

General Pharmaceutical Council

Fitness to Practise Committee

Principal Hearing

Remote videolink hearing

Tuesday 14 – Friday 17 November 2023 and Friday 15 December 2023

Registrant name:	Afetsi Fiamavle
Registration number:	2079776
Part of the register:	Pharmacist
Type of Case:	Misconduct
Committee Members:	Andrew Lewis (Chair) Bukky Giwa (Registrant member) Isobel Leaviss (Lay member)
Committee Secretary:	Zainab Mohamad / Adam Hern
Registrant:	Present and represented by Martin Hadley, VHS Fletchers
General Pharmaceutical Council:	Represented by Mark Watson, Mountford Chambers
Facts proved by admission:	1, 2, 3, 4.2, 5, 6.1 (in respect of 4.2 and 5)
Facts proved:	4.1, 4.3, 6.1 (in relation to 4.1 and 4.3), 6.2 (in relation to 4.1 and 4.3)
Facts not proved:	6.2 (in relation to 5)
Facts: no finding:	6.2 (in relation to 4.2)
Fitness to practise:	Impaired
Outcome:	Suspension (3 months) no review
Interim measures:	None

Particulars of Allegation (as amended)

“You, as a registered pharmacist, whilst working as the Responsible Pharmacist at Lloyds Pharmacy, Cropton Way, Coulby, Newham, Middlesborough, TS8 0TL (‘the Pharmacy’):

1. *Between August 2020 and October 2020;*
 - 1.1 *accessed 8 or more patient’s personal data*
 - 1.2 *accessed the data above, in order to contact patients regarding your own personal interests for financial gain.*

2. *Between August 2020 and October 2020, used the Pharmacy to promote your own personal interests for financial gain.*

3. *Your actions at 1 and/or 2 above lacked integrity.*

4. *On or around 24 September 2020, made the following inappropriate comments to Witness 1;*
 - 4.1 *‘You look slim’ or words to that affect;*
 - 4.2 *Asked Witness 1 if it was OK for you to:*
 - a)*contact her and/or*
 - b)*meet with her outside the Pharmacy*
 - 4.3 *Asked her out on a date.*

- 5 *On 03 October 2020, contacted Witness 1 outside working hours, initially by telephone call, and subsequent text message to promote “Genistar” financial policies.*

- 6 *Your actions at 4 and/or 5 above:*
 - 6.1 *Lacked integrity:*
 - 6.2 *Were sexual.*

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

Documentation

Document 1- GPhC hearing bundle (128 pages)

Document 2- GPhC skeleton argument dated 03.11.2023

Document 3- Registrant's statement dated 9.11.2023

Document 4- Statement of Witness 5 dated 8.11.2023

Document 5- Registrant's skeleton argument dated 08.11.2023

Document 5- Registrant's bundle containing the Registrant's statement, a reflective piece and a number of testimonials

Witnesses

Witness 1 gave evidence at the facts stage.

The Registrant gave evidence at the facts stage.

The evidence of Witness 2, a Divisional Quality Manager at Lloyds Pharmacy, was read by the Committee.

The evidence of Witness 3, a Professional Standards Pharmacist at Pharmacy Superintendent's Office at Lloyds Pharmacy was read by the Committee.

The evidence of Witness 4 a regional manager for Lloyds Pharmacy was read by the Committee.

The evidence of Witness 5 was read by the Committee.

Determination

Introduction

1. This is the written determination of the Fitness to Practise Committee at the General Pharmaceutical Council ('the Council').
2. The hearing is governed by *The Pharmacy Order 2010* ("the Order") and *The General Pharmaceutical Council (Fitness to Practise and Disqualification etc. Rules) Order of Council 2010* ("the Rules").
3. The statutory overarching objectives for these regulatory proceedings are:
 - a. To protect, promote and maintain the health, safety and well-being of the public;
 - b. To promote and maintain public confidence in the professions regulated by the Council; and
 - c. To promote and maintain proper professional standards and conduct for members of those professions.
4. The Committee also has regard to the guidance contained in the Council's *Good decision making: Fitness to practise hearings and sanction guidance* as revised March 2017. (Good decision making).
5. A Principal Hearing has up to three stages:
 - Stage 1. Findings of Fact – the Committee determines any disputed facts.
 - Stage 2. Findings of statutory ground(s) and impairment – the Committee determines whether, on the facts as proved, a statutory ground for impairment is established and, if so, whether the Registrant's fitness to practise is currently impaired.
 - Stage 3. Sanction – the Committee considers what, if any, sanction should be applied if the Registrant's fitness to practise is found to be impaired.

Service of Notice of Hearing

6. The Committee saw a letter dated 29 September 2023 from the Council headed 'Notice of Hearing' and addressed to the Registrant. The Registrant was present at the start of the hearing and represented. Having spoken to both Mr Watson and Mr Hadley the Committee was satisfied that no issue arose regarding service of notice and that there had been good service of the Notice in accordance with Rules 3 and 16.

Application to amend the particulars of the Allegation

7. The Committee heard an application from Mr Watson under Rule 41 to amend the Allegation by adding particulars 3 and 4 as set out above in the "Allegation as amended".

8. The Committee saw the written submissions of both Mr Watson and Mr Hadley. It noted that the proposed amendments had been notified to the Registrant in the Council's Skeleton Argument dated 3 November 2023 and Mr Hadley had indicated in writing that that he did not object to the proposed amendments.
9. The Committee was satisfied that the amendment was necessary to ensure that all the issues raised by the evidence were properly resolved. The Committee was also satisfied that the amendment would not "prejudice the fairness of the proceedings" because it had been notified to the Registrant in advance and he had been able to respond to it in his written statement.
10. The Committee proposed of its own motion that the Allegation be amended by the addition of Particular 4.2, as set out above. The Committee heard submissions from Mr Watson and Mr Hadley, who did not oppose the amendment, and decided that the amendment was necessary to ensure that the finding regarding the events of 24 September 2020 were accurately reflected by the Allegation and would not prejudice the fairness of the proceedings.

Registrant's response to Particulars of allegation

11. The Registrant admitted particulars 1, 2, 3, 4.2, 5, 6.1 in respect of particulars 4.2 and 5.
12. In the light of the above, and by the application of Rule 31(6) of the Rules, the admitted factual particulars were found proved.
13. The Committee went on to receive evidence and submissions regarding the remaining disputed particulars, namely Particulars 4.1 4.3, 6.1 in respect of Particulars 4.1 and 4.3, 6.2 in relation to Particulars 4 and 5.

Background

14. The Registrant obtained a degree in medical biotechnology at the University of East London in 2004 and completed a Pharmacy degree at the Medway school of Pharmacy of the University of Kent in 2011. He was first registered with the General Pharmaceutical Council in 2012.
15. The Registrant worked at a number of pharmacies including working as a Pharmacy manager in Redcar between September 2012 and February 2015. After several locum appointments he started work at the Lloyds Pharmacy in Coulby Newham in 2018.
16. During his employment, the Registrant became involved with a company called Genistar which offered financial services including life insurance and loans. He attended a number of training courses. He initially tried to introduce a number of his colleagues to Genistar in the hope that they would act as selling agents for Genistar and he would earn commission from their sales. However, none of his colleagues were interested.
17. Between August and October 2020, the Registrant started to introduce some of his patients at the Pharmacy to Genistar. He spoke to the patients when they came to collect medication, or when he reviewed their medication and he subsequently

contacted them using the contact details on the Pharmacy dispensing system, known as Compass.

18. The matters giving rise to the Allegation came to light when one of the Registrant's patients complained to the Pharmacy head office that the Registrant had made inappropriate comments to her, asked her on a date and telephoned her at home on a Saturday afternoon.
19. That patient was Witness 1 who sent a letter of complaint to the Pharmacy head office dated 6 October 2020, saying that the Registrant had conducted a review of her medication on 24 September 2020 at the end of which he had said "you're looking very slim" and then said, "I'm free on Saturday, do you want to go out for a date?".
20. She went on to say in that letter, *"On Saturday 3rd October I was watching a film at home at about 4.30pm when my mobile phone rang. I answered it and a man said, "hi, it's only me." I immediately recognised the voice as being that of Atetsi Famavle. He asked me what I was doing and I replied that I had been watching a film. He then asked me what the film was watching. I was obviously surprised at being called at home by this man. He then said, "I wonder if you can do me a favour, can you help me with a presentation that I'm doing?" I was obviously confused and didn't know how to reply to this. He then told me that it was relating to family finance and said he would send me a link. After I had put the phone down, I received a text with a link to a company named Genistar, saying, "Hi" and signing off with Atetsi and a smiley face emoji."*
21. The Registrant did then send a text message on which he wrote *"As per our conversation, pls find the link above. Presentation is held every 7:30pm. Username is your full name and password you mobile"*. The message contained what appeared to be a link to "gensitar" and was signed Afetsi.
22. The Pharmacy head office conducted an investigation through the regional manager Witness 4, who initially spoke to the Registrant by telephone on 13 October 2020. During the investigation, the Registrant denied making any inappropriate personal remarks to any patient but agreed that he had been asking patients since August 2020 if he could contact them about financial education and if they agreed, he would contact them, using the details on the Pharmacy computer system known as Compass
23. The Registrant was further questioned face to face on 6 November 2020 when he again admitted using data held on the Pharmacy system to contact patients to sell them financial services and expressed remorse for what he had done. He told the investigator that he was grateful to him for "shedding light on what he could not see."
24. He also told the investigator and subsequently the Divisional Quality Manager for Lloyds Pharmacy that his judgment had been clouded by his personal circumstances [PRIVATE].
25. During the course of the investigation, Witness 4 interviewed the Registrant's colleagues in the Pharmacy. None of them had ever been aware, they said, of the

Registrant being personally inappropriate to them or customers. Nor had they noticed him accessing patient records. Two of them did recall the Registrant trying to interest them in financial products including mortgages.

Submissions and advice

26. Mr Watson reminded the Committee of the background to this case and focused his submissions on the disputed particulars. With regard to Particular 4.1 and 4.3 (the allegation that the Registrant had said to Witness 1 that she was slim and asking her on a date) Mr. Watson submitted that Witness 1 had given an essentially consistent account of what happened and the Committee should accept her evidence.
27. He submitted that, by contrast, the Registrant had changed his account during the investigation and only admitted accessing patients records in November 2020 having first denied that to an investigatory hearing in October 2020. He reminded the Committee that the Registrant had accepted that he behaved out of character during August to October 2020 because of the upheaval in his personal life.
28. Mr Hadley submitted that the Committee should accept the Registrant's evidence in respect of the disputed particulars because he had made full admissions to the other particulars and been consistent in his case at least since 6 November 2020. He submitted that the Committee should conclude that when the Registrant has done something wrong, he makes admissions at an early stage.
29. He submitted that Witness 1 was not a reliable witness but that her evidence was contradictory or evasive. He reminded the Committee that Witness 1's letter of complaint was written 12 days after the events of 24 September 2020 and that on that day she had been in a rush and not in a position to listen carefully to what the Registrant was saying. He drew the Committee's attention to the differences between her account in her initial letter of complaint and the statement she made to the council. He pointed out that in the letter she had recorded that the Registrant had said: *"you're looking very slim". At this point I began to feel very uncomfortable so stood up to leave. At which point he asked me to sign a form to say that my medication had been discussed. Just as I was about to leave, he said, "I'm free on Saturday, do you want to go out for a date?"*.
30. However, he reminded the Committee, Witness 1 had signed a statement to the Council on 3 October 2021 saying *"He then commented that I was looking rather slim and was looking nice. I was shocked and stood up asking if he had finished. It seemed he didn't care what he was going to say. Then he said to me 'Are you free on Saturday, do you fancy going for a date?"*
31. Mr Hadley also drew the Committees' attention to the text message that the Registrant admitted sending to Witness 1 on 3 October 2020 and submitted that its content demonstrated that the Registrant's intent was to promote his business and not sexual.
32. He reminded the Committee that the disciplinary investigation at the Pharmacy had heard from 5 colleagues who were all clear that they had not seen the Registrant

ever behave in an inappropriate way to anyone, although in 2 cases he had tried to promote financial services to them.

33. Mr Hadley reminded the Committee that the Registrant was a man of good character about whom a significant number of colleagues had written very positive testimonials.

34. The legally qualified chair set out the following advice that he would give to the Committee and which the Committee followed in its decision:

a. With regard to the assessment of evidence he summarised the authorities as follows:

- i. Demeanour is not a reliable way of judging witness evidence on its own – in particular, confidence is not a guide to the reliability of a witness.
- ii. Memory is more fallible than we think -even light bulb moments are not always accurately recalled – and can be distorted by writing down an account – so we remember what we have written at the expense of the original event. Wherever possible, a Committee should test the witnesses memory against agreed facts and contemporaneous records. These are more likely to be accurate.
- iii. Above all do not decide you accept a witness because of her demeanour and then fit the documents around it – decide in light of all the evidence – is a witness honest – are they reliable – remember they can be very different. A witness can be totally honest and yet unreliable. Such witnesses are the most dangerous because their own conviction can persuade a tribunal.
- iv. There are cases where demeanour can be taken into account as a factor (Byrne v General Medical Council [2021] EWHC 2237 (Admin) and sometimes there are no documents.
- v. Remember that the burden of proving an allegation rests on the Council, not on any witness. It is for the Committee to decide if the evidence of a particular witness is sufficient to prove an allegation.

b. “Sexual” is defined by section 78 of the Sexual Offences Act 2003:

78 “Sexual”

For the purposes of this Part touching or any other activity is sexual if a reasonable person would consider that—

(a) whatever its circumstances or any person's purpose in relation to it, it is because of its nature sexual, or

(b) because of its nature it may be sexual and because of its circumstances or the purpose of any person in relation to it (or both) it is sexual.”

c. Integrity is described in Wingate and Evans v SRA and SRA v Malins [2018] EWCA Civ 366

“Integrity is a broader concept than honesty. In professional codes of conduct, the term integrity is a useful shorthand to express the higher standards which society expects from professional persons and which the professions expect from their own members. The underlying rationale is that professions have a privileged and trusted row in society. In return they are required to live up to their own professional standards.

Integrity connotes adherence to the ethical standards of one's own profession. That involves more than mere honesty. To take an example a solicitor conducting negotiations or a barrister making submissions to a Judge or arbitrator will take particular care not to mislead.

The duty to act with integrity applies not only to what professional persons say but also what they do.

Obviously neither courts nor professional tribunals must set unrealistically high standards. The duty of integrity does not require a professional person to be paragons of virtue. In every instance professional integrity is linked to the manner in which the particular profession professes to serve the public.”

- d. The Committee should bear in mind *BSB v Howd* [2017] EWHC 210 admin: Integrity takes its colour from the term honesty and connotes probity and adherence to ethical standards not inappropriate and offensive social or sexual behaviour.
- e. Whether an action is sexual is a finding of fact like any other and there is only one standard of proof. However, the courts have reminded Committees that that serious findings such as dishonesty or sexual motivation should be made on the basis of “cogent evidence” *Lawrence v General Medical Council* [2015] EWHC (Admin) at para. 35).
- f. The Committee should ignore the result of any previous disciplinary hearing.
- g. The Committee will take into account that the Registrant is a man of good character, against whom there have been no previous adverse findings and of whom a number of colleagues speak highly. The Committee will bear this in mind in his favour when deciding whether he did the acts alleged against him and the weight to attach to his evidence.
- h. When considering each particular of Allegation, the Committee bore in mind that the burden of proof rests on the GPhC and that particulars are found proved based on the balance of probabilities. This means that particulars will be proved if the Committee is satisfied that what is alleged is more likely than not to have happened.

Decision on the disputed facts

- 35. In reaching its decisions on the disputed facts, the Committee considered the documentation listed at the start of this determination, oral evidence, the submissions made by Mr Watson and Mr Hadley and the advice set out above.

Particulars 4.1 and 4.3 found proved

36. The Committee found that both particulars arise from the same conversation in the Pharmacy on 24 September 2020 and examined the evidence on both together.
37. Witness 1 gave evidence to the Committee by video link. She adopted her statement to the Council, referred to above, in which she said that she had previously felt uncomfortable with the Registrant when she collected her medication because he was “very flirty with me standing very close”. She said that she attended the Pharmacy approximately once per month at that time.
38. She confirmed that after she had collected her medication from the Pharmacy on 24 September 2020, the Registrant had told her that it was time for a medication review and she attended a side room for that purpose. The medication review was carried out and then she confirmed that the Registrant had asked her where she worked. She then reported the conversation set out in paragraph 30 above: *“He then commented that I was looking rather slim and was looking nice. I was shocked and stood up asking if he had finished. It seemed he didn't care what he was going to say. Then he said to me 'Are you free on Saturday, do you fancy going for a date?’”*
39. She described how she had been scared by what happened and told her family about it. She said that they had advised her to report what had happened but she had said it could be a joke and indeed thought it was a joke “because I didn't think he'd be that silly”.
40. Witness 1 was cross examined by Mr Hadley who pointed out to her the difference between what she had said in her statement and the original letter of complaint she wrote in October 2020. Witness 1 looked at the copy she could view on her mobile telephone and confirm that the expression “fancy going for a date” was not in her original letter of complaint. She put that down to a “secretarial error” and added, *“at the end of the day he still asked me for a date”*.
41. She was also asked why she had not reported matters until 6 October 2020. She replied that on 24 September 2020 she had been in a hurry and wanted some advice. It was, she said, her family, and in particular her brother-in-law, who had persuaded her that she must report the matter.
42. The Committee compared the letter of 6 October 2020 with Witness 1's statement and did not accept that the differences were significant. Both recorded that the Registrant had told Witness 1 that she was “slim”, and both recorded that, at the end of the medication review, he had invited her to a date on Saturday.
43. The Committee also examined the timing of Witness 1's letter. It noted that the letter was written on the second working day after the Registrant had telephoned Witness 1 at home. In that letter, Witness 1 makes it clear that it is the culmination of the two events that left her feeling vulnerable and anxious because the Registrant had her contact details and had used them in an inappropriate manner.
44. The Committee also found that the contents of this letter supported Witness 1's evidence that she had no personal animosity towards the Registrant and it found that the reliability of her account was bolstered by the moderate language that she used to conclude the letter: *“I trust that you will be able to investigate this matter and*

ensure that no other person is made to feel uncomfortable by a member of your staff in a position of trust.”

45. The Registrant also gave evidence to the Committee. He confirmed the details of his qualification and employment as set out in the background above. He also confirmed that in the autumn of 2020 he had become involved with a company called Genistar. He told the Committee that the company provided financial advice or education and offered financial products such as life insurance. His purpose in contacting both colleagues and patients was not to sell products to them but to recruit them as effectively sales people so that he could earn commission from their sales.
46. He described how he had interacted with Witness 1 in the same way he had interacted with all his patients and never been aware that she was uncomfortable with him. On 24 September 2020 she had been due for a medication review and he had suggested it because he is always keen to keep up to date with those reviews and had been commended by his employer for doing so.
47. He told the Committee that the only remark he had made about Witness 1’s appearance was that he had said she looked well when they went into the room for the medication review. He told the Committee that at the end of the review he had asked Witness 1 if he could contact her outside of work to discuss something. He said that she agreed he could contact her on the telephone number on their system. He told the Committee that he wanted to contact Witness 1 because he identified her as somebody who he could recruit to Gensitar but did not explain to her the reason why he wanted to contact her because he was “mindful of a busy shop.”
48. He denied telling Witness 1 that she looked slim and said it was not in his character to do so. He explained that he was a man of faith and it was outside his faith to give such compliments. He said that on the way into the consultation room he had given Witness 1 a thumbs up and said she looked well.
49. When considering this account the Committee had regard to the Registrant’s good character although it balanced that against his admission to the pharmacy investigation and disciplinary hearing that he was acting out of character at that time, with regard to accessing patient records for the purpose of his business with Genistar, because of the stress he was under as a result of his difficult domestic circumstances [PRIVATE].
50. The Committee also had regard to 10 testimonials submitted on the Registrant's behalf by colleagues who had known him a significant period of time and the pastor of his church. It was clear that each had read the Allegation that the Registrant faces. The writers spoke of him in favourable terms and said among other things, “*that being inappropriate towards anyone is very much unlike him.*” “*I have not known him cause offence or upset to anyone*”; that he was “pleasant and good mannered in his interactions”; that they had received “great feedback from both my dispensers and customers”; “Many of the customers during his locum work have commented on his warm and kindness and his helpful nature.” and that he was “a great communicator”. A number described him as friendly and approachable.

51. Balancing all these considerations and bearing in mind that the burden of proving the allegations rests upon the Council, the Committee came to the following conclusions. The Committee found that Witness 1 was a consistent witness who had made her complaint very shortly after the phone call to her at home. The Committee rejected the suggestion that she had changed or embellished her account and accepted that she had no reason to invent her account.
52. Giving the Registrant all appropriate credit for his good character and his favourable testimonials the Committee found that his account of arranging to contact or even meet Witness 1 without giving any explanation to her was less credible than her account. The Committee accepted the significant body of evidence that the Registrant is a man of faith and that the behaviour alleged against him is out of character but it also observed that by his own admission this was a time when he was acting over several weeks in a way that was out of character by abusing the pharmacy records for the purposes of his own business.
53. Having regard to all these matters, the Committee is satisfied that Witness's 1 account of the 24 September 2020 is the correct one and accordingly finds particulars 4.1 and 4.3 proved.
54. Before leaving these particulars, the Committee needs to say something about the effect of its findings. The Committee noted that the Registrant had already admitted asking Witness 1 if he could contact her and meet her. The Committee is satisfied that, on both the Registrant's and Witness 1's account there was only one such request, which the Committee has found was asking Witness 1 for a date.
55. The result is that the Committee found that Particular 4.2 was incorporated within its finding at 4.3 and, for the reasons set out above, wherever the Registrant's account and Witness 1 accounts differed, it preferred that of Witness 1.

Particular 6.1 in relation to particulars 4.1 and 4.3 found proved.

56. The Committee reminded itself of the definition of integrity set out above and also that it should be cautious of applying integrity to matters that are purely social or even sexual.
57. However, in this case the Committee was satisfied that by using a medication review for his own purposes, whether commercial or personal, the Registrant engaged in conduct that is properly characterised as lacking integrity.
58. Accordingly, the Committee finds Particular 6.1 proved in relation to particulars 4.1 and 4.3.

Particular 6.2 in relation to Particular 4 found proved.

59. Again, the Committee took 4.1 and 4.3 together. It reminded itself of the definition of sexual set out above. It concluded that a reasonable person would find that the words commenting to Witness 1 about her appearance, (without any clinical justification) and asking her for a date could be sexual.
60. The Committee looked at all the circumstances, including that the Registrant was alone with Witness 1 in a consultation room. The Committee concluded that having

regard to all the circumstances the reasonable person would conclude that, taken together, the words found proved at both particulars, were sexual.

61. In light of the findings the Committee has made about the relationship between Particulars 4.2 and 4.3, the Committee is satisfied that there is no basis upon which it can make a separate finding in relation to Particular 4.2.

Particular 6.2 in relation to Particular 5 found not proved.

62. The Committee examined the evidence of the telephone call and text message to Witness 1 on 3 October 2020. It was satisfied that a telephone call to Witness 1 on a Saturday afternoon after the Registrant had asked her for a date was capable of being sexual.
63. However, the Committee could find no material in the telephone call or the text message that demonstrated that the contact was in fact sexual. The Committee concluded that there was sufficient material in the surrounding circumstances to make a reasonable person suspicious but not sufficient for the Council to establish on the balance of probabilities that the contact was sexual.
64. Accordingly, the Committee finds the Particular 6.2 not proved in relation to particular 5.

That concludes the Committee's decision at Stage 1.

Misconduct and Impairment

65. Having found proved the particulars of allegation set out above, the Committee went on to consider whether the particulars found proved amounted to misconduct that is serious and, if so, whether the Registrant's fitness to practise is currently impaired.
66. The Committee heard evidence from the Registrant. He told the Committee that he respected the decision of the Committee and confirmed the account set out in his written statement relating to his personal and financial circumstances which led him to behave as he did. [PRIVATE]. He described how he had become preoccupied and lost sight the standards of personal privacy and sexual boundaries that he should have had regard to.
67. Turning to the effect of his actions upon Witness 1 he described himself as "heartbroken" to hear how his actions had affected her. He said he could only imagine how the other patients he had contacted might feel: they may be as worried as Witness 1.
68. The Registrant drew the Committee's attention to his work since his misconduct. He had worked as a locum in two other pharmacies until he had then been given full time work in March 2021 back at the Pharmacy when it was taken over by new

management. He had worked there until July 2023 when he went with his new partner to the United States.

69. The Registrant told the Committee that he had learned from the professional boundaries course he had undertaken and understood the importance of respecting the privacy of patients and also adopting a more professional and less “friendly” approach to patients. He also told the Committee that he had learned from the safeguarding course and wished to apologise for what he had done including the damage he had done to his colleagues and the profession and asked the Committee to accept that he would behave very differently in the future.
70. The Committee also had regard to the written personal and professional testimonials and course certificates, to which the Committee makes more detailed reference below.
71. The Committee took into account the submissions made by Mr Watson and Mr Hadley.
72. Mr Watson submitted first that the matters proved against the Registrant amounted to misconduct that is serious. He drew the Committee’s attention to the decision of the High court in *Roylance v General Medical Council (No.2) [2000] 1 AC 311* and the relevant paragraphs of the Standards for pharmacy professionals, (the standards) and the Guidance to pharmacy professionals on both confidentiality and maintaining clear sexual boundaries. He submitted that the Registrant’s conduct breached these standards and guidance.
73. Turning to impairment, Mr Watson drew the Committee’s attention to the relevant rules and authorities, to which the Committee refers in its reason set out below, and submitted that the Registrant’s fitness to practise is currently impaired both because there remains a risk that the Registrant will repeat his misconduct and because a finding of impairment is necessary in the wider public interest, to maintain confidence in the profession of pharmacy and uphold standards of conduct.
74. Mr Hadley submitted that, to give rise to a finding of impairment, misconduct must be serious. He reminded the Committee that it was concerned with current impairment and invited the Committee to have regard to the fact that the Registrant had practised for 11 years without any other incidents of misconduct, outside the relatively short period, when he was experiencing significant upheaval in his life. He reminded the Committee of the admissions the Registrant had made during the investigations and the apologies he had made subsequently. He submitted that the Registrant’s remorse was clear and that the passage of time since the misconduct was significant. He reminded the Committee of the favourable testimonials and evidence of well targeted CPD. He took the Committee through some of the initial investigation material and demonstrated that the Registrant’s insight had developed from a time when he was more concerned about his own position to one where he fully understood the effects that he had had on patients and the profession.
75. He submitted that in all the circumstances, the Registrant was very unlikely to repeat his misconduct after nearly three years of unrestricted practise without incident and because there was significant evidence that he had a better understanding of himself.

He submitted that the need for a finding of impairment in the wider public interest is a high test and reminded the Committee that it is open to the Committee to give advice or warning to a Registrant.

Decision on misconduct

76. When considering whether the particulars found proved amounted to misconduct the Committee took into account the *Good Decision making guidance*. / Fitness to Practice hearings and Sanctions Guidance 2017 (The Guidance)
77. The Committee considered whether the Registrant had breached any of the Council's Standards for Pharmacy Professionals (May 2017). The Committee determined that the Registrant's conduct was in breach of the following Standards:
- 1 - provide person-centred care
 - Respect and safeguard the person's dignity.
 - 5 - use professional judgement
 - Make the care of the person their first concern and act in their best interests.
 - consider and manage appropriately any personal or organisational goals, incentives or targets and make sure the care they provide reflects the needs of the person.
 - 6 - behave in a professional manner
 - are polite and considerate.
 - are trustworthy and act with honesty and integrity.
 - treat people with respect and safeguard their dignity.
 - maintain appropriate personal and professional boundaries with the people they provide care to and with others.
 - 7 - respect and maintain the person's confidentiality and privacy
 - understand the importance of managing information responsibly and securely, and apply this to their practice.
 - reflect on their environment and take steps to maintain the person's privacy and confidentiality.
 - work in partnership with the person when considering whether to share their information, except where this would not be appropriate.
78. The Committee bore in mind that the Standards may be taken into account when considering the issues of grounds and impairment but that a breach of the Standards does not automatically result in a finding of misconduct (Rule 24(11) of the Rules).

79. The Committee looked first at the matters proved at particulars 1-3. It reminded itself that these particulars reflected a course of conduct which lasted for two months, involved eight or more patients and during which the Registrant abused the trust of colleagues and patients in an attempt to make a financial gain.
80. The Committee also had regard to the Council's guidance on confidentiality (which is given to Registrants in "In practice: Guidance on confidentiality"): *"Maintaining confidentiality is a vital part of the relationship between a pharmacy professional and a person under their care. A person may be reluctant to ask for advice, or give a pharmacy professional the information they need to provide proper care, if they believe that the pharmacy professional may not keep the information confidential. When pharmacy professionals do not handle confidential information appropriately it can damage public trust and confidence in the pharmacy professions and other healthcare professions."*
81. The Committee had regard to the difficult personal circumstances which gave rise to this course of conduct. Nevertheless, having regard to the Registrant's culpability and the seriousness of abusing his patients' trust and the Pharmacy's records, the Committee was satisfied that the matters proved at particulars 1-3 amount to misconduct that is serious.
82. The Committee then looked at the matters proved at particulars 4 and 5. It reminded itself that the matters it found to be sexual, were confined to a short period and fell at the lower end of the scale of seriousness in such cases, involving neither physical contact, persistence nor threats. It also had regard to the guidance given in Good decision making that *"Sexual misconduct – whatever the circumstances – undermines public trust in the profession and has a significant impact on the reputation of pharmacy professionals, and in some circumstances can present a significant and immediate risk to patient safety."*
83. The Committee also had regard to the guidance given to Registrants about the importance of maintaining boundaries in "In practice: Guidance on maintaining clear sexual boundaries": *"When healthcare professionals cross personal and professional boundaries the result for people under their care can be serious and can cause harm. Crossing these boundaries can damage public trust and confidence in the pharmacy profession and other healthcare professions."*
84. It also reminded itself that it had found that the Registrant's telephone call to Witness 1 on 3 October 2020, was not itself sexual, (although entirely inappropriate). Nevertheless, the Committee reminded itself that the Registrant's conduct, as a whole, had crossed personal boundaries, intruded into her private life and caused significant distress to Witness 1.

85. Having regard to all those matters, the Committee was satisfied that the Registrant's conduct at particulars 4 and 5 amounted to misconduct that is serious.

Decision on Impairment

86. Having found that the particulars of allegation amounted to misconduct, the Committee went on to consider whether the Registrant's fitness to practise is currently impaired. In doing so the Committee had regard to Rule 5(2) of the Rules and considered whether the particulars found proved show that the conduct of the Registrant:

- *presents an actual or potential risk to patients or to the public*
- *has brought, or might bring, the profession of Pharmacy into disrepute*
- *has breached one of the fundamental principles of the profession of Pharmacy*
- *means that the integrity of the Registrant can no longer be relied upon*

87. The Committee also took account of the guidance given to the meaning of 'fitness to practise' in the Council's publication "*Good decision-making*" (Revised March 2017). Paragraph 2.11 reads:

"A Pharmacy professional is 'fit to practise' when they have the skills, knowledge, character, behaviour and health needed to work as a pharmacist...safely and effectively. In practical terms, this means maintaining appropriate standards of competence, demonstrating good character, and also adhering to the principles of good practice set out in our various standards, guidance and advice."

88. The Committee reminded itself that impairment is a matter for its own professional judgement. In reaching its decision, the Committee had regard to the nature, circumstances and gravity of the misconduct found proved, the risk of repetition and the critically important public interest, in particular the need to promote and maintain confidence in the profession as well as promoting and maintaining proper standards of conduct and behaviour for the profession.

89. The Committee also bore in mind that it was concerned with whether the Registrant's fitness to practise is currently impaired and focused on the need to protect the public and the wider public interest in the future.

90. The Committee bore in mind that a finding of impairment is separate from the finding of misconduct and that a finding of misconduct does not automatically mean that the practitioner's fitness to practise is impaired.

91. The Committee had at the forefront of its mind that 3 years have elapsed since the Registrant's misconduct and there is no evidence that he has committed similar misconduct either before, in a career of 11 years, or since the matters proved.

92. The Committee followed the approach endorsed by the High Court in *CHRE v NMC and P Grant* [2011] EWHC 927 (Admin): *"Do our findings of fact in respect of the (Registrant's) misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:*

- a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b) has in the past brought and/or is liable in the future to bring theprofession into disrepute; and/or*
- c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d) has in the past acted dishonestly and/or is liable to act dishonestly in the future."*

93. The Committee considered first whether there remained a risk of repetition of The Registrant's misconduct. On this issue, the Committee noted in particular the observations of Silber J in *Cohen v GMC* [2008] EWHC 581 (Admin):

"There must always be situations in which a Committee can properly conclude that the act of misconduct was an isolated error on the part of a medical practitioner and that the chance of it being repeated in the future is so remote that his or her fitness to practice has not been impaired. Indeed, the Rules have been drafted on the basis that once the Committee has found misconduct, it has to consider as a separate and discreet exercise whether the practitioner's fitness to practice has been impaired."

94. The Committee also had regard to the passage from *Cohen v GMC* (above) and cited by Cox J in the *Grant* case, which reminds Committees that there may need to be a finding of impairment in the public interest, even if the misconduct can be characterised as an isolated incident:

"Any approach to the issue of whether a doctor's fitness to practise should be regarded as 'impaired' must take account of 'the need to protect the individual patient, and the collective need to maintain confidence [in the] profession as well as declaring and upholding proper standards of conduct and behaviour of the public in their doctors and that public interest includes amongst other things the protection of patients, maintenance of public confidence in the (profession)'"(sic).

95. The Committee also had regard to the direction given to Committees by the High Court that they must have regard to all three aspects of the overarching objective, to protect the public, when reaching a decision. Most recently in *GMC v Chaudhary* [2017] EWHC 2561 (Admin)- that remediation is not the end of the matter - that throughout its

deliberations, the tribunal must (and will) have regard to all 3 aspects of the overarching objective.

96. The Committee had regard to the following passage in the judgment: "53. The whole of the public interest in this regulatory context is vital. I am not to be understood as saying that elements two and three are more important than the first element (which is public safety) and the position of the doctor, but everything must properly be placed in the balance." (Mr Justice Jay)
97. It reminded itself that the overarching objective involves acting:
- a) to protect, promote and maintain the health, safety and wellbeing of the public;
 - b) to maintain public confidence in the profession;
 - c) to promote and maintain proper professional standards and conduct for members of the profession."
98. With regard to all the matters found proved the Committee found that the Registrant, at the time of his misconduct, had caused harm to Witness 1, put patients at potential risk of harm, breached a fundamental tenet of the profession, brought the profession into disrepute and demonstrated that his integrity could not be relied upon.
99. The Committee has set out above the distress and fear caused to Witness 1. It has also dealt with the manner in which the Registrant broke the fundamental tenets of confidentiality and patient centred care by using patient records for his own purposes. The Committee has recorded its finding about the Registrant's lack of integrity at the time of his misconduct and is satisfied that there is no doubt that confidence in the profession of pharmacy is brought into disrepute by the abuse of patient records and breaching personal and sexual boundaries.
100. Nevertheless, the Committee reminded itself that is concerned with whether the Registrant's fitness is currently impaired and considered first whether there remains a risk that he will repeat his misconduct with the results set out above.
101. The Committee looked carefully at the testimonials referred to at paragraph 50 above. It reminded itself that the authors of the testimonials demonstrated that they know of the allegations, in all but one case, by signing a copy of the allegations. They include the Superintendent Pharmacist at the Pharmacy where the Registrant worked until July 2023. He has known the Registrant for 5 years and attests specifically to the Registrant's appropriate relationship with customers, the positive feedback he has received and his confidence that the Registrant will not behave inappropriately. The Committee also noted the testimonials of several other registered pharmacy professionals who attested to his professionalism and his appropriate interaction with patients.
102. The Committee also reminded itself of the documentary evidence that the Registrant has completed courses in Professional Boundaries and Safeguarding children and adults at risk.

103. The Committee, also reflected upon the Registrant's evidence about his understanding of what he had done, why he had done it, why it was wrong and how he would conduct himself in the future. The Committee accepted this evidence and found his evidence was consistent with the support of colleagues who had worked with him over the period since his misconduct and with the fact that he had worked since then without restrictions or further complaint.
104. With regard to the matters admitted and found proved at Particulars 1-3 the Committee had particular regard to the following matters:
- a. The Registrant made full admissions to the pharmacy investigation in October and November 2020.
 - b. At that time, he demonstrated significant insight, showing that he not only understood that what he had done was wrong but why it was wrong.
 - c. The Registrant has undertaken a body of learning to embed the importance of protecting patient confidentiality and not crossing boundaries.
 - d. The Registrant has practised as a pharmacist for nearly three years without any repetition of the misconduct.
 - e. The Registrant put before the Committee a significant bundle of testimonial evidence from people who were registered pharmacists, had seen the allegations against him and spoke of him as a man who was not likely to behave in this way. The Committee accordingly accepted that the matters admitted and found proved were out of character.
 - f. the Registrant made full admissions to the Committee at the start of the hearing having notified these admissions in advance.
 - g. The Committee accepted the Registrant's evidence that he understood the impact of his misconduct on public confidence in the profession and his colleagues who had trusted him.
 - h. The Committee accepted the Registrant's evidence that he understood the personal and financial pressures that had led him to pursue a business interest within the context of his pharmacy practise and misuse patients' records.
105. In light of all these matters, the Committee concluded that there was no significant risk that the Registrant would repeat misconduct of this sort.
106. With regard to the matters proved at particular's 4.1, 4.3 6.1 and 6.2 the Committee bore in mind that these matters had been proved against the Registrant at the hearing. He had denied using the words set out of 4.1 and 4.3 and denied that his conduct was sexual.
107. The Committee bore in mind that it should not equate denial with a lack of insight although it was likely to make it harder for the Registrant to demonstrate sufficient insight to persuade the Committee that there was no significant risk of repetition.
108. The Committee had regard to the following matters:

- a. The relatively narrow ambit of his denials. That is to say that he denied telling Witness 1 that that she looked slim but had said that she looked well. He denied asking her for a date but accepted that he had asked her to meet him outside work for an unspecified reason. In these circumstances the Committee found that the Registrant's evidence fell short of the "blatant lies" that the court in *Ahmedsowida v GMC* [2021] EWHC 3466 (Admin) indicated was more likely to be an obstacle to finding insight and a should be properly described as "minimising" his misconduct.
 - b. The Committee accepted the Registrants evidence, both written and oral that he understood that it was wrong to seek a personal relationship of any sort or even speak as if that was what he wanted.
 - c. The Committee reminded itself that the sexual misconduct was a single isolated incident.
 - d. The Committee accepted the Registrant's evidence, during the hearing that he understood the impact his words had had on Witness 1, and he was truly sorry that he had caused her distress.
 - e. The Committee accepted the Registrant's evidence that he understood the impact of his misconduct on public confidence in the profession and had changed his approach to patients to ensure that he was less familiar or friendly with them.
 - f. The Committee had regard to the testimonials referred to above.
 - g. The Committee reminded itself that the Registrant had worked since 2020 without restrictions or any repetition of misconduct.
109. Having regard to all those matters, the Committee was satisfied that the Registrant had developed sufficient insight and demonstrated this by his conduct so that the Committee was satisfied that there was no longer a significant risk that this type of misconduct would be repeated in the future.
110. The Committee then asked itself whether a finding of impairment was necessary for the Committee to fulfil its overarching objective of promoting and maintaining public confidence in the profession and upholding standards of conduct for the profession.
111. Having regard to all the matters set out above, the Committee is satisfied that public confidence in the profession would not be maintained and the Committee would be failing in its duty to uphold standards of conduct if there were no finding of impairment in this case.
112. The Committee is satisfied that a finding of impairment is necessary to send a clear message to the public and the profession that the misconduct in this case is wholly unacceptable and will result in a finding that a Registrant's fitness to practise is impaired even when the Committee is satisfied that there is no significant risk of repetition. The Committee concluded that no other course would be sufficient to convey this message.
113. Accordingly, the Committee finds that the Registrant's fitness to practise is impaired having regard to the wider public interest.

Decision on Sanction

114. Having found impairment, the Committee has gone on to consider what if any sanction to impose.
115. The Committee's powers are set out in Article 54(2) of the Order. The Committee should consider the available sanctions in ascending order from least restrictive, take no action, to most restrictive, removal from the register, in order to identify the appropriate and proportionate sanction that meets the circumstances of the case.
116. The purpose of the sanction is not to be punitive, though a sanction may in fact have a punitive effect. The purpose of the sanction is to meet the overarching objectives of regulation, namely the protection of the public, the maintenance of public confidence and to uphold professional standards. The Committee is therefore entitled to give greater weight to the public interest over the Registrant's interests, although it must bear in mind the principle of proportionality and ensure that it balances the need to protect the public against the rights of the Registrant and imposes a sanction that is no more restrictive than is necessary to achieve its objective.
117. The Committee had regard to its decision at the impairment stage that there was no longer a significant risk of repetition so that the object of a sanction in this case is to maintain public confidence in the profession and to uphold professional standards.
118. The Committee had regard to the Council's '*Good decision making: Fitness to practise hearings and sanctions guidance*' (the Guidance) to inform its decision.
119. The Committee took into account the submissions of Mr Watson. He drew the Committee's attention to the relevant principles of law and the relevant guidance set out above. He reminded the Committee of the importance of integrity and submitted that a Registrant who demonstrates a lack of integrity harms the profession and public confidence in the profession.
120. He reminded the Committee of the principle set out in *Bolton v Law Society* [1994] 1 WLR in which , Bingham LJ said:

"the reputation of the profession is more important than the fortunes of any individual member. Membership of a profession brings many benefits, but that is a part of the price"
121. With regard to sexual misconduct, he drew the Committee's attention to Paragraph 6.2 of the Guidance which states:

"Sexual misconduct – whatever the circumstances – undermines public trust in the profession and has a significant impact on the reputation of pharmacy professionals, and in some circumstances can present a significant and immediate

risk to patient safety. It covers a wide range of behaviour, including sexual harassment, sexual assault, physical examinations of patients that are without consent or unnecessary, and serious sexual offences which lead to criminal convictions.”

122. Mr Watson reminded the Committee that the Registrant’s misconduct encompassed both integrity and sexual boundaries.
123. He submitted that the aggravating factors are *“the misuse of the profession and workplace of the Registrant for inappropriate activities and the repeated use of patients’ personal information albeit over a relatively short period.”*
124. He submitted that the mitigating factors are that *“no patient other than Witness 1 complained, his previous good character, his admission of some of the allegations, and the remediation training and activities he has undertaken. “*
125. He submitted that, in all the circumstances, the appropriate sanction was a period of suspension of between 3 and 6 months.
126. Mr Hadley reminded the Committee that the purpose of sanction was not to punish the Registrant but was, in this case, focused on protecting the wider public interest.
127. With regard to the sexual misconduct found proved, he drew the Committees attention to the paragraph 6.5 of the Guidance, which set out that is important that *“the Committee carefully considers each case on its merits, and takes decisions in the light of the particular circumstances of the case and the risk posed to patients and the public.”*
128. He submitted that the misconduct in this case should be distinguished from the more serious sexual misconduct upon which the guidance was focused. He submitted that in this case the misconduct was confined to words, there was no aggravation, no highly sexualized language. It did not, he submitted, continue for a long time and he reminded the Committee of its finding that this was a single incident which was not followed up by further breaches of sexual boundaries. He reminded the Committee that it had found that the telephone call that the Registrant had made to Witness 1 had not been of a sexual nature.
129. He reminded the Committee that it had already found that the Registrant was acting out of character at a time of particular stress in his personal life. He also reminded the Committee of the courses and remediation that the Registrant had undertaken on professional boundaries which demonstrated his insight and remorse.
130. With regard to the abuse of the patients’ data he reminded the Committee that three years had passed since the misconduct and the favourable testimonial evidence from people who knew the Registrant over a long time both before and since his misconduct. He also reminded the Committee of the Registrant’s admissions to both

his employer and the Committee, without which, he submitted, much of the misconduct may never have been proved.

131. Mr Hadley took the Committee through each of the sanctions and submitted that in all the circumstances a warning was the most appropriate sanction, in light of the Committee's finding that there is no significant risk that the Registrant will commit misconduct in the future.

The Committees decision

132. The Committee first considered what, if any, aggravating and mitigating factors there in this case.
133. The Committee identified the following aggravating factors:
- a. The misconduct found proved was related to confidentiality/integrity and breach of sexual boundaries. Both of these are serious matters.
 - b. The breach of sexual boundaries related to a single patient. However, the breach of confidentiality related to eight patients.
 - c. The misconduct arose from an abuse of the Registrant's position as a pharmacist. The Committee reminded itself that the Registrant asked Witness 1 for a date when alone with her in a consulting room.
 - d. In the case of Witness 1, the Registrant's misconduct caused significant distress.
 - e. The accessing of patient records was for financial gain, albeit there is no evidence that the Registrant did gain financially.
134. The Committee identified the following mitigating features:
- a. The misconduct was confined to a short period in an otherwise unblemished 11 year career and the sexual misconduct was confined to a single incident.
 - b. The Registrant has developed significant insight in the ways set out in the Committee's impairment decision. The Registrant has demonstrated his insight by his admissions and remediation, including targeted study, set out above.
 - c. The Registrant has expressed remorse for much of his misconduct from an early stage and the Committee accepts that remorse is genuine.
 - d. The Registrant has the benefit of supportive testimonials from colleagues who have worked with him before and since his misconduct and speak favourably of his professionalism.
 - e. The Registrant's misconduct took place during a difficult time in his personal life, three years ago, and the Committee has accepted that he acted out of character.

135. The Committee also reminded itself that both the matters relating to the misuse of patient's records and sexual misconduct have the potential to undermine public confidence in the profession and are, for that reason serious. Nevertheless, the Committee has borne in mind that all the misconduct in this case falls towards the lower end of the scale for the reasons set out below.
136. With regard to the abuse of patient records, the Committee noted that there is no suggestion that the records fell into the hands of third parties or were otherwise abused, beyond being used by the Registrant.
137. With regard to the finding of sexual misconduct, the Committee bore in mind that the misconduct, although distressing, was confined to words on a single occasion.
138. Having regard to these matters and balancing the aggravating and mitigating factors, the Committee concluded that although the misconduct is serious and needs to be marked by a significant sanction, the public interest could be met by a sanction that fell short of removal in light of both the misconduct itself and the steps taken by the Registrant in the last three years.
139. In light of those findings, the Committee considered each of the available sanctions in turn.
140. The Committee first considered taking no action. The Committee was satisfied that taking no action would be inconsistent with its findings and the identified need to maintain confidence in the profession and uphold standards of conduct.
141. The Committee then considered whether it should give a warning to the Registrant. The Committee noted the relevant passage at paragraph 4.3 of the Guidance which sets out that a warning may be appropriate when, *"There is a need to demonstrate to a Registrant, and more widely to the profession and the public, that the conduct or behaviour fell below acceptable standards. There is no need to take action to restrict a Registrant's right to practise, there is no continuing risk to patients of the public and when there needs to be a public acknowledgement that the conduct was unacceptable."*
142. The Committee considered this sanction with care but concluded that it would not be sufficient to protect the wider public interest in this case because it was satisfied that the misconduct covered the two distinct areas set out above and was too serious to be dealt with in this way. In reaching this decision, the Committee had regard to the nature of the misconduct, which encompassed two areas capable of undermining public confidence in the profession, the distress caused to a patient and the need to send an appropriate signal to the Registrant, the profession and the public that misusing patient records and crossing sexual and personal boundaries, is not acceptable.
143. The Committee next considered the imposition of conditions of practice.

144. The Committee reminded itself of the paragraph of the Guidance which indicates that conditions are most likely to be appropriate where, *“There is evidence of poor performance, or significant shortcomings in a Registrant’s practice, but the Committee is satisfied that the Registrant may respond positively to retraining and supervision.”*
145. Accordingly, the Committee concluded that conditions would not be relevant to the concerns in this case. Nor would conditions be sufficient to satisfy the wider public interest.
146. The Committee next considered whether suspension would be a proportionate sanction. The Committee noted the relevant paragraph of the Guidance which indicates that suspension may be appropriate where:
- “The Committee considers that a warning or conditions are insufficient to deal with any risk to patient safety or to protect the public, or would undermine public confidence. It may be required when necessary to highlight to the profession and to the public that the conduct of the Registrant is unacceptable and unbecoming a member of the pharmacy profession. Also, when public confidence in the profession demands no lesser sanction.”*
147. Having reminded itself of all the matters set out above, the Committee concluded that suspension was the appropriate sanction because it would send the necessary signal to the public and the profession that the misconduct found in this case was not acceptable.
148. In order to satisfy itself that it was imposing a sanction that was sufficiently restrictive to protect the public interest, the Committee considered whether a removal order was necessary. It had regard to the relevant paragraph of the Guidance, which provides that *“removing a Registrant’s registration is reserved for the most serious conduct.”* The Committee concluded that a removal order was not consistent with its findings set out above that the misconduct in this case fell short of the most serious conduct. The Committee was satisfied that public confidence in the profession would be maintained by a period of suspension having regard to both the nature of the misconduct and the evidence, set out above, that there was no longer a significant risk of repetition.
149. The Committee then considered the appropriate length of suspension. The Committee balanced the seriousness of the misconduct and the significant mitigating factors. It concluded that a period of three months was appropriate to reflect the seriousness of the misconduct but also to reflect that, in light of the mitigation, it fell significantly short of requiring the Registrant’s removal.
150. The Committee therefore directs that the Registrar suspend the registration of AFETSI FIAMAVLE for a period of 3 months.
151. The Committee considered whether it should order a review of the Registrant’s suspension before it expires.

152. The Committee concluded that a review would serve no useful purpose in this case because it had already decided that there was no significant risk of repetition. Therefore, the Committee was satisfied that there were no continuing concerns which the Registrant would need to demonstrate had been resolved at a review hearing. Accordingly, the Committee does not order a review in this case and the Registrant's period of suspension will expire at the end of three months.

Interim Order

153. The committee was satisfied that there is no interim order in place.

Decision on Interim Measure

154. Mr. Watson submitted that the committee should direct that the Registrant should be suspended forthwith, pending the coming into force of the direction to cover the 28 days before the suspension comes into force and also to cover any appeal period.
155. He acknowledged that the committee had already found that a sanction was not required to protect the public and that the only grounds for applying were that a direction was otherwise in the public interest.
156. Mr Hadley opposed the direction and reminded the committee that the Registrant has worked without restriction for three years without any complaint. He submitted that the public interest would be served by the period of suspension imposed, whenever it is served.
157. The committee reminded itself that the power to impose interim measures is given by article 60 of the order and can only be imposed if the committee is satisfied that such measures are necessary to protect the public, or are otherwise in the public interest or in the interests of the Registrant.
158. *The Committee took account of the Council's guidance of March 2017.*
159. The committee has already found that a sanction is not required to protect the public but is being imposed in the wider public interest. The committee is mindful that if it imposes no order this sanction will not come into force for 28 days or until any appeal has been finally disposed of. The committee has also borne in mind that there is a significant risk of injustice if a Registrant is effectively prevented from exercising any right of appeal that he has because of the imposition of interim measures.
160. In those circumstances, the committee is satisfied that interim measures are not required on any of the grounds set out in article 60 of the Order.
161. This concludes the determination.