

**General Pharmaceutical Council**

**Fitness to Practise Committee**

**Principal Review Hearing**

Remote videolink hearing

**Monday 4 December 2023**

<b>Registrant name:</b>	Umar Bashir
<b>Registration number:</b>	2050976
<b>Part of the register:</b>	Pharmacist
<b>Type of Case:</b>	Misconduct
<b>Committee Members:</b>	Manuela Grayson (Chair) Bukky Giwa (Registrant member) Wendy Golding (Lay member)
<b>Secretary:</b>	Adam Hern
<b>Registrant:</b>	Present
<b>General Pharmaceutical Council:</b>	Represented by Kay-Marie Tomlinson
<b>Order being reviewed:</b>	Conditions
<b>Fitness to practise:</b>	Impaired
<b>Outcome:</b>	Removed
<b>Interim measures:</b>	Interim suspension

This decision is an appealable decision under our rules and will not take effect until 2 January 2024 or, if an appeal is lodged, when that appeal is 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.

## **Documents before the Committee**

Document 1- Bundle of documentation at the last review held on 24-25 August 2023, 613 pages;

Document 2-Council's bundle for this review, 98 pages;

Document 3- Council's Additional bundle, 16 pages;

Document 4- Council's Statement of Case and Skeleton argument, 22 pages;

### On the Day of the Hearing:

Document 5 – Registrant's Personal Statement, 1 page;

Document 6- Emails between Council and the SI of Alexanders pharmacy, and Case Officer's File Note, 1 page.

## Introduction

1. This is the eighth principal hearing review relating to Mr Umar Bashir (“the Registrant”), a Pharmacist first registered with the Royal Pharmaceutical Society of Great Britain on 17 July 2000, and whose registration was transferred to the General Pharmaceutical Council (“the Council”) with registration number 2050976.
2. It is an early review which was applied for on behalf of the Council due to concerns about the Registrant’s compliance with his conditions.
3. The procedure is governed by Article 54(3) of the Pharmacy Order 2010, and Rule 34 of the General Pharmaceutical Council (Fitness to Practise and Disqualification etc., Rules) Order of Council 2010. (‘The Rules’).
4. The Notice of Hearing was sent to the Registrant by email on 3 November 2023.
5. The Principal Hearing took place on 3 July 2018. The Committee found that the Registrant’s fitness to practise was impaired by reason of misconduct. The Committee went on to impose conditions on the Registrant’s practice for a period of nine months and directed that there should be a review before the order expired. There have been seven reviews - on 15 April 2019, 22 October 2019, 6 August 2020, 22 April 2021, 22 October 2021, 2 November 2022 and 24 August 2023. The Registrant was suspended on three occasions, most recently between the review hearings in August 2020 and October 2021 (15 months). Since October 2021 the Registrant has been permitted to work as a pharmacist subject to conditions, and those conditions were most recently varied and continued for a period of six months at the Principal Review held on 24-25 August 2023.
6. Ms Kay-Marie Tomlinson attended on behalf of the Council. The Registrant attended and represented himself.

## The Current Conditions

7. The Registrant is currently subject to the following conditions on his registration with the Council:

*“You must comply with the following conditions which apply (unless otherwise specified) whether or not you are undertaking any paid or unpaid work for which you must be registered with the GPhC). These are conditions of registration not merely conditions of practice.*

*1. You must:*

- (a) continue to work with your workplace supervisor or,*
- (b) should he cease to be available or approved, within 4 weeks find another workplace supervisor (who must be a registered pharmacist but may provide remote supervision and who must be approved by the Council) and*
- (c) put yourself, and stay, under their supervision and*
- (d) give the GPhC your permission to exchange information with your workplace supervisor about your efforts to improve your pharmacy practice.*

*2. You must work with your workplace supervisor to draw up a personal development plan, specifically designed to deal with the shortcomings in the following areas of your practice:*

- safe handling and management of controlled drugs*
- record keeping*
- robust systems to prevent dispensing errors*

*3. You must send a copy of your personal development plan to the GPhC by 2 October 2023.*

*4. You must arrange for your workplace supervisor to provide a report by 2 October 2023 and thereafter a monthly report on your progress toward achieving the aims set out in your personal development plan.*

*5. If working in a role for which registration is required, you must additionally provide the Council with a report by 2 October 2023 and thereafter monthly on your safe handling and management of controlled drugs, your record keeping and prevention of dispensing errors, from your line*

*manager, pharmacy manager or any registered pharmacist or technician familiar with your work over the month in question.*

*6. You must, by 2 October 2023 provide the GPhC with course certificates or written confirmation from the course provider of having completed recent training in the following areas:*

- safe handling and management of controlled drugs*
- record keeping*
- prevention of dispensing errors*

*7. If working in a role for which registration is required, you must keep a log detailing every dispensing error or other medication incident related to your practice. You must send a copy of this log to the GPhC by 2 October 2023 and on a monthly basis thereafter.*

*8. You must provide a declaration to the Council's monitoring team by 2 October 2023 and monthly thereafter on whether you are working in a role which requires registration and, if not, whether you have sought such a position.*

*9. You must also provide by 2 October 2023 and monthly thereafter a report on your overall progress towards remediation of your fitness to practise. Such reports should include any difficulties or delays which you have encountered.*

*10. You must:*

- tell the GPhC before you take on any position for which you must be registered with the GPhC*
- give the GPhC details of the role and the hours you will work each week, including locum or relief work*
- give the GPhC the contact details of your employer, superintendent pharmacist and/or pharmacy owner.*

11. *If you are applying for work and if you are doing any paid or unpaid work for which you must be registered with the GPhC, you must immediately tell any prospective employer/employer, agency or contractor, about the restrictions imposed on your pharmacy practice.*

12. *You must tell the following people in writing about the restrictions imposed on your pharmacy practice, at the time of commencing any paid or unpaid work for which you must be registered with the GPhC:*

- *superintendent pharmacists*
- *responsible pharmacists*
- *line managers*
- *workplace supervisors*
- *accountable officers for controlled drugs*

*You must send the GPhC a copy of this notification.*

13. *You must tell the GPhC if you apply for work as a pharmacist or pharmacy technician outside Great Britain.”*

## **Background**

8. On 3 July 2018 a Fitness to Practise Committee of the Council decided that the Registrant’s fitness to practise was impaired by reason of misconduct, and imposed an Order of Conditions on his registration. The allegation faced by the Registrant at that hearing is set out below:

“You were first registered as a Pharmacist on 17 July 2000.

1. Between around August 2016 and February 2017 you were working as a Registered Pharmacist at Boots, 17-18 Albany Way, Salford, Lancashire, M6 5JS (“the Pharmacy”).
2. On or about 14 November 2016, you failed to accurately record your supply of MST 15mg MR tablets to Patient 1.

3. On or about 19 November 2016, you:
  - a. supplied MST 10mg tablets to Patient 2;
  - b. entered in the Controlled Drugs ("CD") register that 60mg MST had been supplied;
  - c. incorrectly recorded the CD balance as zero for MST 60mg;
  
4. On or about 22 November 2016, you:
  - a. incorrectly recorded the CD balance for MST 60 mg as zero;
  - b. failed to rectify this error.
  
5. On or about 25th November 2016, you:
  - a. supplied 40mls of Methadone to Patient 3 when, in fact, 120mls of Methadone should have been supplied;
  - b. supplied the Methadone at 5(a) above under a prescription that had expired and was not valid.
  
6. On or about 25 November 2016, you:
  - a. supplied 60mls of Methadone to Patient 4 when the prescription was for 20mls of Methadone;
  - b. recorded in the CD register that Patient 4 had been given a dosage of 20mls of Methadone.
  
7. On or about 25 November 2016, in a conversation with Manager EC about a compliance form you:
  - a. became aggressive towards Manager EC;
  - b. said words to the effect of "I'm not trying to be difficult but I can be".

8. On more than one occasion between approximately 28 November 2016 and 29 November 2016, you failed to make accurate entries in the Pharmacy CD register for Methadone 1mg/ml Oral Solution in that one or more of the following pieces of information was not recorded and/or recorded in the incorrect boxes
  - a. The date of supply;
  - b. The name and/or address of the patient;
  - c. The name and/or address of the prescriber;
  - d. Whether ID had been requested and supplied;
  - e. The name of the pharmacist.
  
9. On or about 1<sup>st</sup> December 2016 you:
  - a. supplied morphine in the quantity 24 x 10mg capsules when it should have been supplied as 24 x 60mg capsules;
  - b. failed to enter the change to the stock levels into the Pharmacy CD register for morphine when the dispensing error was rectified.
  
10. Between approximately 30 November and 1 December 2016 you:
  - a. supplied 57x 10mg Zomorph to Patient 5, when the prescription was for 60 x 60mg capsules;
  - b. made an incorrect entry in the patient's prescription;
  - c. failed to make any entry in the Pharmacy CD register for Zomorph.
  
11. On one or more occasions between approximately 1 December 2016 and 31 January 2017, you failed to complete accurate entries in the Pharmacy CD register for Zomorph 10mg in that one or more of the following pieces of information was not recorded and/or recorded in the incorrect boxes:
  - a. The date of supply;
  - b. The name and/or address of the patient;

- c. The name and/or address of the prescriber;
  - d. Whether ID had been requested and supplied;
  - e. The name of the pharmacist.
12. On or about 1 December 2016, following two deliveries of Matrifen patches from the pharmaceutical wholesaler, Alliance Healthcare, you failed to complete accurate entries in the Pharmacy CD register for Matrifen in that you incorrectly recorded the receipt of 5 patches without an invoice number resulting in an incorrect CD balance.
13. On or about 17 December 2016, you supplied Concerta XL 27mg to Patient 6 under a prescription that was out of date and had expired.
14. On or about 20 December 2016, you failed to record a delivery of 120 x Zomorph 10 mg capsules in the Zomorph CD register.
15. On or about 12 January 2017, you supplied Concerta XL 7x18mg and incorrectly recorded in the Concerta CD Register that 54mg had been dispensed.
16. On or about 12 January 2017, you supplied Patient 7 with 200mcg Buprenorphine that had been labelled as 2mg Buprenorphine.
17. On or about 16 January 2017, you:
- a. signed for the delivery of Zomorph 10mg and Zomorph 30mg capsules;
  - b. failed to enter the delivery of the drugs at 17(a) above into the appropriate CD register.
18. On a date between approximately 1 January 2017 and 31 January 2017, you labelled Equasym XL 20mg capsules as 30mg.
19. On one or more occasions between approximately 1 January 2017 and 31 January 2017 you failed to make any or any accurate entries in the Pharmacy CD registers in relation to:

- a. 28 tablets of Tranquilyn 10mg on 14 January 2017;
  - b. 30 tablets of Concerta 18mg XL on 13 January 2017;
  - c. 28 tablets of Concerta XL 18mg on 14 January 2017;
  - d. 7 tablets of Concerta XL 18mg;
  - e. 60 tablets of Concerta 27mg XL;
  - f. 28 tablets of Concerta XL 36mg on 14 January 2017;
  - g. 84 tablets of Sevredol 10mg.
20. On one or more occasions between approximately 30 January 2017 and 3 February 2017, you failed to ensure that Concerta XL 54mg, which is a controlled drug, was kept in a locked cabinet or locked cupboard.
21. On one or more occasions between approximately 30 January 2017 and 3 February 2017, you caused or allowed:
- a. physical stock to be left out in the dispensary;
  - b. part checked blister packs to be left open on a bench;
  - c. two tubs of CD prescriptions and invoices to be left un-actioned;
  - d. CD items to remain un-entered in the Pharmacy CD registers;
  - e. multiple prescriptions to remain un-entered in the Pharmacy CD registers.

In respect of the above your fitness to practise is impaired by reason of misconduct.”

### **The Findings of the Principal Hearing in July 2018**

9. The Registrant admitted all the allegations, apart from particular 7, and the admitted paragraphs were found proved by the Committee. The Committee found particular 7(a) proved and particular 7(b) not proved.
10. The Registrant himself said that, on reflection, he agreed with the description “deplorable” in relation to his standard of practice.

11. The Committee noted that the Registrant had some insight into the impact of his errors both on patients and the wider public and was genuinely remorseful. However, he had not since then worked in a pharmacy environment under similar pressures to those he experienced between November 2016 and February 2017. He was then currently working as a locum and whilst there was no evidence of his having made similar wide-ranging errors in such numbers, the Committee was concerned that there was the potential for such errors to occur again if the Registrant were to find himself working in a stressful environment or if his personal life were to give rise to stressors which could impact on his ability to practise safely. Further he had not undertaken any formal CPD to refresh his knowledge of safe handling of controlled drugs.

12. In addition, the Committee noted that:

*“...there is no documentary evidence to the effect that the Registrant has engaged in structured learning or development to enable him to recognise the onset of stressors in his life which might trigger the need for him to seek advice and support. He told the Committee that his poor performance arose from a unique set of circumstances; the Committee accepts that. However, the professional life of a pharmacist is inevitably stressful from time to time and there may well be other circumstances in the future which might lead the Registrant to experience a similar stress reaction which could impact on his ability to practise safely. The Committee is concerned that there is no independent evidence, apart from the Registrant’s assertion, to suggest that he would be able to recognise the onset of such a situation and the potential detrimental impact of it on his ability to practise safely”.*

13. The Committee found that the Registrant’s conduct presented an actual or potential risk to patients or to the public; had brought, or might bring, the profession of pharmacy into disrepute; and had breached a fundamental principle of the profession of pharmacy. For these reasons, it decided his fitness to practise was impaired.

14. The Committee imposed conditions on the Registrant’s registration for nine months. A review was directed to take place before the end of that period and the Registrant was put on notice

that that the reviewing Committee may be assisted by the Registrant producing evidence to show that he had undertaken CPD to address the issues of concern raised by the previous Committee, together with a reflective statement identifying the impact of his misconduct and what he had done since to ensure it does not occur again.

### **History of the past seven principal hearing reviews**

15. There have been multiple principal reviews since the first sanction imposed on the Registrant's practice in 2018. The history of these reviews was helpfully summarised in the Council's Skeleton Argument and is set out below.

### **The First Review Hearing: 15 April 2019**

16. The first review took place on 15 April 2019. There had been no contact between the Registrant and the Council between August 2018 and April 2019. However, shortly before the review, the Registrant sought a postponement on health grounds. That application was refused and the hearing went ahead. The Registrant did not attend.

17. The Committee noted that the Registrant had not complied with the conditions on his registration. The conditions were therefore insufficient to deal with any risk to patient safety and to protect the public. The Committee decided that suspension was necessary in order to highlight to the Registrant and the public that non-engagement and non-compliance was unacceptable.

18. The Committee suspended the Registrant's registration for a period of six months. This was considered the minimum necessary for the Registrant to re-engage with the Council, take medical assistance as necessary, and develop insight to facilitate a return to practice.

### **The Second Review: 22 October 2019**

19. The second review took place on 22 October 2019. On this occasion, the Registrant engaged and attended the hearing. He provided more information about developments in his private life, including matters of health.
20. The Registrant explained [PRIVATE] he had not worked as a Pharmacist since December 2018 [PRIVATE] he recognised that he should not practise without conditions.
21. The Committee on review directed that the suspension should change back to conditions of practice (slightly varied on what they had been before) for a period of nine months. The conditions would give the Registrant an opportunity to demonstrate that he had put in place measures to ensure that previous failings were addressed and that the risk of error was minimised.
22. In ordering a review, the Committee made extensive recommendations for what might assist the Committee hearing the next review.

### **The Third Review: 6 August 2020**

23. Following the second review, the Council's Monitoring Team had not received any correspondence or reply from the Registrant, and he had not provided any evidence of compliance with his conditions. In July 2020, the Council sought to make contact with the Registrant in order to ascertain his current situation. In the course of a telephone conversation, the Registrant said that he had been working as a locum. This information prompted the Monitoring team to make further enquiries of the Registrant. The Registrant also provided a list of occasions when he had been working as a locum.
24. The Committee found that the Registrant had complied with none of the Conditions set out in the order. The Committee agreed with the Council's submission that it had heard nothing from the Registrant to indicate that a further order of conditions would be complied with now or in the future. The Registrant had shown a "*woeful*" lack of insight.

25. Conditions were replaced with suspension for a period of nine months. This was required to ensure that professional standards were upheld and that public confidence in the profession would be maintained. The Committee indicated that the next review might be assisted by a reflective statement, references, evidence of CPD undertaken and any other evidence demonstrating that steps taken to address the matters that led to the misconduct.

#### **The Fourth Review: 22 April 2021**

26. Following the third review, the Council decided to make further enquiries into the Registrant's working during the period leading up to the third review. A questionnaire-style survey was sent to some of the pharmacies included by the Registrant on the list he had provided to the Council. The pharmacies were asked to confirm whether they were aware of the Registrant's conditions at the time of engaging him and whether they had any concerns about his practice.

27. Of four sets of questionnaires sent out, three sets of responses were received. Two of the responses (from Rowlands and Cohen's pharmacies) were included in the main bundle for the fourth review hearing. The responses confirmed that the pharmacies were unaware that the Registrant was subject to conditions of practice. In addition, concerns had been noted with the Registrant's practice, including alleged errors. In one case, Rowlands pharmacy wrote to the Registrant drawing attention to a dispensing error when he was the accuracy checker.

28. The Council made further enquiries of the pharmacies in question and obtained information about alleged errors. Prior to the hearing, the Registrant had submitted a reflective statement, testimonials and a certificate of completion of online training. The Registrant also attended the hearing, unrepresented, and gave oral evidence to the Committee. In his submissions, the Registrant sought a return to work on conditions. The Council opposed this and submitted that a further period of suspension was required.

29. The Committee observed that the Registrant appeared to have been honest and open in his evidence at the hearing. It recognised that he had not been able to demonstrate remediation by way of practice during his period of suspension. However, the Committee had concerns about the Registrant's explanations for his failure to comply with the conditions.

30. In respect of the Registrant's reflections, the Committee said this:

*"Although the Registrant stated that the most recent period of suspension had given him time to reflect, the Committee considered that, taken as a whole, his reflections did not adequately demonstrate full insight into the risks posed to public safety which were caused by his noncompliance with the conditions, nor an appreciation of what a member of the public might think if they were to hear that a pharmacist had continued to take on locum work, in a number of different pharmacies, in full knowledge that he was in breach of conditions which had been put in place to ensure their protection."*

31. In respect of the suggestion of further dispensing errors, the Committee said:

*"The Committee fully appreciated that the alleged errors had not been formally proved at today's hearing, however the Registrant's lack of reflection and insight into the potential for errors of the sort described and ways to minimise future risk, suggested, in the Committee's view, a continuing grave lack of insight, and a lack of remediation."*

32. There remained a risk of repetition and a consequent risk of harm to the public and to the public interest in maintaining proper standards of practice and confidence in the profession, were the Registrant permitted to return to unrestricted practice.

33. In considering whether to impose conditions and accept the Registrant's assurances that he would abide by them, the Committee observed that:

*"it could attach limited weight to his assurances in this regard, given the apparent laxity with which he had observed the conditions imposed on the second occasion, and its assessment of his reasons for non-compliance. It did not consider that the Registrant had adequately availed himself of the period of suspension since the last review to reflect sufficiently or properly on his*

*previous non-compliance, nor on the information supplied by the pharmacies in relation to dispensing errors he was alleged to have been involved in, such as to reassure this Committee that it could now rely on him to comply with any conditions it might decide to impose. There would, in the Committee's view, therefore, remain a risk of repetition and therefore of harm to the public, if the Registrant were permitted to return to practice albeit subject to conditions."*

34. The Committee made an order of suspension for six months with a review before expiry and made recommendations about what would assist a future review.

### **The Fifth Review: 22 October 2021**

35. The Registrant attended the hearing and provided two documents for the review: Reflective Statement and Reflections & Insights Into Alleged Dispensing Errors.

36. The Council's Monitoring team provided a statement confirming that the Registrant reported being compliant with his suspension and that the Monitoring Team had received no concerns to suggest that he had been working as a Pharmacist whilst his registration was suspended.

37. The Council did not oppose a return to conditional practice for the Registrant as a matter of principle. The purpose of any further sanction was not to punish him for past non-compliance or recent concerns about his practice but rather to manage the remaining risk to the public and to maintain standards. The question was whether conditions could manage the risks involved and whether the Registrant could be trusted to comply with such conditions.

38. The Registrant gave evidence and was questioned. He said he recognised that it was a professional's responsibility to adhere to all conditions imposed and provide evidence as requested to show that impairment had been addressed. He said that he would adhere to all conditions set, meet all deadlines, and provide all evidence as required. During his period of suspension, the Registrant had had time to appreciate all the consequences of his errors, not just for himself but for public safety and for confidence in the profession. He also identified areas in

his practice that required improvement and he explained how he would deal with stressful situations such as a busy pharmacy. The Registrant said he appreciated that conditions might be onerous but that he would comply. He had no objection to monthly contact with the monitoring team.

39. The Committee considered that the misconduct was remediable. Looking forward, the Committee said this:

*"We have given careful consideration to the question of whether the Registrant can now be trusted to comply with conditions, when he has not done so in the past. This has not been an easy matter but we must evaluate the risks based on the evidence available. In his written reflections and in the clarity of his analysis and the assurances given, under affirmation, today, the Registrant has invited us to trust him to conduct himself in a proper way if given a further opportunity to remedy his practice. We are satisfied that he understands the serious consequences of any repetition of a failure to comply with the spirit and letter of any conditions of practice. ... The risk is that a further period of suspension would simply delay the necessary remediation in his practice."*

40. The Committee imposed conditions of practice imposed for a period of 12 months. The conditions included (among others):

*9. You must provide monthly declarations to the Council's monitoring team on whether you are working in a role which requires registration and, if not, whether you have sought such a position.*

*You must also provide monthly reports on your overall progress towards remediation of your fitness to practise.*

41. This condition had been suggested by the Council as an extra level of protection for the public in light of the Registrant's previous non-compliance. No specific recommendations were made by the Committee as to what might assist the next review.

42. In May 2022, the Council took steps to request an early review of the order. This was because the Monitoring officer had received nothing in writing from the Registrant in relation to his conditional registration since the conditions had been imposed in October 2021. Of particular concern was the failure to comply with condition 9, the purpose of which had been to assist with the monitoring of the Registrant by establishing a line of communication with the Council. The only direct contact had been on 22 February 2022, when the Registrant explained that he was not currently working and as he had not paid his fee assumed he was not on the register. It was explained to him that this was not the case and that Monitoring would have expected to hear from him with an update.

43. A Chair of the Committee considered the matter and gave case management directions on 17 May 2022:

*a. The Registrant is to comply with Condition 9 by providing to the Council the information identified in Condition 9; that information is to cover each of the months from December 2021 to April 2022 inclusive.*

*b. The Registrant is to provide an explanation as to why he has not apparently complied with Condition 9 to date.*

*c. The Registrant is required to provide this information to the Monitoring Team, copied to the Committee Secretary.*

*d. The Registrant is to comply with these directions by 4pm on Wednesday 25 May 2022.*

*e. As soon as possible after 25 May 2022, the Council is to consider any correspondence or information received from the Registrant and, if so advised, to apply to this Committee for early review of the Registrant's fitness to practise."*

44. On 25 May 2022, the Registrant made contact with the Monitoring team. A copy of the file note and subsequent email appears in the bundle. He stated that he had not been working and was not in a position to file a declaration from a supervisor. Condition 9 was explained to him. He also said this:

*"I am hoping to get back into pharmacy work within the next month and would like to take this opportunity to assure the committee that all further information that is required*

*to be sent once I am in work will be promptly provided as requested. Hopefully once in practice I will be able to provide evidence that I have been able to improve my practice."*

45. The Council decided not to press ahead with an early review at that time and updated the Committee Secretary (copying in the Registrant) on 10 June 2022. Ongoing questions about compliance would be considered by the Committee at the review.
46. After May 2022, the Council's Monitoring team tried to remain in contact with the Registrant. The Registrant again confirmed that he was not working. At the time of writing her statement, the Monitoring officer had not received a completed compliance declaration from the Registrant.
47. The Registrant attended the sixth review and gave evidence to the Committee. Responsibilities towards running a family business had prevented the Registrant from being able to return to Pharmacy practice since the last review. He said that *"the family issues now having been resolved, he would be able to give 'utmost priority' to obtaining pharmacy work and demonstrating remediation of his fitness to practise"*. The Council submitted that, with so little demonstrable progress having been made in the four years since the Principal Hearing, it was not in the public interest to allow matters to slide or for the Registrant to continue in limbo. The Committee was invited to make clear its expectations about remediation of the fitness to practise concerns. Attention was drawn to two NMC authorities dealing with similar situations.
48. The Committee firstly concluded that the Registrant's fitness to practise remained impaired and the grounds of protection of the public and the wider public interest *"remain live"*. It considered that conditional registration remained the sanction that provides an opportunity for the Registrant *"to work under restrictions designed to protect the public while providing him an opportunity to remediate"*.
49. The Committee considered whether a point had been reached where there was no longer a realistic prospect of the Registrant remediating his practice. It expressed disappointment in the

Registrant's lack of progress but concluded that it would be "premature" to remove him from the Register at that time. It went on:

*"We consider that Mr Bashir does need to have a very clear understanding that he is now under `time limits with which he must comply, or, if unable to do so, explain his circumstances in a timely manner to the monitoring team. We consider a nine-month period sufficient to allow Mr Bashir to remediate his practice."*

50. The Committee amended some of the conditions imposed at the previous review:

*"In Condition 4, we have clarified that Mr Bashir must find a workplace supervisor within 4 weeks, whether or not he has commenced relevant work within that timescale. He could, for example, start to develop a Personal Development Plan. In Condition 7, we insist that Mr Bashir "complete" rather than "undertake" the requisite training, within months. In Condition 9, we clarify that the monthly reports which Mr Bashir must provide, each and every month, to the Council's monitoring team, are required not only to report on his progress but also on any difficulties or delays which he might have encountered."*

### **The Seventh Review: 24-25 August 2023**

51. The Council's Monitoring team made contacts with the Registrant in respect of outstanding items required from him in accordance with conditions (as varied). A summary of the position at the time of the review is as follows:

- The Registrant nominated a workplace supervisor (condition 4) and the Council approved them in this role. The conditions called for a supervisor "*whether or not you are undertaking any paid or unpaid work for which you must be registered with the GPhC*". It appeared the Mr Bashir has not undertaken any such work;
- The Registrant had not sent to the Council a copy of a personal development plan designed to deal with the shortcomings in areas of his practice (condition 5);
- The workplace supervisor had not provided a monthly report on the Registrant's progress toward achieving the aims set out in his personal development plan (condition 6);

- The Registrant had not sent to the Council confirmation of completion of further training (condition 7);
- The Registrant had not sent to the Council a log detailing every dispensing error or other medication incident related to his practice (condition 8). [At the time it was thought he had not been working as a pharmacist];
- The Registrant had provided monthly declarations to the Council's monitoring team on whether he was working in a role that required registration (condition 9) on the following occasions: 14 December 2022 (phone); 28 December 2022 (email); 21 March 2023 (email); and 26 June 2023 (email). Declarations for other months were not received. In respect of the requirement (also condition 9) to provide monthly reports on his overall progress towards remediation of fitness to practise, including any difficulties or delays he had encountered, the information provided was limited. The update on 26 June 2023 was that he had not been in employment as a pharmacist;
- On 28 July 2023, the Registrant telephoned the Monitoring officer and apologised for not being in contact for a while. He explained that [PRIVATE] he planned to return his signed declaration during the weekend.
- At the time of writing her statement, the Monitoring officer had not received a compliance declaration from the Registrant.

52. In addition to the above, the case presenter wrote to the Registrant by email on 19 June 2023, reminding him of the requirements of the conditions and the views expressed by the previous Committee. No reply was received.

53. The Registrant attended the review hearing, unrepresented. Following a delay, he provided documents on the morning of the hearing. These included course certificates and a reflective statement. The Registrant went on to give evidence under affirmation.

54. He said that he had initially found a permanent locum position in Wales, but by the time his workplace supervisor was approved on 30 March 2023 the post was filled and he had to look for a new position. Referring to personal issues, the Registrant said he felt a lot of fear about the length of time it was taking to get back into work and how this would be viewed by the Council.

He accepted that he should have maintained contact with the Council. Summarising the Registrant's evidence, the Committee recorded:

*"Mr Bashir said that until his personal issues had been resolved he had felt it best not to enter a workplace in which the public needed to be protected against risk of death. He had been working in non-pharmacy jobs in which the public were not at risk."*

55. The Registrant said he had heard from the proprietor (who had initially offered him work) that a position would be available from the end of August 2023. This would be at Alexanders Pharmacy, Penycae in North Wales. The Registrant said he had made the proprietor aware of the review hearing and said that he could not give him an answer until the hearing had taken place. The Committee went on to record:

*"In relation to his limited compliance with the conditions, Mr Bashir offered a number of explanations but accepted that, in the main it was his own fault. He asked for "one final chance" and said "I know it would be my last chance" and that there would be "no more excuses after this".*

56. In the course of submissions, the Council invited the Committee to reflect on the Registrant's explanations, provided at the review hearing that day, and withdrew an earlier submission that removal may be an appropriate and proportionate sanction. However, it was noted that the Council had not been able to verify the information provided.

57. The Committee began its decision on the review by noting that the Registrant *"has had five years and every opportunity offered to show progress towards remediating his fitness to practise"*. He had provided *"significant fresh evidence and a plausible account of his personal difficulties and how they have disrupted his compliance with the conditions"*. The Committee accepted the Registrant's account that his personal issues had *"impacted adversely on his ability to get started on resuming employment as a pharmacist and showing remediation"*.

58. In relation to the position in North Wales, the Committee noted:

*"We have only his oral information about the job he has been offered in a pharmacy in Wales and that it is available from the end of this month/early September. But Mr Bashir provided this information under affirmation, there has never been a concern about his honesty, so that we accept what he told us. It will, of course, be verified by the Council in the near future."*

59. The Registrant's fitness to practise was found still to be impaired on the grounds of protection of the public and the wider public interest. Continuing conditions of practice, the Committee considered that the Registrant *"had the capacity to change his approach to compliance and especially communication with the Council"*. Nevertheless, the Committee went on to revise, strengthen and clarify the conditions.

#### **Events leading to this Early Review – the Eighth Principal Review in this matter**

60. After the last review, the Council made efforts to keep in touch with the Registrant and sought confirmation about his plans in respect of the North Wales position. No information was provided by the Registrant. The first set of monthly updates from the Registrant in accordance with the new conditions fell due on 2 October 2023. There was no response.

61. The Council made enquiries with the Superintendent (SI) of the pharmacy and with the locum agency used by the Registrant. The locum agency informed the Council that the Registrant had been working at the pharmacy already, and was in fact doing so prior to the last review hearing. The information provided by email dated 10 October 2023 was that the Registrant had worked as a locum pharmacist on a number of dates:

*"To confirm [the Registrant] did his first shifts at Alexanders pharmacy on 28/04/2022 and 29/04/2022. He then did 06,10,13,17,18,20,23 in May 2022. He then did 7th,10th,12th October 2022 and after that Monday-Friday started from 4th November 2022-Present".*

62. The Pharmacy SI told the Monitoring officer that the Registrant has been working well and that he had no concerns.
63. Since this information was received, the secondly monthly deadline fell due on 2 November 2023. The Registrant made no contact with the Monitoring officer and has made no submissions to meet that deadline.

### Today's hearing

64. On the morning of the hearing, the Committee was provided with the following further documentation:

- Email correspondence of 1 December 2023 from the SI of Alexander's Pharmacy, the pharmacy the Registrant has been working at, stating as follows:

*"Please ring me urgently. I have a controlled drugs incident to report, at Alexander's Pharmacy Penrycae, Wrexham, LL14 2PN. Please call me on – [...]. There is a discrepancy in the controlled drugs stock identified, having completed a CD balance check by the pharmacy pharmacist yesterday, then double checked and confirmed by myself (the superintendent pharmacist) today . Kind regards..."*

- File Note of Council's Case Officer dated 1 December 2023:

*"I spoke with the SI this afternoon following a copy of an email he sent to me in relation to discrepancies in the CD register.*

*He explained that he went on holiday on Tuesday and on Thursday the pharmacy called him that there are some discrepancies in the CD register. He has done check today and found out that number of CDs missing.*

*He said that the discrepancy was found by his new permanent pharmacist who just started with them, and that Mr Bashir was responsible for the CD register up until the point he went on holiday. He was unable to confirm at this point if the issue was related*

*to Mr Bashir as it needs to be checked further and he informed me he should have more information on Monday.*

*The SI said that the CD Register is now adjusted and everything missing will be written up and sent to NHS, police and the GPhC inspector, who is already informed. He said he will copy me to the conversation for further details.”*

- The Registrant’s Personal Statement:

*“I have been a proud pharmacist for over 20 years and have spent the last 5 years subject to FTP proceedings during which time I have had periods of suspension and conditions imposed on my practise.*

*This early hearing was called because I didn’t inform the GPHC that I was working as a pharmacist as was required in my conditions. This was not my intention. I undertook the position last year in November and it was my intention to fulfil my conditions. Unfortunately, my workplace Supervisor took longer to authorize than I was expecting. This led me start the position which I shouldn’t have or I should have liaise with the GPHC. This in turn led me to misleading the committee at the last hearing. This sat uneasy with me. At the last hearing I had conditions imposed for a further 6 months. I was asked to submit monthly reports, the 1<sup>st</sup> on the 2 November. I didn’t have the moral courage to admit that I had misled the committee, but I also couldn’t carry on any longer misleading the committee. I didn’t submit the report. I knew this would lead to further investigations and to the fact that I had been working without informing the GPHC. This was serious fault on my account as it has the potential to put general public in danger. I deeply regret the actions I have taken yet again, even though the GPHC has given me every opportunity to lift these conditions.*

*I hope from the statement made by the SI that there were no issues in my practise in the time that I worked for him and that he described me as a “good pharmacist” goes someway in stopping me being removed from the register.*

*I would hope a period of suspension as a sanction and more stringent conditions being imposed as an option be considered.”*

## Submissions:

65. Ms Tomlinson, on behalf of the Council, submitted that given the recent information, the Registrant should now be removed from the Register. She submitted that although this was not a dishonesty case at the outset, there was now evidence before the Committee of potential dishonesty. The Registrant had provided evidence on affirmation at the last two reviews in which he said he was not working as a pharmacist when in fact he was. He had indeed admitted dishonesty in the personal statement he had provided to the Committee today. Moreover, the new concerns in relation to CD drug management raised by the SI of Alexanders Pharmacy, although at this stage they had only been reported by phone conversation, mirrored those which were the subject of the original concerns. For conditions to be workable, there was a need for full transparency and honesty and there had not been.
66. The Registrant told the Committee that he had nothing much to say. He had returned to work without complying with his conditions. He said he had not had the moral courage to tell the Council, and he knew he was going to be found out. In response to questions from the Committee he admitted that his Personal Statement was wrong in that he had been dishonest not only at the last hearing in August 2023 but also at the one before that which took place in November 2022. He told the Committee that he knew about the recent discrepancy in the CD register and had alerted his colleagues at the pharmacy (though not the SI). He had intended to look into it on his return from holiday.

## The Decision of the Committee

67. The Committee has taken into account all of the documentation before it and both parties' submissions. It reminded itself that its role is, first, to decide whether or not the Registrant's fitness to practise is impaired as of today. If there is no longer impairment, then the current order of conditions can be safely left to lapse. If, on the other hand, his fitness to practise remains impaired, then the Committee must consider what sanction, if any, it should impose.
68. In deciding the question of current impairment, the Committee bore in mind the relevant case law, and in particular the judicial comments in Abrahaem v GMC [2008] EWHC 183 (Admin) and

Khan v GPhC [2017] 1 WLR 169 SC. To summarise, in Abrahaem, Blake J said as follows: *“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 professional performance was deficient, that insight, application, education, supervision or other achievement sufficiently addressed past impairment.”*

In Khan, Lord Wilson said: *“The review committee will note the particular concerns articulated by the original committee and seek to discern what steps, if any, the registrant has taken to allay them during the period of his suspension.”*

69. The Committee’s powers regarding this Principal Hearing Review, contained within Article 54(3)(b) of the Pharmacy Order 2010 (“the Order”) are as follows: the Committee may:

*“(b) where the entry in the Register of the person concerned is conditional upon that person complying with requirements specified in a direction given under this article, give a direction that—*

- (i) the period specified in the direction for complying with the requirements be extended for such further period not exceeding 3 years as may be specified in the direction, starting from the time when the earlier period would otherwise expire,*
- (ii) the requirements be added to, removed or otherwise varied in such manner as may be specified in the direction,*
- (iii) the entry instead be suspended (for example, where that person has failed, whether wholly or partly, to comply with the requirements), for such period not exceeding 12 months as may be specified in the direction, or*
- (iv) the entry be removed from the Register, if that person has failed, whether wholly or partly, to comply with the requirements.”*

70. The Committee noted that it had been determined at the Principal Hearing in this matter over five years ago in July 2018 that the Registrant’s misconduct was remediable. He was given an order of conditions for a period of nine months, with a review at the end at which it was hoped he would have an opportunity to demonstrate remediation. A series of seven reviews have taken place since then at which it has successively been accepted by each Reviewing Committee that the Registrant

was doing his best to engage positively with his professional regulator, and it was accepted each time that the reasons he gave for why he had failed to remediate his misconduct was reliable. He was given the benefit of the doubt every time. No previous Committee has expressed any concerns as to the Registrant's honesty or integrity.

71. The Registrant has attended today in full knowledge that he has not complied in the slightest with the conditions which were put in place last August, and certainly not honestly. He provided a written Personal Statement for this hearing which the Committee was given this morning, in which he admitted that he was "misleading the committee at the last hearing" three months ago when he gave evidence on affirmation. He had, he wrote, been working since "last year in November". It was only when pressed by a question from the Committee that he admitted today that he was in fact dishonest at the hearing before that as well. It would appear from the evidence provided by the Council's Monitoring Team that he has not been open with his employer nor with the locum agency he was registered with. He appears not to have updated them in relation to changes in the conditions which were formerly in place.
72. The Committee notes that there is fresh evidence before it today of a possible further concern relating to the management of CDs at the pharmacy where such management was his responsibility. However, this has not been investigated by the Council, and the Committee has drawn no conclusions from this information in relation to the Registrant's current fitness to practise.
73. However, quite apart from that new information, and due to the fact that the Registrant has patently not complied with the conditions which were in place until today, there is nothing before this Committee to demonstrate that he has successfully remediated his practice. The Committee is satisfied that his fitness to practise remains impaired as at today's date, both in relation to the protection of the public and in the wider public interest.
74. The Committee has taken into account the principles set out in the case of Abbas v NMC [2019] EWHC 971 (Admin), to which the Council referred in its Skeleton Argument. In that case the High Court concluded that a professional regulatory panel was entitled to make a striking off order against a Registrant who had been in work subject to conditions for some years but had not

managed to remediate their weaknesses. The Court approved the panel's reasoning for concluding that a further conditions of practice order would not be in the public interest or maintain public confidence in the profession. The history of this Registrant's inability to remediate his practice since the Principal Hearing leads the Committee to conclude that the principles set out in that case are applicable to this one. His dismal record of non-compliance with conditions recently and in the past (though on occasion previously in the past the Registrant appeared to have made some minimal efforts to comply), makes it clear that he cannot be relied on to comply with conditions in future. It would be contrary to the public interest to allow the Registrant to languish any longer on the Register when he has provided so little evidence of remediation over the past five years.

75. In any case, the information before it (including his own admissions) suggesting that the Registrant has been persistently dishonest over at least the past year when engaging with his Regulator is, in the Committee's considered view, very alarming. It includes twice giving evidence whilst on affirmation, and also providing assurances to the Council's Monitoring Team prior to the last hearing in August 2023 which were entirely false. The Registrant took on work as a full time locum pharmacist two days after his conditions were varied on 2 November 2022 and he has been working consistently throughout the past year. This included working until the day before his hearing in August 2023 and from the day after. This demonstrates a flagrant and intentional disregard for the Council's regulatory framework and its overriding objective, namely to protect, promote and maintain the health, safety and wellbeing of the public by upholding standards and public trust in pharmacy. It is abundantly clear to the Committee that the Registrant has abused that trust.

76. The Committee has concluded that the Registrant can no longer be trusted with the privilege and responsibility of practising as a pharmacist. The Committee considers that the public would be shocked if it were to permit a Registrant who has behaved with what appears to have been such a lack of respect for the contents of the conditional order which was in place, in order to enable him to continue to practise safely, to continue to practise.

77. This is clearly a case in which the Registrant's behaviour is fundamentally incompatible with being a registered professional, and therefore the Committee has determined that no less a sanction than removal is the appropriate outcome today.

## **Interim Measure**

78. Upon the handing down of the Determination with the Committee's decision at the Registrant's fitness to practise remained impaired and its decision to impose an Order of Removal, Ms Tomlinson applied on behalf of the Council, for an Interim Measure of suspension to come into immediate effect, as provided for under Article 60 of the Pharmacy Order.
79. The Council sought the interim measure on the grounds that, in accordance with the Committee's reasons for finding the Registrant impaired, it was necessary for reasons of public protection and otherwise necessary in the public interest. The Registrant was not present.
80. The Committee acceded to the application on the grounds of both public protection and being otherwise necessary in the public interest, given its reasons for the imposition of a removal order.