

General Pharmaceutical Council

Fitness to Practise Committee

Principal Hearing

Remote videolink hearing

Monday 30 October – Thursday 2 November 2023

Registrant name:	Roger Stevenson
Registration number:	2017865
Part of the register:	Pharmacist
Type of Case:	Misconduct
Committee Members:	David Bleiman (Chair) Vaishally Patel (Registrant member) Wendy Golding (Lay member)
Legal Adviser:	John Donnelly
Committee Secretary:	Adam Hern
Registrant:	Not present & not represented
General Pharmaceutical Council:	Represented by Gareth Thomas, Case Presenter
Facts proved:	1 (a), 1 (b) (i) and (v), 2, 3
Facts not proved:	1 (b) (ii) (iii) (iv)
Fitness to practise:	Impaired
Outcome:	Conditions, 12 months
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 1 December 2023 or, if an appeal is lodged, once that appeal has been concluded.

1. *You must not personally supply nor, as a pharmacy owner or in any other position of responsibility, permit the supply of Codeine Linctus to any persons, other than to fulfil the requirements of a prescription.*
2. *You must confine your practice to the F.F. & R. Stevenson Pharmacy in Hull.*
3. *You must, by the end of July 2024 undertake training on supplying Pharmacy only medicines that have the potential for misuse and abuse (for example the course offered by the Centre for Pharmacy Postgraduate Education on “Addiction, misuse and dependency: a focus on over the counter and prescribed medicines”); and*
 - (a) *provide a record of peer discussion on how you have changed your practice to ensure safe and effective care to people using your services in relation to this area of practice;*
 - (b) *provide a reflective account explaining how you meet the following Standards for pharmacy professionals:*
 - *Standard 1: provide person-centred care*
 - *Standard 5: use professional judgement*
 - *Standard 9: demonstrate leadership*

Particulars of Allegation

You, a registered Pharmacist, and the sole owner of and / or the responsible pharmacist at F.F. & R. Stevenson Pharmacy (“the Pharmacy”), between July 2017 and September 2020:

1. *Did not adequately manage the risks associated with sales of codeine linctus and minimise the potential for patient misuse or addiction in that:*
 - (a) *Large volumes of codeine linctus were ordered into the Pharmacy and supplied to customers, as reflected in the order data contained in Schedule A;*
 - (b) *You did not ensure that adequate controls were in place to:*
 - (i) *Keep records of invoices and monitor purchases;*
 - (ii) *Monitor and record sales to patients;*
 - (iii) *Identify sales to repeat customers;*
 - (iv) *In respect of repeat customers, invite patients to consider alternative medicines and record conversations in which you gave advice generally;*
 - (v) *Refuse supply in situations where there was potential for misuse or addiction;*
2. *Supplied up to 2 x 200ml bottles of codeine linctus to Person A approximately every three days, in circumstances where:*
 - (a) *There was insufficient clinical justification for the supply;*
 - (b) *You knew or suspected that Person A was abusing or misusing the medication;*
3. *Supplied up to 2 x 200ml bottles of codeine linctus to Person B approximately once per week, in circumstances where:*
 - (a) *There was insufficient clinical justification for the supply;*
 - (b) *You knew or suspected that Person B was abusing or misusing the medication;*

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

Documentation

Document 1- GPhC hearing bundle (78 pages)

Document 2- GPhC additional bundle (17 pages)

Document 3- GPhC skeleton argument (9 pages)

Document 4- GPhC proof of service bundle (16 pages)

Document 5- GPhC proceeding in absence bundle (21 pages)

Document 6- Letter from Registrant, received 27 October 2023 (1 page)

Document 7- Medicines Act 1968, s.72A, version 2 of 3, 1 October 2006 – 30 November 2022 (3 pages)

Witnesses

Mrs 1, GPhC Inspector, gave evidence at facts stage

Mr 2, GPhC Inspections Operations Manager, gave evidence at facts stage

Determination

Introduction

1. This is the written determination of the Fitness to Practise Committee at the General Pharmaceutical Council ('the Council') in the case of Mr Roger Stevenson ("the Registrant"), a Pharmacist first registered in June 1972 and whose registration transferred to the Council with number 2017865.
2. We, the Committee, were assisted by a legal adviser and accepted his advice at all stages, including as to the statutory framework within which we heard and decided this case.
3. 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").
4. 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.
5. 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 ("the Guidance").
6. 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

7. The Committee inspected a letter dated 19 September 2023 from the Council headed ‘Notice of Principal Hearing’ and addressed to the Registrant. The notice was sent by email to his email address on the register. We are informed that when it became apparent from telephone contact that Mr Stevenson had difficulty accessing email communications, the letter was sent by Special Delivery and First Class post to Mr Stevenson’s postal address on the Council’s register. He signed for it on 18 October 2023.

8. We accepted legal advice that service of notice by means of email to the Registrant’s email address on the register constituted deemed service, irrespective of whether Mr Stevenson actually opened and read the email. We are satisfied that the notice was sent in good time and contains all the necessary details of this hearing. We are therefore satisfied that there has been good service of the Notice in accordance with Rules 3 and 16.

Application to proceed in the absence of the registrant

9. Mr Stevenson was not in attendance at this hearing, nor was he represented. The committee heard submissions from Mr Thomas under Rule 25 to proceed in the absence of the registrant. We accepted the advice of the legal adviser which included reference to the leading authority of *General Medical Council v Adeogba [2016] EWCA Civ 162*.

10. Mr Stevenson sent, by recorded delivery, a short letter which was received on 27 October 2023. Mr Stevenson states that he will not be attending the hearing “as I have admitted selling the codeine linctus to an inspector and further I feel that I cannot close this pharmacy for three days as my patients could suffer as a result.” Mr Stevenson does not apply for an adjournment and states: “I trust in your professional ability to come to the correct decision in this matter and will abide by it without question.”

11. We studied the contents of a Proceeding in Absence bundle, which included communications and attempted communications by the Council with Mr Stevenson in the months leading up to this hearing. Sustained efforts were made to ensure that Mr Stevenson was aware of the hearing and had access to the documents which would be considered. In a discussion with the Committee Secretary on 11 October 2023, Mr Stevenson said, when assured that he would not need to travel to London as the hearing would be by videoconference, that he would be able to attend. However, in a discussion with a Council paralegal, on 26 October 2023, Mr Stevenson said that he did not plan to attend, giving as a reason that he “gets very nervous and can’t articulate himself well.” On 27 October 2023, a one-page letter received by recorded delivery and referred to above, gave further reasons for non-attendance.

12. We have decided to proceed in the absence of the registrant for the following reasons:
 - We have found good service of the notice of hearing and it is clear from his response that Mr Stevenson is aware of today’s proceedings. He has quite clearly chosen not to attend, giving a number of explicit reasons for so doing.
 - Mr Stevenson does not ask for an adjournment and, although not inviting us to proceed in terms, his expression of confidence in our ability to come to the correct decision and his own commitment to abide by it, is a clear indication that he has no objection to the hearing proceeding in his absence.

- The Council has made considerable efforts to engage Mr Stevenson in preparing for this hearing. There is nothing to suggest that an adjournment would result in his attendance at a future date.

Background

13. Mr Stevenson is the owner and sole trader in respect of the FF & R Stevenson pharmacy in Hull (“the Pharmacy”).
14. Mr Stevenson faces an allegation that his fitness to practise is impaired by misconduct. It is alleged that he did not adequately manage the risks associated with the sale of codeine linctus and, in particular, repeatedly supplied two persons when he knew or suspected that they were misusing the drug.
15. In 2020 the Council, concerned regarding the risks associated with codeine linctus, obtained from the Medicines and Healthcare Products Regulatory Agency (the “MHRA”) data relating to the wholesale supplies of codeine linctus products covering the period 2017 to 2020. The purchase data raised a concern regarding the Pharmacy’s purchasing of codeine linctus in that period.
16. On 23 September 2020, an unannounced “routine and intelligence led” inspection of the Pharmacy was carried out by the Council’s Inspector, Mrs 1. Following the inspection, which found that standards were not all met, a report was prepared and conditions were imposed on the Pharmacy. The conditions were that the Pharmacy must not sell or supply any codeine linctus preparations, with the exception of supplying these medicines against an NHS prescription.
17. On the 23 September 2020, Mr Stevenson was reported to have made certain admissions to Mrs 1. We do not include these as background information as the facts are to be determined having heard the evidence.
18. A further inspection, described as “routine”, took place on 22 April 2021. The indicative overall inspection outcome was “standards met”.

Decision on Facts

19. In reaching our decisions on facts, we considered the documentation listed at the start of this determination, the oral evidence of the two witnesses and the submissions made by Mr Thomas.
20. We accepted the advice of the legal adviser.
21. When considering each particular of allegation, we 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 particulars will be proved if the committee is satisfied that what is alleged is more likely than not to have happened.
22. We started by reviewing the evidence and considering matters of reliability and credibility.
23. We relied on the evidence of Mrs 1, who was a pharmacist and Council inspector at the relevant time (she retired in February 2021). Mrs 1 gave oral evidence and adopted her written witness statement dated 4 November 2020. She was a clear witness who had taken contemporaneous manuscript notes after an unannounced intelligence led and routine inspection of the Pharmacy on 23 September 2020. Her inspection report of the same date included detailed "Inspector's evidence" which had been prepared from her notes. We therefore concluded that her account of what she found on the date of the visit and including what she was told by Mr Stevenson, was highly reliable. She described Mr Stevenson as having been very open and quite cooperative in answering her questions.
24. Mr 2 presented as a very experienced pharmacist who gave a clear and balanced account of the proper use of Codeine Linctus and the risks associated with the

medication and of the concerns about the large volumes ordered by some pharmacies which led to the Council obtaining data and undertaking an intelligence led inspection of the Pharmacy (amongst others). He was considered in his answers to questions. For example, he said that there was no prescriptive requirement to include mention of Codeine Linctus in a Standard Operating Procedure. He acknowledged the practical difficulties associated with record keeping for purchases of a Pharmacy only medicine for which customers would not have to give their names. Mr 2 was able, in response to questions, to provide evidence of an earlier inspection report dated 4 July 2019 in which the Pharmacy was found to have met all standards. He also confirmed, by reference to the Council's public website, that the Pharmacy remained subject to the conditions. He explained that this was not unusual in circumstances where the owner was content to comply with the conditions. Such conditions would remain in force, in most cases unless a pharmacy owner was proactive in applying for them to be revoked or varied. We relied on his evidence.

25. We gave careful consideration to the letter of 27 October 2023 submitted by Mr Stevenson. Although neither signed nor dated, there was no suggestion that this was not an authentic communication, as it was received from him by Recorded Delivery. Mr Stevenson did not challenge the volumes of Codeine Linctus alleged by the Council to have been ordered in by the Pharmacy during the period alleged. Nor had he done so at the time of the inspection or at any time since. The letter offered reasons why he had supplied Codeine Linctus to Persons A and B. We accept Mrs 2's evidence that she was not told, at the time of her inspection, of the justification now offered by Mr Stevenson. But we take into account that she explained to us that the purpose of her inspection was limited, it was not an investigation into Mr Stevenson and she did not ask follow-up questions. Although Mr Stevenson neither advanced this justification at the time of the inspection nor over the subsequent three years prior to his letter of 27 October 2023, we are mindful that there was very little communication from him to the Council during this period.

26. On balance, we accept that what Mr Stevenson now says in the letter about the circumstances of the two individuals and his reasons for supplying them with Codeine Linctus, although not previously advanced as an explanation, is broadly true. He probably did, as he says, supply the medication in the belief that it would help them with the problems with sleep which they complained of.

27. **Stem of charge:**

You, a registered Pharmacist, and the sole owner of and / or the responsible pharmacist at F.F. & R. Stevenson Pharmacy (“the Pharmacy”), between July 2017 and September 2020:

It was not in dispute that Mr Stevenson is a registered pharmacist and screenshots from the Council’s records in respect of the Pharmacy confirmed that he was a “Sole Trader” with an ownership start date of 14 January 1997. The time frame of between July 2017 and September 2020 is that which we have applied when considering the particulars below.

28. The particulars are set out starting with the general management of risks and moving to particulars relating to Persons A and B. We started by considering the specifics as we considered that our findings in relation to Persons A and B would need to be taken into account when considering the more general management of risks by Mr Stevenson.

29. **Particulars 2 and 3:**

(2) *Supplied up to 2 x 200ml bottles of codeine linctus to Person A approximately every three days, in circumstances where:*

(a) There was insufficient clinical justification for the supply;

(b) You knew or suspected that Person A was abusing or misusing the medication;

(3) Supplied up to 2 x 200ml bottles of codeine linctus to Person B approximately once per week, in circumstances where:

(a) There was insufficient clinical justification for the supply;

(b) You knew or suspected that Person B was abusing or misusing the medication;

30. We have taken these two particulars together for the following reason. In his letter of 27 October 2023, Mr Stevenson puts forward a short justification for the sales of codeine linctus to Persons A and B. However, he does not make clear which reason relates to which person. The allegations are similar, save that the allegation in relation to Person A is of a supply every 3 days, whereas for Person B it is of a supply once a week.
31. Mrs 1 gave reliable evidence, based on contemporaneous notes of what she was told by Mr Stevenson, and unchallenged by him, that one of the individuals got two 200ml bottles every three days and the other perhaps every week. What Mr Stevenson said changed in detail in the course of the discussions during the inspection, however, we find, on the balance of probability, that Mr Stevenson's last word on the matter (i.e. two bottles in each case) was the factual situation. In his letter of 27 October 2023 Mr Stevenson that the two customers had approximately three to four bottles per week. The allegations are worded as "up to 2 x 200ml bottles" supplied "approximately" once a week in one case and once every three days in the other case. It is therefore not necessary for the Council to prove a

precise quantity or frequency of supply. We find that in each case the fact of Mr Stevenson making the supply is clearly proven by uncontested evidence.

32. We next considered whether he had “insufficient clinical justification for the supply”. The reasons given by Mr Stevenson in his letter of 27 October 2023 can be considered to offer a succinct form of clinical justification for the supply in each case. We have already accepted that these were probably his genuine reasons. He says that the sale to one person (he does not say whether Person A or B) was to an ex-soldier with PTSD who could not sleep properly. His GP treated him with Zopiclone which made him feel unwell the next day and somehow he discovered that the codeine linctus enabled a good restful night’s sleep with no after effects the next day. The sale to the other person (again not specified whether Person A or B) resulted from a perceived problem with sleep as a result of the stress of his job as a financial adviser.

33. We accept the detailed evidence of Mr 2, which was supported by extracts from the British National Formulary (BNF) and a patient information leaflet, that Codeine Linctus should only be used for a dry cough. We accept his evidence that Codeine Linctus is only licensed to be supplied as a Pharmacy only medicine, to treat a dry cough. If a patient wanted to use it for another purpose, such as to help with sleep, they should be referred to their GP, who might prescribe medication for purposes which were “off licence”. We accept his evidence that a 200 ml bottle would contain the recommended maximum treatment for six and a half days and that there would be no circumstances in which he could envisage that a person should be supplied with two 200ml bottles at one time. As we accept that Mr Stevenson supplied both an excessive quantity to each of persons A and B, that, on his own account he did so for as long as four years and that the purpose of the supply was not for the licensed treatment of a dry cough, we find that there was, in each case “insufficient clinical justification for the supply”.

34. We accepted the evidence of Mr 2 that the use of Codeine Linctus for a period of more than three months was considered to give rise to a risk of dependency. We accept the evidence of Mrs 1 that Mr Stevenson told her that Persons A and B “were not typical drug abusers but were probably addicted to it”. Although her manuscript notes of the inspection are unclear as to whether Mr Stevenson was referring to only one of them as addicted, her evidence was that she understood him to be referring to both. Mr Stevenson has at no point challenged the account in the inspection report of 23 September 2020 that he “thought they were probably addicted to it.” On this basis we find that, in each case, Mr Stevenson suspected that the customers were abusing or misusing the medication. In any event, we find that any Pharmacist, knowing the quantities, frequency and duration of the purchasing of Codeine Linctus, must inevitably have suspected that the persons concerned were abusing the medication. As regards misuse, we have found that Mr Stevenson believed that he was providing Codeine Linctus to assist with sleep problems, which is clearly a misuse of a medication licensed to treat a dry cough.

All aspects of particulars 2 and 3 are found proved.

35. **Particular 1:**

(1) *Did not adequately manage the risks associated with sales of codeine linctus and minimise the potential for patient misuse or addiction in that:*

(a) *Large volumes of codeine linctus were ordered into the Pharmacy and supplied to customers, as reflected in the order data contained in Schedule A;*

(b) *You did not ensure that adequate controls were in place to:*

(i) *Keep records of invoices and monitor purchases;*

(ii) *Monitor and record sales to patients;*

- (iii) *Identify sales to repeat customers;*
- (iv) *In respect of repeat customers, invite patients to consider alternative medicines and record conversations in which you gave advice generally;*
- (v) *Refuse supply in situations where there was potential for misuse or addiction;*

36. Allegation 1 concerns the broad responsibilities of a Responsible Pharmacist for risk management, although going into particulars which require some specific fact finding. In relation to the broad duties of a Responsible Pharmacist, we rely on S.72A of the *Medicines Act 1968*, in the version in force throughout the time period alleged. The key part is that:

It is the duty of the responsible pharmacist...to secure the safe and effective running of the pharmacy business at the premises in question so far as concerns –
(a) the retail sale at those premises of medicinal products...

37. The question of whether Mr Stevenson did not “adequately” manage the risks associated with the sales of Codeine Linctus requires a finding of what was or was not adequate in all the circumstances. We accept the evidence of Mrs 1 and Mr 2 that many pharmacies had by the time of these allegations, entirely ceased to stock Codeine Linctus other than to satisfy prescriptions. The Pharmacy was a relatively small community pharmacy and, in that context, the volumes ordered in were large. We find that the allegation that large volumes were ordered and supplied is proven by the uncontested data supplied to the Council by the MHRA and contained in Schedule A. For this reason, we find that adequate management of the risks would have required a more thorough approach than, for example, in a pharmacy in which Codeine Linctus was only ever supplied on occasion and only to dispense a GP’s prescription.

38. Mr Stevenson told Mrs 1 that he did not keep any invoices at all for the Codeine Linctus which he ordered for stock. We accept Mr 2’s evidence that it was a legal requirement to keep such invoices for two years. In circumstances where large

volumes were being ordered, there was an evident need to monitor such purchases and whether they could be justified by legitimate patient need for supply in accordance with the licensed purposes. We find allegation 1 (b) (i) proved.

39. The Council's witnesses acknowledged that customers could obtain Codeine Linctus without having to give their names and that it would be challenging to keep a record of sales to patients. We found that the Council provided insufficient evidence to show what form of record keeping would have been feasible and adequate. Allegation 1 (b) (ii) is not proved.
40. Mr Stevenson clearly did identify that he was making sales to repeat customers, namely Persons A and B. He was well aware of the extent, frequency and duration of the supplies, as he was personally supplying Codeine Linctus. As he was the sole owner and Responsible Pharmacist it is difficult to see what additional means of identifying repeat customers would have provided further control of risk. This is especially the case when taking into account that getting to know customers by face to face contact as he did, rather than by name, may be the only viable means of identifying sales to repeat customers who do not need to reveal their identity at time of sale. Allegation 1 (b) (iii) is not proved.
41. Mr Stevenson told Mrs 1 that he told Persons A and B to see their doctors but had no records of any conversations. He had never spoken to any doctors about codeine linctus. He said that he did not give any further advice as they would not take the advice. This suggests that, in these two cases, there was not advice about alternative medicines and that conversations were not recorded. But we had insufficient evidence before us to establish what would have been feasible by way of adequate controls to invite repeat customers to consider alternative medicines and to record conversations in which advice generally was given. Allegation 1 (b) (iv) is not proved.
42. Our starting point when considering allegation 1 (b) (v) is that we have found that the supply of Codeine Linctus to Persons A and B was not clinically justified (which

we found amounts to a misuse, albeit under Mr Stevenson's own oversight). Mr Stevenson also suspected that they were abusing the medication. Supply should have been refused for a purpose other than in accordance with the licence. Supply should also have been refused as soon as he recognised the potential for addiction. Arguably this should have been so obvious that no "controls" would be needed beyond a Pharmacist's own professionalism. However, we accept that the introduction of a further control measure was needed in the Pharmacy, which was handling large volumes of a medication with such significant known risks of misuse and addiction. This might have been achieved, for example, by revision of the SOP so as to specifically address the risks associated with Codeine Linctus and the circumstances in which supply should be refused. Allegation 1 (b) (v) is proved.

Allegation 1 is found proved in relation to 1 (a) and 1 (b) (i) and (v).

Misconduct and Impairment

43. Having found some particulars of allegation proved, we went on to consider whether the particulars found proved amounted to misconduct and, if so, whether Mr Stevenson's fitness to practise is currently impaired.
44. We took account of the guidance given to the meaning of 'fitness to practise' in the Council's publication *Good decision-making: Fitness to practise hearings and sanctions guidance, March 2017* ("the Guidance"). 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 our various standards, guidance and advice."
45. We took into account the submissions of Mr Thomas and all of the evidence available to us, both oral and documentary.

46. Mr Thomas submitted that Mr Stevenson’s actions were in breach of the Council’s *Standards for Pharmacy Professionals (May 2017)* (“the Standards”) and fell far below the Standards so as to amount to misconduct. He submitted that all four limbs of Rule 5(2) were engaged in this case although, in respect of whether there was a lack of integrity, he submitted that we should approach the matter with care and we would need to form a view of Mr Stevenson’s state of mind at the time.
47. We accepted the advice of the legal adviser.

Decision on misconduct

48. When considering whether the particulars found proved amounted to misconduct we took into account the Guidance.
49. We considered whether Mr Stevenson had breached any of the Standards. The key principle underlying all of the Standards is that pharmacy professionals must provide “safe and effective care”. We found that Mr Stevenson had breached the following Standards:
- a. Standard 1: Pharmacy professionals must provide person-centred care.

Mr Stevenson did not sufficiently involve and support Persons A and B in making informed decisions and he did not consider the impact of his practice in supplying a Pharmacy only medicine for a purpose for which it was not licensed and to persons he suspected of having an addiction.
 - b. Standard 5: Pharmacy professionals must use their professional judgement.

Mr Stevenson’s actions involved a serious failing of professional judgement which resulted in a failure to deliver safe and effective care to Persons A and B.
 - c. Standard 9: Pharmacy professionals must demonstrate leadership.

Mr Stevenson, as the pharmacy owner and Responsible Pharmacist, set a very poor example to his colleagues by supplying Codeine Linctus to customers who

he knew to be misusing it (to treat sleep problems rather than a dry cough) and who he suspected of being addicted.

50. We bore in mind that a breach of the Standards does not automatically result in a finding of misconduct (Rule 24(11) of the Rules). Mr Stevenson made inappropriate supplies of Codeine Linctus to two persons over a period of years. His breach of the Standards was repeated for an extended period and involved a sustained failure to provide safe and effective care. We find that Mr Stevenson's actions were serious enough to amount to misconduct.
51. We therefore went on to consider whether Mr Stevenson's fitness to practise is impaired.

Decision on Impairment

52. Having found that the particulars of allegation amounted to misconduct, we went on to consider whether Mr Stevenson's fitness to practise is currently impaired. In doing so we considered whether the particulars found proved show that his actions met the criteria set out in Rule 5 (2), that is:

(a) present 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

(d) means that the integrity of the registrant can no longer be relied upon

53. Having found that there was a serious breach of the Standards, we find that Mr Stevenson has breached the fundamental principle of providing safe and effective care, so that Rule 5 (2)(c) is engaged.
54. A reasonable and well-informed member of the public would be shocked by the supply of a potentially addictive medicine to persons suspected of being addicted, sustained over a period of years. The misconduct is serious enough to have brought the reputation of the profession into disrepute. Rule 5 (2) (b) is engaged.

55. We accepted that Mr Stevenson believed that he was assisting Persons A and B with problems of sleep, as stated in his letter of 27 October 2023. While this was a most serious failure of professional judgement, there was no suggestion that he was motivated by financial gain and the Codeine Linctus was not a high value item. At the time of the inspection, Mrs 1 found him to be open and co-operative. We do not consider that this is a case in which there is evidence of a lack of integrity and find that Rule 5 (2) (d) does not apply.
56. The evidence points us in different directions in relation to the extent of remediation and of ongoing risk to patients and the public. We consider that very poor judgement in relation to the supply of Codeine Linctus in circumstances where it was misused and likely be abused, is a practice failure which is potentially remediable.
57. Mr Stevenson was, from the day of the inspection, co-operative with the Council. His pharmacy complied with the conditions relating to the sale of Codeine Linctus and that compliance was confirmed in a follow-up inspection six months after the conditions were imposed, which found that all standards were met. That compliance continues to the present day, with no further concerns before us. There has been no repetition of his misconduct over a period of more than three years and that would tend to suggest a low risk of repetition. We note that throughout this time he has not been subject to any interim restriction of his practice. Practising unrestricted has not given rise to any actual repetition of his misconduct.
58. On the other hand, there is very little information from Mr Stevenson to suggest that he has insight going beyond merely complying with the Council's condition. He has, in his letter of 27 October 2023, explained his reasons at the time for supplying Persons A and B with Codeine Linctus but he has not said whether he now understands the risks associated with the medication. We have very little information from him and his submissions are extremely brief. We are not in a position to speculate as to the extent to which he may have had a salutary lesson and are left to conclude that he is likely to have only limited insight.
59. We conclude that there is not an actual risk to patients or the public, because Mr Stevenson continues to work in the Pharmacy and to comply with the conditions

imposed by the Council. However, we do consider that, without anything to show that he understands the risks which were posed by his actions in the period 2017 – 2020 and the specific risks associated with Codeine Linctus, we find that there remains a potential risk. On this basis, Rule 5 (2) (a) is engaged.

60. We therefore find Mr Stevenson’s current fitness to practise to be impaired on both public protection and the wider public interest grounds and accordingly must go on to consider the issue of sanction.

Decision on Sanction

61. Having found impairment, we went 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.
62. 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 professional standards. The Committee is therefore entitled to give greater weight to the public interest over the Registrant’s interests.
63. We had regard to the Guidance and, in relation to potential conditions, to the more detailed guidance contained in the Council’s *Good decision-making: Conditions bank and guidance, July 2023* (“the Conditions guidance”).
64. We took into account all of the evidence and our findings at earlier stages, as well as the submissions of Mr Thomas. Mr Thomas set out a number of mitigating and aggravating features of the case. He submitted that the matter was so serious that removal or, failing that, a lengthy suspension was sought by the Council. He submitted that it was difficult to see how conditions could manage the risks, especially having regard to the need to declare and uphold the Standards and to maintain public confidence in the profession. Mr Thomas informed us of an unrelated matter dating back to 2005 which he submitted should not be taken into

account as adverse to Mr Stevenson's good character. He informed us that there has been no interim order in place restricting Mr Stevenson's practice.

65. We accepted the advice of the Legal Adviser.
66. We identified the following as the most significant aggravating factors:
 - a. The misconduct was sustained over a period of years;
 - b. Mr Stevenson was aware of the likelihood that his supplies of Codeine Linctus were exposing two people to risk of misuse and abuse, including addiction;
 - c. As owner and Responsible Pharmacist, Mr Stevenson was in a leadership position, in which he failed to establish adequate controls and set a poor example to colleagues.
67. We identified the following as the main mitigating factors:
 - a. Mr Stevenson was open and cooperative with the Council inspector, freely admitting his actions;
 - b. On the day of the inspection, he removed bottles of Codeine Linctus from the sales area and agreed that he would stop selling if asked to do so;
 - c. Mr Stevenson has complied fully with the conditions placed by the Council on the Pharmacy, which met all standards in a follow-up inspection in 2021.
68. We considered the available sanctions in ascending order.
69. To take no action. This was clearly inappropriate in a case in which potential risk to patients and the wider public interest are the grounds found for impairment.
70. Warning. A warning, or issuing advice, would do nothing to protect against the potential risk we have identified.
71. Conditions of registration. We next considered the imposition of conditions of registration. The imposition of conditions would allow Mr Stevenson to practise albeit with restrictions. We bore in mind that if conditions are to be imposed, the conditions must be relevant and proportionate to the concerns identified. They must

be workable and capable of being monitored. We must also be satisfied that the Registrant will comply with any conditions imposed.

72. The potential risks to patients or the public which we identified, are serious, but are confined to the supply of one medication, Codeine Linctus. We accepted the Council's submissions, confirmed by legal advice, that we must not speculate about whether there might be risks in other areas of Mr Stevenson's practice unless there is an evidential basis for that. We find that there is no such evidence other than in relation to Codeine Linctus. We saw three reports of Council inspections of the Pharmacy, with reports both before and after the September 2020 inspection confirming that the Pharmacy met all standards. We conclude that the public needs to be protected against the specific risks associated with the supply of Codeine Linctus as a Pharmacy only medicine.
73. A Committee which is minded to impose conditions will generally be assisted when a registrant is in attendance and can confirm, face to face, that they understand the conditions, that they are workable and that they will comply with the conditions. This case is unusual in that, although Mr Stevenson is not in attendance to assist us in that way, the Pharmacy has been subject to conditions which address the same risk which we have identified in his practice as an individual pharmacist. There is very good and unchallenged evidence that he has complied, on an early and sustained basis over a period of more than three years, with these conditions. We have seen correspondence indicating that Mr Stevenson has been engaging with the annual revalidation process. Annual revalidation is a requirement for all registered pharmacists. As this requires the undertaking of CPD activity, including the submission of a reflective account, we are satisfied that he is capable of complying with a condition involving CPD including reflection.
74. The conditions in this case can be relatively concise and confined to conditions which we may be confident that Mr Stevenson will find to be workable and which can be monitored. Conditions requiring other parties to be informed are not necessary in this case, as Mr Stevenson is a pharmacy owner and can be restricted to working only in the Pharmacy.

75. We took into account the wider public interest ground of impairment. Our findings of misconduct and impairment, together with the imposition of conditions, have a declaratory effect as well as protecting the public. We had regard to the Council's publications and disclosure policy, which indicates that, where the sanction outcome is conditions, these conditions, with the Committee's determination or a summary attached, will appear on the online register for the duration of the conditions plus one year. We are satisfied that this is sufficient to declare and uphold the Standards and to maintain public confidence in the profession by seeing that the misconduct and impairment in this case has been sanctioned in a proportionate manner.

76. We therefore determined that the following conditions should be imposed on Mr Stevenson for a period of one year:

4. *You must not personally supply nor, as a pharmacy owner or in any other position of responsibility, permit the supply of Codeine Linctus to any persons, other than to fulfil the requirements of a prescription.*

5. *You must confine your practice to the F.F. & R. Stevenson Pharmacy in Hull.*

6. *You must, by the end of July 2024 undertake training on supplying Pharmacy only medicines that have the potential for misuse and abuse (for example the course offered by the Centre for Pharmacy Postgraduate Education on "Addiction, misuse and dependency: a focus on over the counter and prescribed medicines"); and*

(c) provide a record of peer discussion on how you have changed your practice to ensure safe and effective care to people using your services in relation to this area of practice;

(d) provide a reflective account explaining how you meet the following Standards for pharmacy professionals:

- *Standard 1: provide person-centred care*
- *Standard 5: use professional judgement*
- *Standard 9: demonstrate leadership*

77. Suspension Order. We considered whether suspension would be a more 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.”

78. We consider that, in the case of a registrant who has been practising unrestricted for more than three years without any further concern, whose pharmacy, at the most recent inspection, met all Standards, and whose impairment arises from misconduct confined to a specific area of practice, suspension would be a disproportionate sanction. Suspension would be a more powerful declaration of the Standards but we are satisfied that the public nature of the imposition of conditions is sufficient to declare the Standards and maintain public confidence in the profession.
79. We therefore direct that the Registrar impose on Mr Stevenson the conditions of registration as set out above.

Review Hearing

80. This decision will be reviewed by the Committee before the sanction expires. A future committee may be assisted by:
- Evidence of completion of the training specified in the conditions;
 - A record of the peer discussion and the reflective account specified;
 - Mr Stevenson’s attendance at the hearing or, failing that, detailed written submissions on his behalf, provided in good time ahead of the hearing date.

Decision on Interim Measure

81. Mr Thomas applied for the imposition of an interim measure of conditions on the basis that the Committee’s substantive decision will not take effect until 28 days after

notice of this decision has been sent, or until any appeal has been finally disposed of, leaving the public unprotected during the intervening period. The application was based primarily on the need to protect the public.

82. We accepted legal advice and took account of the Guidance.
83. We have taken into account all the circumstances of this case. Mr Stevenson has been practising without further concern for more than three years in his own pharmacy, which passed the most recent inspection in April 2021 having met all standards. He has complied in his capacity as pharmacy owner with the conditions imposed on the Pharmacy, which address the risks associated with the supply of Codeine Linctus. The risk we have identified is potential rather than actual. For these reasons we find that interim measures are not necessary to protect the public. An interim measure would do little of consequence to protect the wider public interest and we do not consider it justifiable on that ground alone.
84. This concludes the determination.