

General Pharmaceutical Council

Fitness to Practise Committee

Principal Review Hearing

Remote videolink hearing

20 November 2023

Registrant name:	Johnson Yuk Ming Li
Registration number:	2030439
Part of the register:	Pharmacist
Type of Case:	Conviction and Misconduct
Committee Members:	Angela Black (Chair) Bukky Giwa (Registrant member) Michael Glickman (Lay member)
Secretary:	Zainab Mohamad
Registrant:	Not present, not represented
General Pharmaceutical Council:	Represented by Gareth Thomas, Case Presenter
Order being reviewed:	Suspension (9 months)
Fitness to practise:	Impaired
Outcome:	Suspension (6 months)

Documentation

Document 1 – Proof of Service bundle

Document 2 – Proceeding in Absence bundle

Document 3 – Council’s hearing bundle

Document 4 – Council’s skeleton argument

Document 5 – Email chain between the Council and the Registrant

Witnesses

None

Determination

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. The purpose of a Principal Review Hearing is to review directions issued by the Committee under Article 54(2)(d) or (e) of the Pharmacy Order 2010.

Service of Notice of Hearing

6. The Committee has seen a letter dated 3 October 2023 from the Council headed ‘Notice of Review Hearing’ addressed to the Registrant. There is evidence that this was sent to the Registrant by email and that the Registrant opened the covering email which was sent via Egress, the confidential email system used by the Council. The Committee was satisfied that there had been good service of the Notice in accordance with Rules 3 and 16.

Application to proceed in the absence of the Registrant

7. The Registrant was not in attendance at this hearing, nor was someone attending on his behalf. The Committee heard Mr Thomas’ submissions to the effect that the Committee should proceed with the hearing in the absence of the Registrant, pursuant to Rule 25.

8. The Committee noted the email correspondence between the Registrant and the Council in which the Registrant acknowledged receipt of the Council's skeleton argument and the bundle produced by the Council for this hearing. The Registrant has produced various documents for the hearing, including a reflective statement and testimonials, but informed the Committee Secretary on 24 October 2023 that he would not be attending the hearing. The Registrant did not attend the principal hearing of this matter either; at that time he informed the Council that this was because it would cause him excessive stress and anxiety were he to do so.
9. The Committee decided to proceed in the absence of the Registrant for the following reasons:
 - The Committee has found good service of the notice of this hearing.
 - The Registrant is aware of this hearing and, from the determination issued at the principal hearing, of the issues to be decided by this Committee. He has been provided with the Council's skeleton argument and bundle. He is aware that the hearing may proceed in his absence. He is also aware of the potential outcomes of this hearing. Indeed he has commented on one of the submissions in the Council's skeleton argument.
 - The Registrant has been invited to submit evidence and/or submissions for the Committee's consideration and has done so in anticipation of his absence.
 - The Registrant has not sought an adjournment of this hearing. Indeed it can reasonably be inferred from his correspondence that he expects the hearing to proceed in his absence. He has voluntarily waived his right to attend the hearing.
 - There is no information to suggest an adjournment would result in the Registrant's attendance at a resumed hearing before the current order expires on 27 December 2023.
 - There is a public interest in the expeditious disposal of this case.

Background

10. At a hearing culminating on 17 February 2023 a differently constituted Fitness to Practise Committee of the Council decided that the Registrant's fitness to practise was impaired and imposed an order of suspension on his registration for a period of 9 months. The allegation faced by the Registrant at that hearing was as follows:

"You, a registered Pharmacist,

1. On 13 October 2020, were convicted at Cheltenham Magistrates' Court of theft, contrary to section 1(1) and 7 of the Theft Act 1968 in that, on 16 February 2020, you stole medication to the value of approximately £50 belonging to a Badhams Pharmacy;
2. On 16 February 2020, had in your possession items including prescription-only medication that you intended to supply to a friend or friends of yours other than in accordance with a prescription;

3. On a date before 16 February 2020, took ibuprofen and / or paracetamol belonging to Badhams Pharmacy without permission and without making payment;

4. Your conduct described in paragraph 3 (above) was dishonest in that you knew that you were not entitled to take the medication.

By reason of the matters above, your fitness to practise is impaired by reason of your conviction and / or misconduct.”

The Registrant admitted the allegation and the Committee found all paragraphs proved.

11. The background to this matter is set out in the determination of the previous Committee at paragraph 21 onwards, as follows:

“21. At material times the Registrant worked for Badham Pharmacy (“the Pharmacy”) as a locum pharmacist. Badham Pharmacy comprised 21 shops predominantly in Gloucestershire. The Registrant regularly worked at various branches of the Pharmacy and generally at weekends.

22. A member of staff employed by the Pharmacy had reported concerns about the Registrant to the Managing Director of Badham Pharmacy. Mr Charles Badham, the son of the Managing Director and himself the Pharmacy Director for the Pharmacy, was aware the Registrant would be working on Sunday 16 February 2020 at the branch of the Pharmacy at 118 Swindon Road, Cheltenham, GL50 4BJ. Mr Badham went to the branch with his mother at about 7pm on that date, when it was due to close. The Registrant and another member of staff were present when they arrived.

23. Mr Badham informed staff that he would be conducting a random bag search pursuant to the employer’s handbook issued by Badham Pharmacy. According to Mr Badham, the Registrant went to the staff room area to retrieve his bag but Mr Badham became suspicious about the Registrant’s behaviour. He went upstairs to speak to the Registrant and gained the impression that the Registrant was acting suspiciously and trying to hide things. Mr Badham searched the Registrant’s bag in the Registrant’s presence and found stock which appeared to belong to the Pharmacy, including Naseptin (for infections), and the following prescription drugs:

- Metformin (for diabetes)
- Daktacort (fungal cream)
- Naproxen (anti-inflammatory pain killer)
- Dianette (female contraception)
- Avamys (steroid nasal spray)
- Cocodamol (painkiller)

24. The items were valued by Mr Badham at about £50.

25. Following this incident, the Registrant's future locum bookings were cancelled by the Pharmacy and he has not worked there since.
26. Mr Badham reported the incident to Gloucestershire Police on 17 February 2020 and provided a statement. He also reported this matter to the Council on that date.
27. The Registrant, who had legal representation at the time, was interviewed by the police on 2 May 2020. He confirmed he had taken medications from Badhams Pharmacy and that he knew this was not right. He said he felt ashamed of his actions. He referred to the items being for his own use following surgery the previous year; they were also for a female friend who was struggling to find medication for herself. He told the police he did not have a prescription for any of the medication.
28. The Registrant also admitted to the Council's case officer in a telephone call on 3 April 2020 that he had taken items from the Pharmacy. He said he had done so for himself and for a friend. He accepted he was at fault. He said he had refunded the value of the items by not charging the Pharmacy for his services when he left; furthermore, the items had been returned to the Pharmacy. He denied having previously taken items from the Pharmacy, apart from a box each of paracetamol and ibuprofen a couple of weeks before he was caught on 16 February 2020.
29. The Registrant told the Council's case worker [PRIVATE] He had not attended his GP [PRIVATE]
30. The Registrant was convicted at Cheltenham Magistrates Court on 13 October 2020 on his guilty plea, of the following offence:
- "On 16th February 2020 at Cheltenham in the Country of Gloucestershire stole medication, to the value of approximately £50 belonging to Badhams Pharmacy, Swindon Road, Cheltenham contrary to section 1(1) and 7 of the Theft Act 1968."
31. The Registrant was fined £200 and ordered to pay a victim surcharge of £32. He was also ordered to pay costs of £85 to the Crown Prosecution Service. The Memorandum of Conviction records the following:
- "Defendant's guilty plea taken into account when imposing sentence. Reason: full credit given for plea at the first opportunity. Category [sic] 4B community starting point considered but the court find [sic] that this case can be dealt with as a fine due current health issues, and previous good character for many years".
32. The Registrant was required to pay the fine, surcharge and costs by 13 November 2020.
33. The Registrant has apologised to Mr Charles Badham for his actions and has informed Mr Badham that he did not render an invoice for his locum services provided during February 2020. The Registrant has stated that he is ashamed of his actions. He has also apologised to the Council and to this Committee."

12. The previous Committee concluded that the Registrant had breached the following standards for pharmacy professionals: Standard 1, Standard 5, Standard 6 and Standard 9, the most significant being Standard 6 which required pharmacy professionals to be trustworthy and act with honesty and integrity.

13. On the issue of impairment, the Committee found:

“51. While the Committee has had regard to the mitigation of the Registrant, namely his health conditions and their impact at material times, together with his previous good character, the Committee considers these do not sufficiently explain his poor decision-making or his poor professional judgment. The Committee accepts the Registrant was encountering difficulties [PRIVATE] but it is not clear to the Committee how these difficulties caused or contributed to his offending behaviour and/or misconduct. It is a fundamental tenet of the profession that registered pharmacists practise according to the law and their professional standards. It is perhaps highly relevant that there is no other criticism of his clinical performance than the allegation itself. This suggests that he was capable, at material times, of discriminating between good clinical practice and his offending behaviour. The Registrant’s evidence is that “some of the items taken were intended for friends who had previously indicated to me that they had difficulties in obtaining them. I felt sorry for them and wanted to help them albeit in a wrong way”. The fact that friends had difficulty obtaining POMs should have alerted the Registrant to the possibility that they may not have been suitable medication for them. The Committee finds it inexcusable that he intended to supply POMs to friends in such circumstances.

14. The Committee also stated this:

“62. ... The Committee is unable to accept the Registrant’s assertion that his actions were triggered by his poor health and the detrimental impact of this on his mental state. He may have used some of the drugs himself for analgesia following surgery but his poor health does not explain his intention supply a friend (or friends) with POM/s. He abused the trust of his employer and his work colleagues. He acted without honesty or integrity within the practice of pharmacy.”

15. The Committee further stated:

“64. The Committee is disappointed that the Registrant has not attended to participate in this hearing. Instead he relies on his written evidence yet this does not address all the issues of concern for the Committee. That evidence does not identify or address the underlying issues which led to his offending behaviour. He tells the Committee in the listing questionnaire that his “despicable action was entirely triggered [PRIVATE] at the time”. The Committee does not find this explanation plausible or reasonable given that he had intended to supply POM/s to one or more third parties. The Committee is unable to find a causal link [PRIVATE] and his stated intention to supply POM/s for third party use.

65. Dishonesty is a state of mind; it is a deep-seated attitudinal issue. The Registrant has not persuaded the Committee, in his written evidence, that he has sufficiently reflected on why

he acted dishonestly and why he intended to supply POM/s to one or more third parties. He has not identified steps taken to ensure his offending behaviour and misconduct is not repeated should he find himself [RPRIVATE]. Nor has the Registrant sufficiently reflected on the detrimental impact of his offending behaviour on the safety of members of the public, the reputation of the profession or public confidence in the pharmacy profession.

66. The Committee notes the Registrant's remorse and shame. While undoubtedly genuine, this is not sufficient to demonstrate the Registrant has taken steps to remediate his offending behaviour and his misconduct. It appears from the Registrant's written evidence that his primary concern is the detrimental impact of his actions (and their outcome) on himself, his family and his friends rather than more widely within and outside the profession."

16. The Committee concluded that the Registrant had not sufficiently remediated his offending behaviour. It stated that "in the absence of evidence of his having addressed the root cause of or trigger for his dishonest behaviour, the Committee is not satisfied it will not be repeated if the Registrant finds himself in stressful circumstances [PRIVATE]. Were that to occur, he might be unable to resist repeating his offending behaviour and misconduct.
17. At the stage of deciding sanction, the Committee observed that "the Registrant's dishonesty, while serious because it occurred in pharmacy practice, is not at the most serious end of the spectrum. ... there is no evidence that the Registrant was intending to supply medications for profit; he was intending to provide them to a friend or friends who had difficulty obtaining them. His actions were, to some extent, motivated by empathy rather than greed. His intentions were well-meaning albeit misguided. There is no evidence of harm arising from the Registrant's conduct albeit there was a risk of harm arising from the Registrant's intention to supply POMs without prescription."
18. The Committee noted the Registrant's circumstances at material times: "[PRIVATE] There were ongoing issues [PRIVATE]. ... While the Committee has had difficulty understanding how those problems led to the Registrant's intention to supply POMs to a friend or friend/s it is not in issue that the Registrant was unwell at the time. To the Registrant's credit he has engaged with all those who have dealt with his offending behaviour and misconduct, save that he has not attended this hearing due to anxiety. The Registrant wishes to return to pharmacy practice and to put this matter behind him."
19. The Committee took into account

"the Registrant's assertion that he would not act in a similar way again but, for the reasons set out above at the impairment stage, the Committee is not satisfied that he has sufficiently identified the trigger/s which led to his dishonest behaviour and/or misconduct, including the intention to supply POMs to a member of the public without prescription or oversight. There is no evidence as to the steps he has taken to ensure the misconduct and offending behaviour does not occur again. This may in part be due to his lack of familiarity with these proceedings but his failure to attend this hearing has deprived him of an opportunity to address the Committee on this important issue. The Committee cannot make assumptions

in the absence of specific evidence on pertinent issues such as insight, remediation and the risk of repetition.

...

The Registrant's ability to demonstrate insight has been hampered by his failure to attend this hearing. It is possible that he would have been able to demonstrate significant insight given that he has expressed, on numerous occasions, his remorse and shame. However, the Committee can make no assumptions about the degree of his insight and it finds therefore that it is limited. It has already found, at the impairment stage, that there is a risk of repetition if the Registrant were to find himself in similar circumstances."

20. The Committee imposed a sanction of suspension of the Registrant's registration for nine months with a review before the end of that period. It "strongly encourage[d] the Registrant to attend the review hearing" and considered the reviewing Committee may be assisted if the Registrant were to provide certain information as listed in the Committee's determination.

This hearing

21. Mr Thomas, for the Council, set out the background to this matter. He also adopted his skeleton argument and made further oral submissions. He referred the Committee to the documentary evidence (including that of the Registrant) in the Council's bundle. In summary, he submitted the Committee may find the Registrant had not explained in his reflective statement why he acted as he did; nor had he analysed the causal link between his poor health, frustration [PRIVATE] and his decision to act dishonestly, which the previous Committee had considered to be lacking from his account. His testimonials did not assist. It was submitted the Registrant had not demonstrated full remediation. It was submitted that he had not demonstrated that the risk of repetition had been significantly lowered, that his integrity could be fully relied upon or that his fitness to practise was no longer impaired. He was unlikely to do so if he did not attend the hearing as encouraged by the previous Committee. It was submitted that the need to mark the misconduct and maintain professional standards and public confidence had been achieved by the suspension. There were no concerns about the Registrant's clinical practice. The events of February 2020 were out of character and occurred against a backdrop of personal difficulties. Given that the main focus was what could happen if the Registrant were again to suffer from personal frustrations [PRIVATE], it had been proposed in the skeleton argument that conditions of practice might be the appropriate response. These would require the Registrant to inform his employer about the ongoing proceedings and to work with a mentor to keep his personal situation under review and monitor his performance. The mentor should be approved by the Council. However, the Registrant had responded to the Council that he could not find a suitable mentor and Mr Thomas therefore submitted that suspension for a period of about 6-9 months was the appropriate course.
22. The Registrant has not made written submissions as to the appropriate outcome at this hearing. He had merely acknowledged the Council's bundle and skeleton argument and had responded to Mr Thomas by email that "despite [his] effort" he had "not been able to identify a suitable mentor as suggested in your skeleton argument".

Decision on Impairment

23. This Committee has been convened today to conduct a review of the order of suspension. The powers of a committee on a review are set out in Article 54(3) of the Pharmacy Order 2010, which provides, in its relevant parts:

“(3) Where the Fitness to Practise Committee has given a direction under this article, other than a direction that the entry in the Register of the person concerned be removed, it may, if it thinks fit, following a review –

(a) where the entry in the Register of the person concerned is suspended, give a direction that–

(i) the entry be removed from the Register,

(ii) the suspension of the entry be extended for such further period not exceeding 12 months as may be specified in the direction, starting from the time when the period of suspension would otherwise expire,

(iii) the entry be suspended indefinitely, if the suspension has already been in force throughout a period of at least two years,

(iv) ...

(v) on expiry or termination of the period of suspension (including a period of suspension that was expressed to be indefinite), the entry be conditional upon that person complying, during such period not exceeding 3 years as may be specified in the direction, with such requirements specified in the direction as the Committee thinks fit to impose for the protection of the public or otherwise in the public interest or in the interests of the person concerned, ...”

24. In addition to the powers set out in Article 54(3) of the Order, the Committee may take no action, and allow the direction to lapse on the expiry of the period of the suspension imposed. The Registrant would then be entitled to resume unrestricted practice.

25. Rule 34(6) sets out the procedure to be followed at a review hearing. That process entails consideration by this Committee as to whether the Registrant’s fitness to practise remains impaired today. If it is not, there can be no direction under Article 54(3).

26. The findings of the Committee at the principal hearing in February 2023 remain unchanged. Whether or not the finding of impairment remains is a matter of judgment for this Committee. However, in **Abrahem v GMC [2008] EWHC 183 (Admin)**, Blake J said:

“In my judgment, the statutory context for the rule relating to reviews must mean that the review has to consider whether all the concerns raised in the original finding of impairment through misconduct have been sufficiently addressed to the Panel’s satisfaction. In practical terms there is a persuasive burden on the practitioner at a review to demonstrate that he or she has fully acknowledged why past performance was deficient, that through insight,

application, education, supervision or other achievement has sufficiently addressed the past impairments.”

27. This Committee therefore examined the background and findings of the previous Committee and events since that date. It has borne in mind the allegation found proved, as set out above. It has also borne in mind the findings of previous Committee that the Registrant’s fitness to practise was impaired by reason of his misconduct and conviction.

Decision and Direction

28. In reaching its decision, this Committee considered the evidence which has been produced at this review hearing together with the submissions for the Council and the limited information provided by the Registrant.

29. The Committee has borne in mind, in considering whether the Registrant’s fitness to practise is currently impaired, Rule 5 which provides that the Committee must have regard to the criteria specified at paragraph 5(2) and (3). That paragraph 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 upon.*

30. Also relevant is the guidance of Mr Justice Silber in **Cohen v. GMC [2008] EWHC 581 (Admin)**:

“[65]..... It must be highly relevant in determining if a doctor'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.”

31. The Committee has been provided with a Monitoring Record created by the Council. The Registrant has also confirmed to the Council that he has been compliant with the suspension of his registration. The Committee has no reason to doubt that is the case.
32. The Committee finds, as did the previous Committee, that the misconduct which led to the finding of impairment by the original Committee is remediable in principle.
33. The Committee accepts the submission for the Council that the need to mark the misconduct and maintain professional standards and public confidence has been achieved by the suspension imposed by the Committee at the principal hearing. The issue of concern is the risk of repetition.
34. The Registrant was encouraged by the previous Committee to attend this review hearing. He has not done so and has given no specific reason for his failure to attend.

35. The previous Committee suggested to the Registrant that this Committee would benefit from his attendance and that he should consider providing the following:
- a. Evidence to demonstrate his past impairment has been addressed, such as a reflective statement on this Committee's findings and how the Registrant has changed his behaviour. This reflection should include an analysis of the risks of supply of POMs to third parties without prescription, supervision or monitoring. It should also include the Registrant's reflection on the impact of his behaviour on the wider public interest, including public confidence in the profession and the need to maintain and uphold professional standards.
 - b. Evidence, such as a testimonial, from any person with whom he has engaged in a position of trust and who is aware of the Registrant's conviction and the outcome of these proceedings.
 - c. Evidence of his targeted CPD;
 - d. Up-to-date evidence/testimonials from any work, paid or unpaid, undertaken prior to the review hearing. The authors should indicate whether or not they are aware of the conviction and the outcome of these proceedings.
 - e. Any other material the Registrant considers appropriate to demonstrate he has remediated his behaviour and that there is no risk of repetition.
36. The Registrant has provided the following for this hearing:
- a. Reflective statement dated 4 October 2023.
 - b. Testimonial of Mr 1 dated 27 September 2023 addressed to the Council.
 - c. Reference of Mr 2 addressed to whom it may concern and dated 30 July 2020.
 - d. Letter to whom it may concern from Ms 3 dated 26 September 2023.
 - e. Evidence of CPD as follows:
 - (a) Anticholinergic Side Effects
 - (b) Oral antivirals for COVID-19
 - (c) Updated safety warning about the use of NSAIDs in pregnancy.
 - (d) Safety update: withdrawal of pholcodine-containing medicines.
 - f. Email from Registrant to the Council dated 22 September 2023 stating he has not been in any employment paid or unpaid, since receiving notification of his case being referred to the FtPC.
37. In his reflective statement of 4 October 2023, the Registrant indicates he is grateful for the Committee's having decided not to remove his name from the Register. He accepts the decision of the previous Committee. He states he has reflected on his wrongdoing and the consequence on his professional reputation and the trust of colleagues and the community. He has studied and reminded himself of the Council's professional standards. He states he understands and agrees with the decision of the Committee at the principal hearing. The Registrant states he recognises he abused his employer's trust and breached the law and professional standards 6 and 9. He acknowledges the use of most, if not all, prescription only medicines require regular supervision and monitoring. He acknowledges he deprived patients of their right to supervision and monitoring in contravention of professional standards 1 and 5.
38. The Registrant states

“My original intention was never to initiate my friends on the stolen medicines. They had long-term ongoing prescriptions for these treatments and had been stable on them. There had been a shortage of these medications at the beginning of the pandemic and my friends had experienced difficulties in having their prescriptions dispensed. An obvious and legitimate solution was to obtain their prescriptions and have them dispensed at Badham Pharmacy, where stocks were available. My mind was obviously not clear and I believe my ill health at the time contributed to my poor judgement.”

39. The Registrant goes on to say in his reflective statement that he regrets undermining the confidence of the public and bringing the profession into disrepute. He says that during his suspension he has revised the professional standards and undertaken CPD to ensure he is up to date. He also started to attend religious preaching to help re-establish and reinforce his personal values. He is committed to ensuring his behaviour will never be repeated and determined to regain the trust and confidence of the Council, his colleagues and the wider health community. The Registrant apologises to his former employer, his colleagues and the Council for the harm and breach of trust caused by his actions. He says he has “learned valuable lessons from this experience and [has] taken steps to rectify his behaviour and prevent any recurrence.” He says that

“if given the opportunity to be reinstated, I will approach my role as a pharmacist with renewed dedication, adhering to the highest ethical standards and upholding the principles of patient care and safety. I am fully aware of the responsibility that comes with being a pharmacist and the impact my actions can have on individuals and the profession as a whole”.

40. The Registrant has undertaken clinical CPD but has not undertaken “targeted CPD”, namely CPD to address the issues of concern about his offending behaviour: there is no evidence of attendance on courses dealing with probity, honesty or integrity, for example.
41. The testimonial of Mr 1 dated 27 September 2023 is on point. Mr 1 refers to being aware of the “incident” in February 2020 and the results of the hearing in February 2023. However, there is no indication that he has read the determination of the Committee in February 2023. There is no evidence that the Registrant has provided Mr 1 with full knowledge of his misconduct and conviction and the matters of concern to the previous Committee. That said, Mr 1 refers to the events of February 2020 being “a total shock” to him. This suggests an understanding of the seriousness of those events. He speculates that the Registrant’s judgement and state of mind might have been affected [PRIVATE] at the end of 2019 and beginning of 2020 but it is not clear whether he had firsthand experience of the impact of this condition on the Registrant at that time. Mr 1 believes the Registrant “has learned from his mistakes and has taken deep, reflection of his wrongdoing”. He notes the Registrant has shown a great deal of remorse for his actions. Mr 1 is fully supportive of the Registrant’s returning to pharmacy practice. The Committee gives some weight to this evidence.

42. The Committee has been provided with a reference by Mr 2 but this is dated 30 July 2020 and the Committee therefore gives this no evidential weight. It makes no reference to the misconduct and/or conviction.
43. Ms 3's reference letter is addressed to whom it may concern; it is dated 26 September 2023. Ms 3 is a friend of the Registrant. She makes no mention of these proceedings despite the date of her letter. While her reference is very positive, in the absence of an understanding of the events which gave rise to these proceedings, it is of little value in assessing the extent of the Registrant's remediation. Her assertion that the Registrant "comes across ... as an individual of utmost integrity and honesty" is of little evidential value in the absence of an understanding of the misconduct and conviction. Indeed the absence of any reference to either of these suggests the author is not aware of them at all.
44. The Registrant's evidence throughout these proceedings has been that his judgment and state of mind were affected by his health. He did not attend the principal hearing [PRIVATE]. He has not attended these proceedings but has given no reason for his absence. While the Committee acknowledges and takes into account the Registrant's reflections, he has not addressed the main concerns of the Committee at the principal hearing. That Committee made it clear that it was unable to find a causal link [PRIVATE] and his misconduct and offending behaviour. Of particular concern to that Committee was the lack of evidence of any steps taken by the Registrant to ensure his offending behaviour and misconduct would not be repeated should he find himself in a similar situation, [PRIVATE]".
45. The Committee is satisfied the Registrant's misconduct and the underlying behaviour are remediable in principle. The issue of concern is whether it has been remedied and whether it is highly unlikely to be repeated. The persuasive burden is on the Registrant.
46. This Committee notes the Registrant's reflections but he has not identified any steps he would take upon his return to practice to mitigate the risk of repetition; it is not clear how he would react if he were to [PRIVATE] such as to impact on his decision-making. It is not clear whether he would even be self-aware of the potential impact of his health on his judgement at the time. Nor is there any indication that he would, for example, seek support, either personal or professional, to ensure his health did not have a detrimental impact on his decision-making in pharmacy practice.
47. As was the case at the principal hearing, this Committee does not doubt the Registrant's remorse and good intentions. He undoubtedly wishes to practise safely and to the highest standards. However, his reflections and documentary evidence do not sufficiently address the concerns of the Committee at the principal hearing. Had he attended this hearing, he might have been able to demonstrate full remediation and insight. However, given the shortcomings of his documentary evidence this Committee has no alternative but to find that he has not demonstrated that the misconduct and offending behaviour are highly unlikely to be repeated.

48. For these reasons, the Committee finds that the Registrant's fitness to practise remains impaired. It concludes that Rules 5(a), (b) and (d) continue to be engaged. There remains a continuing risk of harm to the public, to public confidence in the profession and to its reputation.
49. The Committee went on to consider the appropriate and proportionate direction in these circumstances. In so doing it has borne in mind the submissions for the Council and the information provided by the Registrant to the Council.
50. The Committee has had regard to the Council's *Good Decision Making: Fitness to Practise Hearings and Sanctions Guidance* revised in March 2017.
51. The Registrant has not practised as a pharmacist since 2022. His clinical skills are not at issue here and he has provided evidence of continuing professional development on clinical topics.
52. The issue of concern is the risk of repetition. The Committee notes the Council's initial submissions (albeit no longer pursued) that the risk of repetition and ongoing concerns about the Registrant's integrity could be managed through a return to practice subject to conditions. It was noted that the events of February 2020 were "out of character for the Registrant and occurred against a backdrop of personal difficulties". It was proposed that focus should be on what could happen [PRIVATE]; to address that conditions of practice might be devised to require the Registrant to inform his employers about these ongoing proceedings and work with a mentor to keep his personal situation under review and monitor his performance. The mentor should be approved by the Council. It was suggested that this would enable the Registrant to demonstrate his "reliability".
53. In response to the Council's skeleton argument, the Registrant said merely this:

"Despite my effort, I am afraid I have not been able to identify a suitable mentor as suggested in your skeleton argument".
54. The Registrant has not commented on any other aspect of the skeleton argument. Nor has he given reasons for being unable to find a "suitable mentor". It is not clear how or whether he has researched the issue or who, if anybody, he has contacted in his efforts to find one.
55. In any event, the Registrant has given no indication of his intentions upon return to practice. It is not clear whether he would return as an employee or as a locum, for example. Without an indication of the Registrant's likely role, it is difficult to identify potentially workable conditions (irrespective of the nature of the risk to be addressed).
56. The Committee is mindful that conditions are usually imposed in cases where there are potential clinical risks in practice. This is not such a case (although the misconduct gave rise to a risk of potential harm to public and patients as a result of unmonitored use of POMs). In this case, the risk arises from the Registrant's poor judgment and decision-making in periods of adverse health.

57. Nor has the Registrant given any indication of his willingness to adhere to conditions of practice. The inference from his limited correspondence is that he would be unable to comply if they included a requirement that he work with a mentor approved by the Council. The Committee has no alternative but to conclude that the Registrant may not adhere to conditions of practice if they were imposed on his registration.
58. The Committee turned to the option of further suspension of the Registrant's registration. The Committee bears in mind the Registrant's misconduct is remediable. He has engaged to some extent with these proceedings but has not been totally open and transparent about his current circumstances, his health (insofar as it might impact on his judgment and integrity) or his intentions for the future as regards his pharmacy career. The Registrant's documentary evidence is relatively sparse and does not engage fully with the concerns of the previous Committee. He needs to do more to satisfy this Committee that he understands the root cause for his dishonesty in 2020 and that he has taken, and will take in future, steps to ensure that his health does not have a detrimental impact on his pharmacy practice.
59. A further period of suspension would enable the Registrant to consider his position and to take steps to engage fully and completely with the matters of concern to the Committee at the principal hearing. To that end a further review will be required before the end of any period of suspension. To prepare for such a hearing the Registrant will need time to consider his position and, if necessary, to gather support and advice to enable him to participate more fully. It would be of immeasurable benefit to the Registrant if he were to attend the next review hearing in person or remotely.
60. The Committee therefore determines that the Registrant's registration be suspended for a further period of 6 months with a review before the end of that period. The Committee acknowledges that this period is significant but a shorter period is unlikely to be sufficient to enable the Registrant to demonstrate he has addressed the concerns of the Committee about the risk of repetition. The burden is on him to do so. Given the quality of his documentary evidence produced for this hearing, he will need time to prepare better evidence to demonstrate his fitness to practise, with or without restrictions. He needs to reflect more deeply on his state of mind at the material time and the steps he must take in future to avoid repetition of the dishonest behaviour in February 2020. Mere assurances, while undoubtedly sincere, are not sufficient.
61. This Committee reiterates the comments of the previous Committee that it would be extremely helpful if the Registrant were to attend the review hearing. He could do so remotely from his own home if he wished. He could have moral support from a friend or family member (provided they were not a witness in the proceedings) during the hearing. This may go some way to ameliorating the stress of the process (if indeed that is the reason for his non-attendance today). The Committee acknowledges it can be difficult for a Registrant to participate in these proceedings without legal representation but it is common for Registrants to do so and the Committee will ensure the fairness of the process.

62. While this Committee cannot, and does not seek to, fetter any future reviewing Committee the Registrant should be aware that his failure to engage fully with these proceedings may jeopardise his registration as a pharmacist.
63. This Committee considers that the next reviewing Committee may be assisted by the Registrant providing the following for the next review hearing:
 - a. Evidence to demonstrate his past impairment has been addressed, such as a detailed reflective statement on the original Committee's and this Committee's findings and how the Registrant has changed his behaviour. This reflection should include details of the steps he has taken, and will take in the future, to minimise the risk of repetition if he were to find himself in similar circumstances to those in February 2020. If such steps include the involvement of third parties, details (by way of role, organisation and/or position rather than names) should be provided.
 - b. Evidence, such as a testimonial, from any person with whom he has engaged in a position of trust and who is aware of the Registrant's conviction and the outcomes of these proceedings. Such evidence should make it clear that the author is fully aware of the misconduct and conviction and has read the determinations of the Committee at the principal hearing and this Committee.
 - c. Evidence of targeted CPD, such as on probity and ethics.
 - d. Up-to-date evidence/testimonials from any work, paid or unpaid, undertaken prior to the review hearing. The authors should indicate whether or not they are aware of the misconduct, the conviction and the outcome of these proceedings.
 - e. Any other material the Registrant considers appropriate to demonstrate he has remediated his behaviour and that there is no risk of repetition.
64. In conclusion, the Committee directs that the Registrant's name continues to be suspended from the Register for a further period of 6 months, with a review before the end of that period.