

General Pharmaceutical Council

Fitness to Practise Committee

Principal Hearing

Remote videolink hearing

Wednesday 15 – Friday 17 November 2023

Registrant name:	Lesley McCarthy
Registration number:	2051271
Part of the register:	Pharmacist
Type of Case:	Misconduct/Conviction/Health
Committee Members:	Manuela Grayson (Chair) Stephen Simbler (Registrant member) Jennifer Walmsley (Lay member)
Clinical Adviser:	Dr Desmond Dunleavy
Committee Secretary:	Adam Hern
Registrant:	Present and unrepresented
General Pharmaceutical Council:	Greg Foxsmith, Case Presenter
Facts proved by admission:	All
Fitness to practise:	Impaired
Outcome:	Suspension for a period of nine months
Interim measures:	Interim Suspension Order

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 December 2023 or, if an appeal is lodged, once that appeal has been concluded. However,

the interim suspension set out in the decision takes effect immediately and will lapse when the decision takes effect or once any appeal is concluded.

Particulars of Allegation

You, a registered pharmacist and whilst employed as the Pharmacist Store Manager of Boots Pharmacy, 13 Green Street, Strathaven, Lanarkshire, ML10 6LT ('the pharmacy'):

1. Between January 2019 and January 2022, accessed the pharmacy out-of-hours:

1.1 without authorisation;

1.2 without any legitimate need to do so.

2. On 19 July 2022, in the Sheriff Court of South Strathclyde Dumfries and Galloway at Hamilton, were convicted of; between 03 January 2019 and 31 December 2021, both dates inclusive at Boots the Chemist, 13 Green Street, Strathaven, you, Lesley McCarthy, whilst you were employed as store manager and pharmacist, did steal a quantity of controlled drugs, namely Dihydrocodeine tablets, to the value of £1,500.

3. Are suffering from a condition, the nature of which is set out in Schedule 1.

By the reasons set out above, your fitness to practice is impaired by way of your misconduct and/or conviction and/or health.

Schedule 1

[PRIVATE]

Documentation

Document 1- GPhC hearing bundle, 166 pages

Document 2- GPhC skeleton argument dated 2 November 2023

Document 3- Registrant's reflective statement, one page, dated 23 September 2023

Witnesses

Dr Jonathan Chick, Consultant Psychiatrist

The Registrant gave oral evidence at Stage 2, in relation to current impairment

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 20 October 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 Foxsmith under Rule 39(3) to hold parts of the hearing in private, wherever matters of the Registrant's health might be mentioned. He accepted that all other parts of the hearing should be heard in public.
8. The Registrant agreed with the application.
9. The Committee was satisfied that the interest of the Registrant in maintaining privacy in relation to matters concerning her health outweighed the public interest in holding those parts of the hearing in public. It therefore resolved to hold all parts of the hearing which refer to the Registrant's health in private. Other parts of the hearing would be heard in public.

Registrant's response to Particulars of allegation

10. The Registrant admitted factual particulars 1, 2 and 3 of the Allegation in their entirety.

Determination on facts

11. In relation to particular 2, the Committee noted Rule 24(4) of the Rules provides:
“Where a person concerned has been convicted of a criminal offence in the British Islands (and has not successfully appealed against the conviction),[...] for a conviction in Scotland, an extract conviction, is admissible as conclusive proof of that conviction and the findings of fact which it was based”.
12. The Committee had sight of the certified charge sheet provided by the Sheriff Court of South Strathclyde Dumfries and Galloway at Hamilton dated 19 July 2022 and was satisfied that the charge sheet was appropriate confirmation of the facts alleged at particular 2.
13. 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.
14. The Committee therefore went on to consider whether the Registrant’s fitness to practise is currently impaired which is a matter for the Committee’s judgement.

Background

15. On 27 April 2022, the Council received a concern letter from the Boots Chief Pharmacist’s Office detailing that the Registrant was employed as the Store Manager of the Strathaven store where the fraud analytics team highlighted a discrepancy in Dihydrocodeine tablets, a Schedule 5 controlled drug, dating back to January 2019. It was revealed that whilst on long-term absence, the Registrant has accessed the pharmacy out-of-hours and took the Dihydrocodeine tablets.
16. The concern also mentioned that in addition, during an interview, the Registrant admitted to taking the Dihydrocodeine tablets and subsequently resigned from her position on 15 March 2022. (The concern was not included in the bundle before the Committee).

17. The Council commenced an investigation into the concern and witness statements were obtained by the Council.

Misconduct- Allegation 1

Mr 1

18. On 1 September 2023, the Council obtained a signed witness statement from Mr 1, Fraud Analytics Lead at Walgreens Boots Alliance. Part of Mr 1's role is to investigate discrepancies in pharmacy medication and allegations of wrongdoings by members of staff. Mr 1 explained that following his analysis, it was highlighted that there were discrepancies with Dihydrocodeine 30mg, 100 tablets at the pharmacy. His evidence was that the alarm data shows the time in which the alarm was deactivated, opening the pharmacy and reactivated, closing the pharmacy. There were several instances whereby it appeared from the data that the pharmacy had been opened and closed out of hours. The pharmacy was only accessed out of hours by key set 5.

Ms 2

19. On 8 September 2023, the Council obtained a signed witness statement from Ms 2, Store Operational Support Specialist. Ms 2 stated that the Registrant commenced her employment as a relief pharmacist at the pharmacy on 21 July 2011, becoming the base pharmacist then the pharmacy manager at the pharmacy on 28 October 2018.
20. The employment information confirms that between 28 October and 5 December 2021, the Registrant was the Store Manager of the pharmacy and between 6 December 2021 and 15 March 2022 she was a relief pharmacist based in a different pharmacy.
21. Ms 2 explained that fraud analytic data highlighted that there were variances between the purchase and dispensing data for Dihydrocodeine 30mg, 100 tablets. A case was subsequently opened which detailed that there was a variance of 28,016

Dihydrocodeine 30mg tablets from January 2019 at the pharmacy. Subsequently Ms 2 commenced an investigation into the missing Dihydrocodeine tablets.

22. Ms 2 described that one of the managers began covertly conducting stock counts of the medicines within the pharmacy, twice per week from 29 December 2021, the largest amount that was unaccounted for in one day was 400 tablets, 4 boxes of Dihydrocodeine 30mg. Ms 2 stated that the amount of Dihydrocodeine unaccounted for over this period varied.
23. As part of Ms 2's investigation, the alarm data for the pharmacy were requested and Ms 2 noticed that there had been unauthorised openings of the pharmacy when it was closed for business, specifically by key set 5.
24. Ms 2 also exhibited a copy of the alarm data specifically for key set 5 and highlighted within this the instances in which there had been unauthorised access to the pharmacy. The alarm data obtained suggested that there were numerous instances when the pharmacy had been accessed out of hours and it had only ever been accessed on these occasions by key set 5.
25. Ms 2 requested that the key set data was obtained to ascertain who had key set 5. Once the information had been gathered it was believed that the Registrant still had a set of keys whilst she was off sick.
26. Absence information obtained from Ms 2 details that between 31 May 2021 to 04 December 2021 the Registrant had a substantial amount of time off [PRIVATE]
27. Ms 2 detailed that on 9 February 2022, the Registrant had entered the pharmacy during working hours and handed her set of keys to the new store manager. The store manager swiped the alarm panel of the keys handed to him, and the CCTV Monitoring Centre informed Ms 2 that the keys swiped were key set 5.

28. On 16 February 2022, Ms 2 attended the pharmacy where the Registrant was working to interview her. During the interview, the Registrant confirmed that she had the keys since she was the pharmacy manager at the pharmacy. At first the Registrant denied all knowledge of the missing Dihydrocodeine tablets, but later she admitted that she had been stealing the Dihydrocodeine tablets. She confirmed when asked it was since around January 2019.
29. After a short adjournment to the meeting, the Registrant stated, “Yes I will be honest, I haven’t had the best year, I haven’t done anything here, I haven’t been coping”. The Registrant then mentioned that she couldn’t cope with being the manager.
30. [PRIVATE]
31. The Registrant admitted to accessing the pharmacy out of hours and taking Dihydrocodeine,.
32. The Registrant disclosed that she was taking between 10-12 Dihydrocodeine. The Registrant [PRIVATE] confirmed that she did not take any other medication.

Health- Allegation 3

General Practitioner

33. On 4 November 2022, the Council obtained a Health Information Form (‘HIF’) from the Registrant’s treating General Practitioner (‘GP’). [PRIVATE]
34. [PRIVATE]
35. [PRIVATE]
36. [PRIVATE]

Testing and Medical Assessment

37. [PRIVATE]
38. Dr Jonathan Chick medically assessed the Registrant on 9 January 2023 and provided a full medical report on behalf of the Council. [PRIVATE]
39. [PRIVATE]
40. [PRIVATE]
41. [PRIVATE]
42. [PRIVATE]
43. [PRIVATE]
44. [PRIVATE]
45. [PRIVATE]
46. On 10 July 2023, Dr Chick, instructed by the Council, again medically assessed the Registrant and provided the Council with a further medical report.
47. [PRIVATE]
48. [PRIVATE]
49. [PRIVATE]
50. [PRIVATE]
51. [PRIVATE]

52. [PRIVATE]

53. On 8 September 2023, Dr Chick confirmed that there is no change to his previous opinion, after having seen the most recent testing results.

Conviction- Allegation 2

54. On 29 March 2022, the Registrant attended Motherwell Police Office and was thereafter arrested under terms of Section 1 Criminal Justice Scotland Act 2016 on suspicion of embezzlement.

55. Following her police interview, the Registrant was cautioned and charged with the following:

'Between the inclusive dates 03 Jan 2019 and/or 31 Dec 2021, at Boots, 13 Green Street, Strathaven you Lesley McCarthy did while employed as store manager pharmacist of Boots the Chemist, 13 Green Street, Strathaven embezzle 29,500 30mg Dihydrocodeine tablets.'

56. The Registrant did not appear in Court but pleaded guilty and was convicted on 19 July 2022 as follows:

'Between 3 January 2019 and 31 December 2021, both dates inclusive at Boots the Chemist, 13 Green Street, Strathaven, you Lesley McCarthy, whilst you were employed as store manager and pharmacist, did steal a quantity of controlled drugs, namely Dihydrocodeine tablets, to the value of £1,500.'

57. On 23 August 2022, the Registrant appeared in Court for sentencing, however, the Court deferred sentence for the Registrant to be of good behaviour and allow for her to make restitution.

58. On 1 August 2023, the Registrant was admonished by the Court and dismissed.

Oral Evidence

59. Dr Chick gave evidence on behalf of the Council. [PRIVATE]
60. [PRIVATE]
61. [PRIVATE]
62. The Registrant told the Committee she was ashamed and said she was so sorry for what happened. She said she completely understands that at the time of the events her integrity could not be relied on. She stated however that the events took place at a very difficult time in her life and drew the Committee's attention to the fact that she had worked previously for nearly 24 years without concerns being raised. She said her conduct at the time was not a reflection of who she really is. She feels guilty about her previous conduct. She is a moral person and would like the opportunity to prove this to the Committee. If permitted to return to work, she would like to work as a locum or relief pharmacist: she is a people person and her strengths lie in communication with the public, and general pharmacy skills. She did not enjoy management and did not intend to return to that role.
63. [PRIVATE]

Submissions in relation to Misconduct and Impairment

64. Mr Foxsmith drew the Committee's attention to the Council's Combined Statement of Case and Skeleton Argument. He submitted that the grounds of misconduct, conviction and adverse health were made out. The Registrant's conduct in entering the pharmacy when she knew she was not authorised and stealing controlled medication when she knew she had not been prescribed it, was reprehensible and would be considered deplorable by fellow practitioners. It fell far below the standards expected of her by her regulatory body, by the public and the standards she expected of herself, and amounted to the ground of misconduct. The Registrant breached Standards 5, 6 and 9

of the *Standards for pharmacy professionals (2017)*. Whilst no patients, that is members of the public, were adversely affected, there was clearly a risk of harm. Her conduct amounted to misconduct. The grounds of conviction and health were made out by the facts which had been found proved.

65. [PRIVATE] Given the evidence before the Committee today, the Committee might consider that the Registrant's health is not currently impaired and therefore, might conclude that there is a low risk of repetition of the Registrant's misconduct and conviction. In relation to Rule 5(2) of the Rules, Mr Foxsmith submitted that whilst Rules 5(2) (a) and (d) may not be currently engaged, the Committee ought to find Rule 5(2) (b) and (c) engaged and therefore it ought to make a finding of current impairment of fitness to practise in the public interest.
66. The Registrant again accepted full responsibility for everything she had done and expressed her shame for her previous conduct. She asked the Committee to take into account her nearly 25 years of professional practice without previous concerns or complaints from the public, and her sustained effort to take care [PRIVATE]. She confirmed that she repaid the £1500 to the pharmacy around July 2023.

Clinical Advice

67. Dr Dunleavy provided clinical advice to the Committee. [PRIVATE]

The committee's decision on grounds and impairment

68. Having found the facts proved, the Committee then went on to the second stage of the proceedings, that is, to determine whether or not the Registrant's fitness to practise is currently impaired. The Council has set out the meaning of 'fitness to practise' in its guidance entitled: "Good decision-making: Fitness to practise hearings and sanctions guidance" (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 our various standards, guidance and advice.”

Grounds

69. Article 54(1) of the Order set out the possible grounds or “gateways” to a finding of impairment. The relevant gateways in this matter are:

- *“misconduct”* (Article 54(1)(a), as set out at particular 1);
- *“conviction for a criminal offence”* (Article 54(1)(e) in respect of particular 2); and
- *“adverse physical or mental health which impairs their ability to practise safely and effectively or which otherwise impairs their ability to carry out the duties of a pharmacist...in a safe and effective manner;”* (Article 54(1)(c), in relation to particular 3).

70. The Committee considered each of the relevant grounds.

71. It was of the view that the ground of conviction was established on the basis of the Certified Charge Sheet dated 19 July 2022.

72. The ground of [PRIVATE] health was established by the Committee’s finding in relation to particular 3 that the Registrant suffers from the health conditions specified in Schedule 1 of the Allegation.

73. Turning to the ground of misconduct, the Committee accepted the submissions of Mr Foxsmith in relation to the Council’s Standards for Pharmacy Professionals (May 2017), and it determined that the Registrant by her conduct breached standards 5, 6 and 9. It was also of the view that she breached standard 8.

- (i) **Standard 5:** Pharmacy professionals must use their professional judgement [and] practise only when fit to do so. The Registrant’s

conduct in misusing a Schedule 5 Controlled Drug, namely Dihydrocodeine, which is known to have side effects including dizziness, drowsiness and potential hallucination, had the ability to seriously put patients and the public at risk, as it could have affected her professional judgement.

(ii) **Standard 6:** Pharmacy professionals must behave in a professional manner...Behaving professionally is not limited to the working day.

Pharmacists are expected to be trustworthy, and act with honesty and integrity. The Registrant breached Standard 6 in accessing the pharmacy out of hours to steal Dihydrocodeine. She knew, of course, that it was not prescribed to her.

(iii) **Standard 9:** Pharmacy professionals must demonstrate leadership...taking responsibility for their actions and leading by example.

The Registrant was a manager at the time. She failed to lead by example, and abused her position by her conduct. She diverted Schedule 5 controlled drugs out of the legitimate chain of supply [PRIVATE]

(iv) **Standard 8:** Pharmacy professionals speak up when things go wrong.

The Registrant was stealing drugs from the pharmacy over a prolonged period of time. [PRIVATE]

74. 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).

75. The Committee accepted the submissions of Mr Foxsmith in relation to misconduct. The Registrant knew full well that she did not have permission nor a legally valid prescription to remove Dihydrocodeine from the pharmacy, yet she used the keys she

was trusted with as a senior member of staff, to steal the medication [PRIVATE]. Her conduct clearly fell far below what would be expected of a registered professional. The Committee considered that it was seriously reprehensible and would be regarded as deplorable by her fellow pharmacists. It was in no doubt that her conduct was serious enough to amount to misconduct.

76. Accordingly, the Committee concluded that all three alleged grounds were established by the proven facts of this case.

Impairment

77. Having found that the grounds of misconduct, conviction and adverse health were established, the Committee went on to consider whether the Registrant's fitness to practise is currently impaired.

78. Rule 5(2) of the Rules provides:

"In relation to evidence about the conduct or behaviour of the registrant which might cast doubt on whether the requirements as to fitness to practise are met in relation to the registrant, the Committee must have regard to whether or not that conduct or behaviour –

- a) presents an actual or potential risk to patients or to the public;*
- b) has brought, or might bring, the profession of pharmacy into disrepute;*
- c) has breached one of the fundamental principles of the profession of pharmacy; or*
- d) shows that the integrity of the registrant can no longer be relied upon."*

79. Guidance on this issue, (echoed the Council's Guidance at Paragraph 2.14), was set out by 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 [practitioner's] fitness to practise is impaired that first ... her conduct that led to the charge is easily remediable, second that it has been remedied and third that it is highly unlikely to be repeated".

80. Applying the considerations set out in the case of Cohen, the Committee noted that it is often said in cases where there has been misconduct or a conviction involving dishonesty, as in this case, that such behaviour will not be easily remediable. However, the Committee bore in mind that Mr Foxsmith, having seen and heard all of the evidence and the clinical advice, had submitted that this may be a case where the Registrant's conduct has nevertheless been remedied.

81. [PRIVATE]

82. The Committee also took into account the clinical advice of Dr Dunleavy who confirmed that the evidence suggested that the Registrant is currently well [PRIVATE].

83. The Committee had regard to Rule 5(3) of the Rules which provides:

"In relation to evidence about the registrant's physical or mental health which might cause 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 evidence shows actual or potential –

- a) self-harm; or*
- b) harm to patients or the public".*

84. The Committee concluded that the provisions of Rule 5(3) were not engaged, in that the evidence does not show any actual or potential risk of self-harm nor of harm to patients or the public.
85. The Committee also referred to Rule 24(10) of the Rules which provides, at Rule 24(10) (d), that the Committee, in determining whether a registrant's fitness to practise is impaired by reason of physical or mental health, may take into account, amongst other matters,
- “(d) any underlying condition suffered by the person concerned which, although in remission, is capable of causing impairment of fitness to practise if it recurs.”*
86. The Registrant's health conditions are conditions which can recur and in such an event they may cause impairment. However, the Committee was aware that the mere possibility of recurrence, or relapse, is not sufficient to lead to a finding of impairment. It is satisfied on the basis of all of the evidence before it, that the risk of relapse for this Registrant is low and therefore Rule 24(10) (d) is not engaged.
87. The Committee next turned to consider whether any sub-particulars of Rule 5(2) of the Rules are engaged by the Registrant's misconduct.
88. It took into account Mr Foxsmith's submissions to the effect that, if the Committee were to find that the risk of relapse of the Registrant's health conditions is low, and also that her health conditions were in great part responsible for her misconduct and conviction, then it would be open to the Committee to find that she does not present an actual or potential risk to patients or the public, and therefore that Rule 5(2) (a) is not engaged.
89. Bearing this in mind, the Committee considered the evidence of the Registrant's insight, remorse and remediation in relation to her misconduct and conviction. It took into account her reflective statement dated 23 September 2023 in which she began by stating she was “deeply sorry and ashamed ...for everything that has happened. I take responsibility for my actions”, ending her statement by admitting: “I am so ashamed that this has happened”. She described in that statement and again in oral evidence [PRIVATE] the strategies she now has in place to avoid repetition. She reminded the Committee that she had worked without previous concerns for about 24 years, and

assured the Committee that she remains a person of integrity despite her misconduct of 2019-2021.

90. The Committee considered the evidence before it. The Committee noted the Council's skeleton argument which pointed out that the Registrant was alleged by her employer to have stolen 28,016 tablets, over a period from January 2019 to January 2022, that is for approximately three years. [PRIVATE]
91. This was, as submitted by the Registrant, despite an otherwise unblemished career of around 24 years, in which no-one had previously raised any concerns about her capability, her honesty, or her integrity.
92. Having taken into account all the evidence before it, the Committee was satisfied that the Registrant's misconduct and conviction took place in the context of her health conditions at the time: they were inextricably linked.
93. Given its conclusions above, the Committee is of the view that, applying the principles set out in the case of Cohen, the Registrant has remediated her wrongdoing and it is highly unlikely to be repeated. The Registrant does not present an actual or potential risk to patients or the public, and it is not the case that her integrity can no longer be relied on. It is satisfied that neither Rule 5(2) (a) nor Rule 5 (2) (d) are engaged by the facts of this case.
94. The Committee next turned to consider Rule 5(2) (b) and Rule 5(2) (c), which are the rules which express the public interest aspects of impairment. The Committee was satisfied that by her serious misconduct, entering the pharmacy out of hours, when she knew she was not allowed to do so, and stealing controlled opiates over a very long period of time [PRIVATE], she brought the profession of pharmacy into disrepute, thereby engaging Rule 5 (2) (b).
95. In relation to Rule 5(2) (c), the Committee has set out above the multiple professional standards which the Registrant breached, all of which, certainly when

taken together, amounted to breaches of the fundamental principles of the profession of pharmacy. These include an expectation that a pharmacist will act honestly and will not abuse the position of trust afforded to them through their privileged access to controlled medications.

96. The Committee bore in mind the well known case of CHRE v NMC and Grant [EWHC] 927 (Admin), in which Mrs Justice Cox 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.
97. For all the reasons set out above, the Committee finds the Registrant’s fitness to practise is currently impaired on grounds of public interest, that is, in order to promote and maintain public confidence in the professions regulated by the Council; and to promote and maintain proper professional standards and conduct for members of those professions.

Sanction

98. Having found impairment, the Committee went on to consider the matter of sanction. The Committee’s powers in relation to sanction are set out in Article 54(2) of the Order. The Committee should consider 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.
99. 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 to protect the health, safety and wellbeing of the public, to maintain 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.

100. The Committee had regard to the relevant law and to the Council's 'Good decision making: Fitness to practise hearings and sanctions guidance (2017)' ("the Sanctions Guidance"), to inform its decision.
101. The Committee took into account the submissions made by Mr Foxsmith and by the Registrant.
102. The Committee first considered what, if any, aggravating and mitigating factors there may be.
103. The Committee identified the following aggravating factors:
- The misconduct and thefts involved premeditation in that the Registrant kept the keys to the pharmacy and accessed the pharmacy when she knew no-one would be there;
 - They took place over a prolonged period of about three years;
 - The thefts were from the Registrant's employer;
 - Patients and the public could have been harmed.
104. The Committee identified the following mitigating factors:
- The Registrant made early admissions to her employer and thereafter entered a guilty plea at court;
 - She has engaged fully with this regulatory process [PRIVATE];
 - [PRIVATE];
 - The Registrant's adverse health was inextricably linked to her misconduct and conviction.
105. The Committee next turned to consider the sanctions available to it in ascending order.

106. 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 and conviction.
107. Warning: The Committee next considered whether issuing a warning would be appropriate but it decided that, for the same reasons as above, a warning would not sufficiently mark the public interest. It would not deal appropriately with the Registrant's failings.
108. Conditions of Practice. The Committee next considered whether to impose conditions of practice. The Sanctions Guidance states that conditions may be appropriate where there is evidence of poor performance or of significant shortcomings in a registrant's practice. However, the Committee was of the view that conditions would not be appropriate or relevant in this case since the particulars of allegation relate to her conduct outside of her professional practice. In any case, the Committee considered that an order for conditions would not be sufficient to mark the seriousness of the matter so as to maintain public confidence in the Registrant, the profession and the regulator.
109. Suspension Order. The Committee next considered whether suspension would be a proportionate sanction. The Committee took into account that Mr Foxsmith had submitted that a lengthy period of suspension together with a review before it expires, might appropriately deal with the public interest in this case. It carefully considered 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 unbefitting a member of the pharmacy profession. Also, when public confidence in the profession demands no lesser sanction.”

110. The Committee has already observed that the Registrant’s misconduct and conviction were very serious. Even though it accepts that her thefts were in large part due to [PRIVATE], it is satisfied that members of the public, if they knew the details of this case, would be alarmed at the period of time over which the Registrant continued to gain unauthorised access to the pharmacy in order to steal Schedule 5 controlled drugs to the value of £1500. This is especially so when set against the standard of conduct which the public rightly expects of a pharmacist.
111. When considering the circumstances of the case, as recommended in the Council’s Sanctions Guidance at paragraphs 5.12 to 5.14, the Committee took into account that:
- This was not a ‘one-off’ incident but sustained conduct over a prolonged period of time;
 - It took place in a pharmacy;
 - It involved an abuse of trust and of the Registrant’s position both as a professional with privileged access to drugs, and also as a manager. However,
 - [PRIVATE]
 - She had no relevant history of fitness to practise concerns;
 - [PRIVATE]
112. Balanced against the seriousness of the facts of the case however, the Committee gave due weight to the Registrant’s previously unblemished career; the effects her adverse health might have had on her decision-making and conduct at the time of the events; and the considerable success she has demonstrated in remediating her health and her conduct. Given all of the context and circumstances prevailing at the time of the events, the Committee does not consider that the Registrant’s behaviour

is fundamentally incompatible with being a registered professional. It is of the view that to remove her from the register would be disproportionate.

113. For all the reasons set out above, the Committee is satisfied that a period of nine months' suspension from the register will deal proportionately and appropriately with the public interest: it will send a clear message to professionals and to the public that the Registrant's conduct was unacceptable and unbecoming a member of the pharmacy profession, even though it was in large part linked to her adverse health at the time. The suspension will ensure the maintenance of public confidence in the profession and promote and maintain proper professional standards and conduct.
114. The Committee orders that the suspension be reviewed before its expiry. The Reviewing Committee may be assisted by the following information:
- An up-to-date medical report from the Registrant's GP [PRIVATE];
 - [PRIVATE];
 - Any character references or testimonials from employers in relation to any work the Registrant may undertake, whether paid or voluntary, should she decide to do so.

Decision on Interim measure

115. Mr Foxsmith made an application on behalf of the Council 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. He submitted that given that the sanction imposed by the Committee, the public would consider it perverse for an interim measure of suspension not to be imposed to cover the duration of the appeal period.
116. The Registrant did not oppose the application.

117. The Committee carefully considered the Council's application. 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 also took into account the Council's Sanctions Guidance of 2017.

118. The Committee was satisfied that an interim measure of suspension ought to be in place from today's date, in the public interest, given the seriousness of its findings in relation to the Registrant's conduct.

119. The Committee therefore hereby orders that the entry of the Registrant in the register be suspended forthwith, in the public interest, pending the coming into force of the substantive order.