee went on to hear oral evidence from the Registrant and submissions regarding particular 3.

Background

14. The Registrant is a registered Pharmacist and was the owner and superintendent pharmacist of the pharmacy in Dyfed ("the Pharmacy"). During an inspection of the Pharmacy by one of the Council's inspectors ("the Inspector") on 30 November 2020, it was brought to her attention that there was no policy of indemnity insurance in place for the Pharmacy – the previous policy had expired and not been renewed. Mr Taneja

had placed an enquiry about insurance with the National Pharmacy Association (NPA) in October 2020. Mr Taneja subsequently obtained insurance that same day and updated the Inspector.

15. The Inspector subsequently tried to check with Mr Taneja that he would obtain backdated insurance to cover the period since the last policy of insurance expired. It transpired that this could not be obtained (the provider was unable to backdate insurance for more than a few days) and so the Inspector raised a concern with the Council that there was a period of time when the Pharmacy was without cover. At this point, it was thought that the period without cover was only during 2020.

Background in relation to particular 3, as set out by the Council and accepted by the Registrant

16. Screenshots of the Registrant's declarations from 2018 to 2020 show that in answer to the question on his declarations as to whether he had professional indemnity, he confirmed he had in place a 'personal arrangement'.
17. In relation to the declaration made in 2017, the GPhC Operations Support Officer exhibited a sample of the renewal declarations that would have been available to all registered professionals during the renewals period for that year which states "*I have in place appropriate indemnity arrangements*". The Registrant's declaration documentation confirmed this position.
18. The GPhC Operations Support Officer's second statement contains copies of the various retention forms that were available to registered professionals during the renewals period between 2009 and 2016. Each of the retention forms included a statement to the effect of "*I have in place appropriate indemnity arrangements*". The GPhC Operations Support Officer exhibited screenshots of Mr Taneja's declarations for the years 2010 to 2016. By confirming the declaration and ticking the relevant box, Mr Taneja confirmed he had appropriate indemnity arrangements in place.

The Registrant's Evidence in relation to Particular 3

19. The Registrant provide two witness statements, dated 1 June 2022 and 26 September 2023. The Committee was informed by Mr McCartney that the witness statement of 1 June 2022 was prepared for the hearing listed later that month which was in the event postponed. The witness statement was prepared in response to an earlier draft of the Particulars of Allegation, in which the dates of concern were 2017 – 2020. Relevant parts of the witness statement of 1 June 2022, in which the Registrant provided his chronology of relevant events, and his version of the background to them, are set out below:

“When I took over the Pharmacy in 2009, I was advised by the previous owner to carry on using the broker in Milford Haven, which was Haven Insurance. I therefore did not give any specific thought to the insurance that was held by the Pharmacy, simply carrying on the insurance that the previous owner had which I believed was correct. The brokers then sent me the renewals and insurance certificates each year.

12. I cannot now recall if I was contacted or not about the insurance renewal in 2017, but it does not appear that the insurance that the Pharmacy held up until that point renewed in 2017 or thereafter.

13. Whilst I am not seeking to make excuses for my failure to obtain insurance, I would like the Committee to know that [PRIVATE]

14. My medical condition did not prevent me from working. However it did make it more difficult to manage the administrative side of the business which I accept was an area of the business that I often neglected. For example, I often allowed mail and email communications to build up without dealing with the contents promptly as I should have done.

15. In around August 2020 I undertook vaccination training because I wanted to provide a flu vaccination service from the pharmacy that winter. The training took place during my annual two weeks leave.

16. *In order to provide the service, I understood that I needed to have in place adequate professional indemnity insurance which specifically covered the vaccination service. I therefore made a mental note during the training that I needed to print off and check my insurance certificate when I returned to the pharmacy from holiday to make sure that it covered the vaccination service. It did not occur to me at that time that the pharmacy did not hold any professional indemnity insurance at all.*

17. *I did not immediately get round to checking whether the professional indemnity insurance that I believed was in place for the pharmacy covered the vaccination service when I returned from holiday at the end of August. After two weeks of being away from the pharmacy on holiday I was bombarded on my return with queries from staff as well as having to catch up on paperwork, etc. and so got caught up on other matters.*

18. *It was not until October 2020 when my thoughts turned again to starting the vaccination service that I remembered that I needed to check that the pharmacy's insurance covered the service. I remember starting to carry out the check by going through my email inbox and, in particular, to carry out a search for "Towergate", who were the brokers who had taken over the business from Haven in around 2015. I did this so that I could find the renewal notice and renewal certificate which I assumed would have been sent to me by email and would therefore be in my inbox. In fact, the only emails that I found in my inbox from the brokers were from before 2017. It was at that point that I realised that the previous insurance cover had lapsed.*

19. *Once I realised, I contacted the National Pharmacy Association (the NPA) for a quote, which they later provided to me by email. I contacted the NPA because they had been recommended by others who were on the flu vaccination course who said that the NPA's insurance covered the vaccination service.*

20. *I cannot now recall why I did not simply accept the NPA's quote and put the insurance in place there and then. I think perhaps I had in mind that I would consider the quote over the next day or so and perhaps get some additional quotes from other providers before proceeding. I then forgot to follow this up immediately and further*

time went by without me renewing the insurance. I am truly sorry that I did not take up the NPA quote for the requisite insurance there and then as I should have done.

21. In fact, I did not participate in the flu vaccination service in 2020/2021. Whilst it was my intention to provide it, it turned out that I was too late to order the stock by October 2020.

22. As part of a routine inspection by the GPhC in November 2020, the inspector asked about professional indemnity insurance.

23. My initial answer to her was that it had expired in March of that year at the start of the pandemic. My heart was racing at this stage because I knew that I had not renewed the insurance since 2017 and I think I panicked in giving my responses. It was a busy Monday afternoon and the discussions were taking place in the pharmacy in front of the staff. I did inform the inspector that the insurance had lapsed and I did not attempt to hide that fact.

24. The reason I said March was that that was when the insurance renewal usually took place. I fully accept that I should have been more open and honest with the inspector. I regret my panicked answer to the inspector.

25. After the inspection, I received some follow up emails from the Council in relation to my insurance. On 31st January 2021, I sent an email to the GPhC which stated that the indemnity insurance had been overlooked since the start of the pandemic “in April/May”. I knew at that stage that the insurance held by the Pharmacy had not been renewed since 2017 and that my email was not true. Looking back, I think that I did not tell the truth in my email in an attempt to sweep the problem under the carpet and in the hope that it would not be escalated. I realise, of course, that not only was this inappropriate but that it was also naïve.

26. In relation to the GPhC premises registration renewal, again this is my responsibility. It is always done around September/October. I tend to do it when I get the reminder letter. I accept that I did not give the renewal form the due care and attention that I should have. I am afraid that I treated the form as a “tick box”

exercise and did not properly consider the questions that were asked on the form and did not, therefore, use that opportunity to check that the insurance was in place.

27. As stated above, when I completed the renewal form in 2018 and 2019 I was not aware that the Pharmacy's insurance had lapsed. When I completed the renewal form in 2020, I had just become aware that the insurance had lapsed (having contacted the NPA on the same day that I was completing the renewal) but had intended to take up the NPA insurance within the next day or so.

28. I therefore accept that I wrongly completed the premises renewal form for 2018, 2019 and 2020 by stating that the pharmacy had in place professional indemnity insurance when it did not.

29. During the course of preparing for the Fitness to Practise Committee hearing, I became aware that the insurance I had prior to 2017 was employer's liability insurance. I had believed that that was the correct insurance and that it was one and the same as professional indemnity insurance. I was mortified to learn that employer's liability insurance does not include professional indemnity insurance.

30. The employer's liability certificate was the certificate that I had always displayed in the pharmacy and had been seen by GPhC inspectors on a number of occasions who had never queried it".

20. In his second witness statement of 26 September 2023, the Registrant stated as follows:

"I accept that, during the relevant period, I was responsible for completing my registration renewal forms and I do not dispute that these asked for confirmation that I had appropriate indemnity insurance in place. As stated in my First Witness Statement, at the time that I made those declarations I believed that I did hold the appropriate insurance. However, I accept that I did not fully appreciate the different forms of insurance, and that I cannot, now, locate any professional indemnity insurance certificates as described in my First Witness Statement.."

21. The Registrant gave oral evidence in relation to his state of mind when completing the declarations set out at particular 2. He said that he thought that the insurance he carried over from the previous owners of the pharmacy included professional indemnity insurance both for the pharmacy and himself. He said he just assumed the appropriate fees were being taken from his account by direct debit, but he did not check. When asked why he did not check as carefully as he might have done, he stated that he has always been “pretty poor at the administrative side” of his business. [PRIVATE]. He said that he treated the declarations as a “tick box exercise”, he accepted that he should have checked the nature of the insurance but he did not. He confirmed that he did not provide any enhanced pharmacy services before 2020.

Submissions on behalf of the Council in relation to Particular 3

22. Ms Vaghela referred the Committee to the Council’s skeleton argument. She referred the Committee to the test for dishonesty set out in the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67 and submitted that the Registrant was dishonest on each of the occasions set out in particular 2, when he ticked his annual declaration, as he confirmed he had the appropriate indemnity requirements in place when he knew he did not. She submitted that it was inherently implausible that the Registrant would have mistakenly believed that he had insurance (12 years in a row) in all these circumstances when he did not.
23. In relation to the Registrant’s declaration on 4 October 2020 (sub-particular 2.12), Ms Vaghela submitted that the Registrant’s own evidence in his witness statement (1 June 2022), demonstrated that he knew on that date that he did not have appropriate insurance. She submitted that, on his own account, he made the 2020 declaration knowing that it was untrue, and this would meet the test required for a finding of dishonesty. In relation to the Registrant’s assertion that his medical condition made it more difficult to manage the administrative side of the business, Ms Vaghela submitted that this arguably may not have been relevant prior to 2017 [PRIVATE]. She submitted that the Registrant’s actions in making the declarations should be considered ‘on their face’ to be dishonest.

Submissions on behalf of the Registrant in relation to Particular 3

24. Mr McCartney confirmed that the basis of the Registrant's denial of particular 3 was that he did not know that he did not have appropriate professional indemnity insurance in place for himself on the dates set out at particular 2. The Registrant did know that he was required to have that insurance however. He assumed in relation to all dates set out in sub-particulars 2.1 to 2.11, that the insurance which he had taken on from the previous owner of the pharmacy included both employer's liability/buildings insurance and also professional indemnity insurance.

25. In relation to sub-particular 2.12, the professional indemnity insurance for 2020, Mr McCartney confirmed that the Registrant had admitted that he knew when filling in the annual declaration in October 2020 that he did not yet have insurance in place, but his intention was to take out the insurance in the next day or so. His genuine belief was that he would, by November 2020, have taken out the necessary insurance. On that basis, Mr McCartney submitted, applying the test derived from the case of Ivey, the Registrant was not dishonest when he completed the declaration in 2020.

26. Mr McCartney submitted that the Registrant's evidence was credible: he had not put forward a blanket denial but had carefully considered the Particulars of Allegation. He had admitted all the alleged facts except particular 3, including dishonesty in relation to his representations to the Council following the Inspector's visit in November 2020, and this dishonesty was due to panic. The positive testimonials and his full and transparent engagement with this process show that he is honest and was a man of good character until the dishonesty which he has admitted at particular 7.

27. Mr McCartney then explained the background to the Registrant's witness statement of 1 June 2022. He submitted that it had been prepared for the hearing originally listed to take place in June 2022, in relation to different Particulars of Allegation which only covered matters for the years 2017-2020. He submitted that the Registrant's statement at paragraph 29 of that statement (set out above) was evidence of the Registrant's honesty. He submitted that until that point, all involved including the Council had been working on the assumption that the Registrant had been

appropriately insured prior to 2017 when, it was agreed, his employer's liability/premises insurance had lapsed. It was the Registrant's admission in paragraph 29 of his 1 June 2022 statement that the employer's liability insurance he had taken out in the past did not cover the pharmacy for professional indemnity which alerted the Council to query and investigate what the insurance position was prior to 2017. It was following those further investigations that the Particulars of Allegation had been revised and therefore those before this Committee were different from those before the earlier committee which postponed the earlier hearing.

28. Mr McCartney, whilst he did not seek to make a formal application, raised an issue in relation to whether process had been properly observed because the Particulars of Allegation before this Committee were different from those at the postponed hearing of June 2022. He confirmed on the Registrant's behalf that he did not seek to suggest that continuing with the hearing today would prejudice the fairness of the proceedings, indeed he hoped it would be possible to do so. Ms Vaghela submitted that the previous particulars had fallen away when in June 2022 the hearing was postponed. This was, in effect, a new hearing.
29. The Committee accepted the submission of Ms Vaghela. It was satisfied that the Registrant had properly been served with the correct Particulars of Allegation alongside the Notice of this week's hearing, and it took into account that he had provided his formal response to those same particulars. On that basis the Committee was satisfied that it could continue to consider the matters before it.

Decision on Facts

Particular 3

"3. In relation to Particulars 2.1, 2.2, 2.3, 2.4, 2.5, 2.6, 2.7, 2.8, 2.9, 2.10, 2.11 and/or 2.12 above were dishonest in that you:

3.1 knew that you were required to have professional indemnity insurance for yourself;

3.2 knew that you did not have professional indemnity insurance in place for yourself".

30. In reaching its decision in relation to particular 3, the Committee considered the documentation listed at the start of this determination, the Registrant's oral evidence and the submissions made on behalf of the Council and the Registrant. The Committee bore in mind that the burden of proof rests on the Council and that particulars are found proved based on the balance of probabilities. This means that particular 3 will be proved if the Committee is satisfied that what is alleged is more likely than not to have happened.
31. In relation to the allegation of dishonesty, the Committee applied the test set out in the Supreme Court case of Ivey v Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 67. A fact-finding tribunal should first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts, and thereafter decide whether, by the (objective) standards of ordinary decent people, that conduct was honest or dishonest. The reasonableness or otherwise of their belief is a matter of evidence (often in practice determinative) going to whether they held the belief, but it is not an additional requirement that their belief must be reasonable; the question is whether it is genuinely held. There is no requirement that the Registrant must appreciate that what they have done is, by those standards, dishonest.
32. The Committee took into account all that the Registrant had explained in his witness statement of 1 June 2022, to the effect that he had simply adopted the previous insurance from the previous owner of the pharmacy and had thereafter treated annual renewal as a "tick box exercise". It also took into account his admission during oral evidence that he had always been "pretty poor" when it came to administrative matters. It noted that the Registrant had admitted both that he lacked integrity and was dishonest in relation to conduct alleged in the Particulars of Allegation following the visit to the pharmacy of the Council's Inspector in November 2020. It accepted Mr McCarthy's submission that the Registrant had carefully considered the factual particulars and had not simply provided a "blanket denial" of all of them.

33. The Committee also took full account of the seven positive testimonials provided by the Registrant which Mr McCarthy had referred to whilst making submissions as to the facts. The referees included professional colleagues and friends, some of whom had known him for decades including since childhood and college days, and all of whom considered him to be honest and trustworthy.
34. In relation to sub-particular 3.1, the Committee acknowledged that the Registrant admitted that he did know that he was required to have in place professional indemnity insurance for himself, however it was aware that the stem of particular 3 alleged dishonesty in that the Registrant knew he did not have the requisite insurance in place on the dates set out in particular 2.1 to 2.12.

Sub-particulars 2.1 – 2.11

35. Applying the first limb of the test in Ivey to the factual particulars alleged at 2.1 to 2.11, the Committee was satisfied that whilst the Registrant knew he should have professional indemnity insurance for himself, he genuinely believed that it was included in the annual insurance he had taken on from the previous owners of the pharmacy. It accepted, because he admitted as much in paragraph 27 of his statement, that he was “mortified” when he realised during the course of preparing for the Fitness to Practise Committee hearing, that the insurance he had been renewing every year did not include professional indemnity insurance.
36. The Committee accepted that due to his lack of care in relation to administration of his pharmacy business, he never checked the insurance (he admitted that he ought to have done) – until October 2020 when he was planning to take on work as a Covid vaccinator, an enhanced role for which, he was aware, he might need to check that he had appropriate insurance. However, what he discovered when he checked in October 2020, was that in fact he had no insurance at all from 2017.

37. The Committee considered that by the (objective) standards of ordinary decent people, the Registrant's belief that the annual insurance he had taken on from the previous pharmacy owner included professional indemnity insurance was honest. The Committee was not required to decide whether that belief (given that he never checked it), was reasonable.
38. Taking all of the above into account the Committee was satisfied that in relation to sub-particulars 2.1 to 2.11, particular 3 is not proved.

Sub-particular 2.12

39. In relation to the Registrant's declaration made on 4 October 2020, as set out in sub-particular 2.12, the Registrant has admitted that on that date when he declared that he had appropriate indemnity insurance, he knew that this was not in fact the case. This was because he had realised by then, when checking his insurance status in order to start Covid vaccinations, that his insurance had not been renewed since 2017. He said in his witness statement at paragraph 27 (above) that he intended on that date to renew his insurance "within the next day or so", and he did contact the NPA to enquire about insurance on that same day. Afterwards however, he forgot all about it until November 2020 when the Council's Inspector visited the pharmacy and discovered that no insurance was in place.
40. Applying the Ivey test, the Committee considers that the fact that the Registrant's conduct in signing the Declaration on 4 October 2020 affirming that he had appropriate registration in place, when he knew, by his own admission, that in fact he did not – and moreover that he had not had insurance in place since 2017 - would be considered by the objective standards of ordinary decent people, to be dishonest. It is not rendered honest by the assertion that he intended to obtain insurance soon afterwards. He has said he does not really know why he in fact did not go on to obtain insurance until he was asked to do so by the Inspector when she visited on 30 November 2020.

41. Taking all of the above into account the Committee is satisfied that the Registrant was dishonest in relation to his Declaration made on 4 October 2020 as set out at 2.12, in that he knew that he was required to have professional indemnity insurance for himself and he signed it knowing that he did not have professional indemnity insurance in place for himself.
42. Therefore particular 3 is found proved in relation to sub-particular 2.12.

STAGE TWO: Misconduct and Impairment

43. Having found all the factual particulars of allegation proved either by admission or on the evidence before it (namely, particular 3 which the Committee found proved in relation to sub-particular 2.12), the Committee went on to consider whether the facts it had found proved amounted to misconduct and, if so, whether the Registrant's fitness to practise is currently impaired.
44. 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."
45. The Committee also had regard to Rule 5 of the Rules. Rule 5(1) states that the Committee must have regard to the criteria specified in paragraph (2) when deciding if the requirements as to fitness to practise are met in relation to a registrant.

46. Rule 5(2) provides:

“(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 on.”

Submissions

47. Ms Vaghela, on behalf of the Council, drew the Committee’s attention to the relevant case law set out in the Council’s skeleton argument. She submitted that the Registrant’s conduct including proven dishonesty breached Standards 6 and 8 of the Standards for pharmacy professionals (May 2017). She submitted that his dishonesty was plainly so serious as to amount to misconduct. In relation to current impairment, Ms Vaghela submitted that Rules 5(2) (b) and (c) of the Rules were engaged by the Registrant’s actions. She made no specific submissions on behalf of the Council in relation to Rule 5 (2) (d). She asked the Committee to apply the test set out in the case of Cohen v General Medical Council [2008] EWHC 581 (Admin), in relation to whether the Registrant’s misconduct was easily remediable and whether it had in fact been remedied and also to take into account the principles set out in the case of Cheatle v GMC [2009] EWHC 645 (Admin) which recognise that although the test for the Committee to apply is one that looks forward, it must in doing so have regard to the acts or omissions of the Registrant in the past.

48. Mr McCartney made no submissions in relation to the question of misconduct: he accepted that the facts found proved were serious. In relation to current impairment,

Mr McCartney drew the Committee's attention to the reflections set out by the Registrant in his witness statement of 1 June 2022. He reminded the Committee that the Registrant admitted to having been mortified when he realised the position with regard to his insurance. In relation to current risk, Mr McCartney submitted that given the systems now in place there is no risk of repetition and therefore Rule 5(2)(a) is not engaged. Mr McCartney accepted that Rules 5(2) (b) and (c) were engaged, because the Registrant's conduct clearly brought the pharmacy into disrepute and, at the time of the events, the Registrant breached fundamental principles of the profession, by being dishonest. He referred the Committee to the positive testimonials including one from the local GPs practice with whom he works, and submitted that, taking all of the evidence into account, the Committee ought to find that Rule 5 (2) (d) is not engaged in that the Registrant, as at today's date, is not a person whose integrity can no longer be relied upon.

Decision on Misconduct

49. When considering whether the particulars found proved amounted to misconduct the Committee took into account the Council's *Good decision making guidance (2017)*.

50. The Committee accepted the submissions of Ms Vaghela in relation to the Council's *Standards for Pharmacy Professionals* (May 2017), in that the Registrant breached the following standards:
 - a. **Standard 6: Pharmacy professionals must behave in a professional manner: [be] trustworthy and act with honesty and integrity:** The Registrant's multiple examples of dishonest conduct in 2020 breached this standard.

 - b. **Standard 8: Pharmacy professionals must speak up when things go wrong:** This was in relation to his conduct when he realised in October 2020 that he had not had appropriate, or indeed, any, insurance in place for the pharmacy practice nor himself, from 2017. He ought to have admitted the problem to the Inspector and

properly dealt with the matter but instead he lied to her and again lied in an email to the Council's Concerns Team, in an attempt, it would seem, to hide what had gone wrong.

51. The Committee was also of the view that the Registrant breached the following standard:
 - c. **Standard 9: Pharmacy professionals must demonstrate leadership: take responsibility for their practice and demonstrate leadership to the people they work with:** The Registrant did not take responsibility for ensuring the pharmacy and himself were appropriately indemnified (although he has admitted it was his responsibility to do so) – and thus, moreover, he failed to demonstrate leadership to his colleagues and employees.

52. 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).

53. The Committee considered that the facts it found proved were very serious. Through his admitted “poor practice” and long-term neglect of the administrative side of his practice, the Registrant allowed the pharmacy to operate for over ten years without the necessary professional indemnity insurance in place, either for the pharmacy or for himself. He repeatedly made declarations to his regulator that he was compliant with his responsibilities to ensure he was properly insured, by completing the forms merely as a “tick box exercise”. He never once, in all those years, paid the respect and attention to the questions on the declaration which he ought to have done, to ensure that the declarations he made, by signing and dating them, were accurate. There is no evidence that this caused harm to patients, but as Ms Vaghela submitted, throughout that time patients who were using the pharmacy would have expected that he was properly covered by appropriate professional indemnity. They would

have been shocked to learn that, over so many years, he was not appropriately insured such that if they had come to harm which could have been covered by appropriate professional indemnity insurance, the Registrant in fact had no insurance in place to assist them. Moreover, he was dishonest when he discovered the problem, and lied both to the Council's Inspector and then by email to the Council's Concerns Team. The Committee accepts that he may have panicked when he discovered what had gone wrong, but it was his professional responsibility as a registered pharmacist to be transparent at the earliest opportunity, rather than attempting to cover up the extent of what had happened by not being candid with his regulator.

54. In the Committee's view, the Registrant's conduct fell far below what would be expected of him by fellow practitioners and would be likely to be considered reprehensible and deplorable by them. Accordingly, in the judgement of the Committee, the ground of Misconduct is established.

Decision on Impairment

55. Having found that the factual particulars found proved amounted to misconduct, the Committee went on to consider whether the Registrant's fitness to practise is currently impaired. It applied the well-known guidance of Mr Justice Silber in Cohen v General Medical Council [2008] EWHC 581 (Admin) at paragraph 65:

"It must be highly relevant in determining if a [registrant's] fitness to practise is impaired that first his or her conduct which led to the charge is easily remediable, second that it has been remedied and third that it is highly unlikely to be repeated".

The Committee was aware that these principles are echoed in the Council's Guidance at Paragraph 2.14.

56. The Committee had regard to the Registrant's reflections as set out in his witness statement of 1 June 2022. The Registrant explained that the pharmacy now holds appropriate professional indemnity and employer's liability insurance with the National Pharmacy Association ("NPA"). The Registrant receives an annual email reminder from the NPA regarding renewal, which comes up in November. He has put the insurance renewal date down in the pharmacy's calendar as a reminder. He has printed off his indemnity certificate for display. He states that he is also more proactive now with the administrative side of the business. The Registrant stated: "I can therefore guarantee this will never happen again".
57. The Committee applied the principles in Cohen, in relation to the facts found proved regarding the many years during which the Registrant was not properly insured, which the Committee accepts were inadvertent. It has seen the current certificate of insurance which the Registrant says he now displays at the pharmacy. Taking this into account and all of the precautions the Registrant says he now has in place, the Committee is satisfied that he has remedied that aspect of his conduct and it is unlikely to be repeated.
58. In relation to the Registrant's proven dishonesty, the Committee accepted the submissions of Mr McCartney to the effect that the Registrant did relatively early in the regulatory process, in an email to the Council of 18 May 2021, when responding to the allegations he had been sent by the Council, acknowledge that he had been dishonest when asked about the insurance cover for 2020. It noted however with concern that in his earlier email to the Council dated 31 January 2021, the Registrant not only stated that the insurance had not been in place since "the start of the pandemic March/April", which he knew to be false, but also went on to assert: "It's the first time this has happened", which he also knew was not the truth. In fact, he knew, at that point, in January 2021, that the insurance had not been in place since (at least) 2017.
59. Whilst the Committee is aware that dishonesty may be an example of a person's

general attitude which can therefore be difficult to remediate, the Committee has taken into account the positive testimonials from people who know the Registrant very well and consider him to be honest and trustworthy. It also gave him some credit for his admissions at the start of the hearing in relation to his dishonest representations of the position both to the Council's Inspector and to the Council's Concerns Team. It took into account that although the Registrant has been found to have repeated his dishonesty on more than one occasion, the dishonesty in fact stemmed from one matter – his discovery that he lacked appropriate insurance – there was no evidence before the Committee that it was an example of his general attitude to the truth.

60. The Committee has concluded that the Registrant's conduct that led to the allegation has been sufficiently remedied and it considers that it is unlikely to be repeated.
61. The Committee next turned to consider whether any sub-particulars of Rule 5(2) of the Rules are engaged by the Registrant's misconduct. Given its conclusions above, the Committee is of the view that Rule 5(2)(a) is not engaged, because, given the system he now has in place to ensure he remains appropriately insured, the Registrant currently does not present an actual or potential risk to patients or to the public. The Committee took into account that there have been no concerns about his standard of clinical practice.
62. The Committee is however satisfied that the Registrant's misconduct clearly has brought the profession of pharmacy into disrepute (Rule 5(2)(b)), and that in breaching the standards for pharmacy professionals as set out above, he breached one or more fundamental principles of the profession (Rule 5(2)(c)), for example, the requirements to be honest and to demonstrate leadership.
63. As for Rule 5(2) (d), the Committee took into account that Ms Vaghela did not make specific submissions in relation to the Registrant's integrity. Mr McCartney had submitted that the Registrant's openness, candour, and co-operation in the

regulatory process meant that his integrity could be relied on, despite the dishonesty which was admitted and which was found proved by the Committee. Whilst the Committee was of the view that the Registrant's conduct during the regulatory process as summarised by Mr McCartney was only what would be expected of a registered professional, it had concluded that the Registrant's dishonesty, though serious, arose out of a panicked desire to cover up the failings he had discovered in his own administration of his practice, and were not representative of an entrenched attitudinal issue which could not be remedied. It was therefore of the view that the Registrant's integrity, though gravely absent during the events in 2020, is not so absent in principle that it can no longer be relied on. It did not therefore consider that Rule 5 (2) (d) of the Rules is engaged.

64. In relation to the public interest, the Committee bore in mind the well-known words of Mrs Justice Cox in the case of Grant, in which she stated that a panel must consider whether *“the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances”* of a case. The Committee has found that acts and omissions of the Registrant which it has found proved, including dishonesty on more than one occasion, were sufficiently serious to amount to misconduct; that he has brought the profession of pharmacy into disrepute; and that he breached fundamental principles of his profession. It is satisfied that the public would expect a finding of current impairment of fitness to practise in order to maintain professional standards and uphold confidence in the profession and in the regulator.
65. For all the reasons set out above, the Committee therefore finds the Registrant's current fitness to practise is impaired on public interest grounds.

Decision on Sanction

66. Having found impairment, the Committee went on to consider the matter of sanction. The Committee's powers are set out in Article 54(2) of the Order. The

Committee considered the available sanctions in ascending order from the least restrictive, taking no action, to the most restrictive, removal from the register, in order to identify the appropriate and proportionate sanction that meets the circumstances of this case.

67. The Committee was aware that the purpose of the 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 and uphold professional standards. The Committee is therefore entitled to give greater weight to the public interest over the Registrant's interests.

Submissions

68. Ms Vaghela submitted that given the Committee's findings, it would not be appropriate to take no action or impose a warning; and conditions would not be appropriate given the facts of this case. She submitted that a suspension was the appropriate and proportionate sanction to highlight that the Registrant's conduct was not acceptable. She accepted that the Registrant has shown remorse and had reflected on his conduct and what went wrong. He has taken steps to ensure he does not repeat such conduct. He has provided evidence of general good character and shown integrity in the way he has engaged with the regulatory process; and he has been candid in his account. Ms Vaghela proposed that a suspension of six months would be an appropriate length to reflect the seriousness of the Registrant's conduct. Removal would be disproportionate.
69. Mr McCartney reminded that Committee that no greater a sanction should be imposed than what is necessary to meet an identified regulatory objective and that objective should not be punishment. In this case, where the Committee has found no risk of repetition, the purpose is public interest; and public interest includes the public's interest in allowing an exemplary pharmacist to remain in practice to serve

his community, as he has done for 23 years without any previous regulatory complaint. Mr McCartney asked the Committee to take full account of the testimonials provided by the Registrant which demonstrate that he is an excellent pharmacist. Mr McCartney submitted that the hearing process and the finding of impairment themselves marked the Committee's disapproval of the Registrant's conduct and they, in part, would meet any regulatory objective which a sanction would be designed to achieve. He submitted that the Registrant's misconduct could adequately and properly be dealt with by a warning or, if the Committee did not agree to that, then a very short period of suspension.

Decision

70. The Committee had regard to the Council's 'Good decision making: Fitness to practise hearings and sanctions guidance (2017)' ("the Sanctions Guidance"), to inform its decision.
71. The Committee took into account the submissions made by Ms Vaghela and Mr McCartney.
72. The Committee first considered what, if any, aggravating and mitigating factors there may be.
73. The Committee identified the following aggravating factors:
 - The pharmacy and the Registrant were without insurance for a period of over ten years;
 - The Registrant's misrepresentations, some of which were dishonest, were made to his professional regulator in a situation where he had a duty to provide accurate and reliable information;
 - He breached three core standards of the profession;
 - For a period of approximately three years the Registrant did not even notice that there was no insurance in place at all, yet the pharmacy continued to operate;
 - He only obtained insurance on the day of the inspection despite having been aware of the absence of insurance cover since at least October 2020.

74. The Committee identified the following mitigating factors:
- The Registrant made admissions of wrongdoing, including dishonesty;
 - The Registrant has taken a number of steps to ensure that the pharmacy will not be without insurance in future;
 - There was no evidence of harm to patients;
 - The Registrant practised for 23 years prior to the events and subsequently, without any other regulatory concerns;
 - Evidence of good character otherwise.
75. Take no Action: The Committee first considered where it would be appropriate to take no action, however it was of the view that this outcome would not be sufficient to reflect the seriousness of the Registrant's misconduct.
76. Warning: The Committee took into account Mr McCartney's submissions in relation to the imposition of a warning. The Council's Sanctions Guidance states that a warning may be appropriate in circumstances where:

"There is a need to demonstrate to a registrant, and more widely to the profession and the public, that the conduct or behaviour fell below acceptable standards. There is no need to take action to restrict a registrant's right to practise, there is not continuing risk to patients or the public and when there needs to be a public acknowledgement that the conduct was unacceptable."

Whilst the Committee had found that it was unlikely that the Registrant would repeat his misconduct, it considered that a warning would not sufficiently mark its view of the seriousness of the Registrant having taken so little care over a period of more than ten years, to check that he and his pharmacy were appropriately indemnified, thereby risking harm to his patients. This was compounded by dishonestly attempting to cover up his failures.

77. Conditions of Practice. The Committee next considered whether to impose conditions of practice. A Conditions of Practice Order would allow the Registrant to practise albeit with restrictions. However, the Committee was not able to formulate conditions which would deal with the Registrant's misconduct which related to his administrative responsibilities and not to his clinical practice. It took into account that neither of the parties' representatives has suggested that conditions would be appropriate in this case.
78. Suspension Order. The Committee next considered whether suspension would be a proportionate sanction. The Committee noted the Council's Sanctions 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."*
79. The Committee took into account Ms Vaghela's submissions in the Council's skeleton argument to the effect that the dishonesty does warrant a suspension in order to mark the serious departure from standards and in order to maintain those standards and uphold public confidence in the professions of pharmacy.
80. The Committee carefully weighed the seriousness of the Registrant's proven misconduct including dishonesty with the mitigating factors in this case, as set out above. It took into account the aggravating features of the case which are set out above. The Committee has previously decided that his misconduct was remediable and he has in fact remedied it. There is little risk that he will repeat his carelessness in relation to his professional indemnity insurance in future. Whilst the Committee

has found that the Registrant was dishonest, it does not consider that his dishonesty was representative of his attitude as a whole. It has not found that the Registrant's integrity can no longer be relied on. As was highlighted by Mr McCartney, the Registrant had provided seven positive testimonials which confirm that he is considered by colleague and patients in his community to be providing what one ex-colleague who is a registered pharmacist called "a first -class professional service" to his patients. She confirms that he is "an exemplary highly respected pharmacist who provides an excellent service to his patients and fellow medical colleagues".

81. The Committee agrees with Mr McCartney that there is a public interest in a skilled pharmacist such as the Registrant being permitted to remain in practice. However, the Committee is of the view that a short period of suspension is necessary to send a suitable sign to members of the profession and to the public that the Registrant's proven misconduct was unacceptable and unbecoming a member of the pharmacy profession. The Committee has decided that suspension for a period of three months will properly and sufficiently mark the seriousness of the Registrant's misconduct, and maintain confidence in the profession and in professional standards. Having given proper weight to all of the features of the case, the Committee is satisfied that public confidence in the profession demands no lesser sanction.

82. Removal. Having concluded that a short period of suspension would satisfactorily deal with the issues of public interest which it has identified, the Committee considered whether removal was in fact more appropriate. The Committee took into account that removal is to be reserved for the most serious failings. It agreed with both Ms Vaghela and Mr McCartney that removal of the Registrant from the register would be disproportionately punitive.

83. The Committee therefore directs that the entry in the Register of Mr Taneja be suspended for a period of three months. The Committee does not consider it necessary for a review to take place prior to the expiry of the suspension.

Decision on Interim Measure

84. Ms Vaghela for the Council, made an application for an interim measure of suspension to be imposed on the Registrant's registration, pursuant to Article 60 of the Pharmacy Order 2010, pending the coming into force of the Committee's substantive order. She submitted that such an order was necessary to protect the public interest.
85. Mr McCartney opposed the application. He reminded the Committee of its findings. He submitted that the Committee was satisfied that the Registrant has remediated his misconduct; that his dishonesty was not representative of a general attitude; and that it is not a case where the Registrant's integrity can no longer be relied on. The Committee had determined that a three month suspension would satisfy the public interest. It should not, in effect, be extended by the imposition of an interim measure of suspension.
86. The Committee carefully considered the Council's application and the submissions of Mr McCartney in light of the provisions of Article 60 of the Pharmacy Order 2010. It took account of the fact that its decision to order the suspension of the Registrant's name from the register will not take effect until 28 days after the Registrant is formally notified of the outcome, or until any appeal is concluded. The Committee determined, for all the reasons submitted by Mr McCartney, that it is not necessary for an interim measure of suspension to be imposed on the Registrant's registration.
87. This concludes the determination.