

**General Pharmaceutical Council**

**Fitness to Practise Committee**

**Principal Hearing**

Remote videolink hearing

29 January – 2 February 2024

<b>Registrant name:</b>	Richard Andrew Lyness
<b>Registration number:</b>	2063816
<b>Part of the register:</b>	Pharmacist
<b>Type of Case:</b>	Conviction and misconduct
<b>Committee Members:</b>	Mr Julian Weinberg (Chair) Nalini Varma (Lay member) Sam Stephenson (Registrant member)
<b>Secretary:</b>	Zainab Mohamad
<b>General Pharmaceutical Council:</b>	Represented by Mr Alex Lawson, Counsel, Case Presenter
<b>Registrant:</b>	Not present and not represented
<b>Facts proved:</b>	N/A
<b>Facts proved by admission:</b>	1, 2, 3, 5, 6, 7
<b>Facts not proved:</b>	4 withdrawn
<b>Fitness to practise:</b>	Impaired by reason of convictions and misconduct
<b>Outcome:</b>	Removal
<b>Interim measures:</b>	Suspension

This decision including any finding of facts, impairment and sanction is an appealable decision under our rules. Therefore, this decision will not take effect until 4 March 2024 or, if an appeal is lodged, once that appeal has been concluded. However, the interim suspension set out in the decision takes effect immediately and will lapse when the decision takes effect or once any appeal is concluded.

### Documents

- 1 – GPhC bundle
- 2 – GPhC skeleton argument
- 3 – registrants bundle
- 4 – Proceeding in absence bundle
- 5 – Submissions from registrant
- 6 – emails from registrant

## **DETERMINATION**

### **Introduction**

1. Mr Richard Andrew Lyness (“the Registrant”), is a Pharmacist first registered with the General Pharmaceutical Council (“the Council”) under registration number 2063816.
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 of these regulatory proceedings are:

*“To protect, promote and maintain the health, safety and well-being of the public;*

*To promote and maintain public confidence in the professions regulated by the Council;*

*and*

*To promote and maintain proper professional standards and conduct for members of those professions.”*

4. The Committee also has regard to the guidance contained in the Council's "Good decision making: Fitness to practise hearings and sanction guidance as revised March 2017".
5. This hearing of the Council's Fitness to Practise Committee ("the Committee") has been convened to consider an allegation that the Registrant's fitness to practise as a pharmacist is impaired by reason of his convictions and by reason of misconduct.
6. The Council was represented by Mr Alex Lawson, Counsel. The Registrant has not attended this hearing, is not represented, but has submitted a bundle of documentation and written representations for consideration by the Committee.
7. The Particulars of the Allegation (as amended) are as follows:

*"You, a registered pharmacist,*

*1. You were convicted at Belfast Magistrates' Court for the offences as set out in Schedule A in that you pleaded guilty on 12 March 2021 and/or 15 January 2021 and were sentenced on 18 June 2021.*

*2. You were convicted at Laganside Magistrates' Court for the offences as set out in Schedule B in that you pleaded guilty on 18 June 2021 and were sentenced on 17 June 2022.*

*3. You were convicted at Newtonards' Magistrates' Court for the offences as set out in Schedule C in that you pleaded guilty on 12 May 2023 and were sentenced on 9 June 2023.*

~~*4. You failed to declare the conviction in 2 above to the General Pharmaceutical Council within 7 days as required by Rule 4 (2) (a) of The General Pharmaceutical Council (Fitness to Practise and Disqualification etc. Rules) Order of Council 2010.*~~

*5. On occasion(s) between August 2020 and 22 January 2021, you consumed cocaine, a Class A controlled drug.*

6. *On occasion(s) between 22 July 2021 and 20 October 2021, you consumed cocaine, a Class A controlled drug.*

7. *On occasion(s) between 15 June 2022 and 23 August 2022, you consumed cocaine, a Class A controlled drug.*

*By reason of the matters set out above your fitness to practise is impaired by reason of your:*

*a) Misconduct;*

*c) Conviction(s)”*

#### Schedule A

*Between 28 August 2020 and 8 September 2020, you persistently made use of a public electronic communications network for the purpose of causing annoyance, inconvenience or needless anxiety to another. Contrary to section 127(2)(c) of the Communications Act 2003.*

*Between 29 August 2020 and 8 September 2020, in contravention of Article 3 of the Protection from Harassment (Northern Ireland) Order 1997, pursued a course of conduct which amounted to harassment of Person A and which you knew or ought to have known amounted to harassment. Contrary to Article 4(1) of the Protection from Harassment (Northern Ireland) Order 1997.*

*Between 1 September 2020 and 6 October 2020, in contravention of Article 3 of the Protection from Harassment (Northern Ireland) Order 1997, pursued a course of conduct which amounted to harassment of Person A and which you knew or ought to have known amounted to harassment. Contrary to Article 4(1) of the Protection from Harassment (Northern Ireland) Order 1997.*

*Between 10 October 2020 to 29 October 2020, in contravention of Article 3 of the Protection from Harassment (Northern Ireland) Order 1997, you pursued a course of conduct which amounted to harassment of Person A and which you knew or ought to have known amounted to harassment. Contrary to Article 4(1) of the Protection from Harassment (Northern Ireland) Order 1997.*

*On 2 November 2020 at Willowbank Gardens, Belfast, contravened a non-molestation order made under the Family Homes and Domestic Violence (Northern Ireland) Order 1998. Contrary to Article 25(1) of the Family Homes and Domestic Violence (Northern Ireland) Order 1998.*

*Between 31 October 2020 and 3 November 2020, in contravention of Article 3 of the Protection from Harassment (Northern Ireland) Order 1997, pursued a course of conduct which amounted to harassment of Person A and which you knew or ought to have known amounted to harassment. Contrary to Article 4(1) of the Protection from Harassment (Northern Ireland) Order 1997.*

*Between 31 October 2020 and 3 November 2020, you persistently made use of a public electronic communications network for the purpose of causing annoyance, inconvenience or needless anxiety to another. Contrary to section 127(2)(c) of the Communications Act 2003.*

*On 27 November 2020 at Willowbank Gardens, Belfast, contravened a non-molestation order made under the Family Homes and Domestic Violence (Northern Ireland) Order 1998. Contrary to Article 25(a) of the Family Homes and Domestic Violence (Northern Ireland) Order 1998.*

*On 27 November 2020, in contravention of Article 3 of the Protection from Harassment (Northern Ireland) Order 1997, pursued a course of conduct which amounted to harassment of Person A and which you knew or ought to have known amounted to harassment. Contrary to Article 4(1) of the Protection from Harassment (Northern Ireland) Order 1997.*

*On 27 November 2020, you persistently made use of a public electronic communications network for the purpose of causing annoyance, inconvenience or needless anxiety to another. Contrary to section 127(2)(c) of the Communications Act 2003.*

*On 22 December 2020 at Willowbank Garden, Belfast, contravened a non-molestation order made under the Family Homes and Domestic Violence (Northern Ireland) Order 1998. Contrary to Article 25(a) of the Family Homes and Domestic Violence (Northern Ireland) Order 1998.*

Schedule B

*Between 10 March 2021 and 24 April 2021, in contravention of Article 3 of the Protection from Harassment (Northern Ireland) Order 1997 pursued a course of conduct which amounted to harassment of Person A and which you knew or ought to have known amounted to harassment. Contrary to Article 4(1) the Protection from Harassment (Northern Ireland) Order 1997.*

*Between 10 March 2021 and 24 April 2021, for the purpose of causing annoyance, inconvenience or needless anxiety to another persistently made use of a public electronic communications network. Contrary to section 127(2)(c) of the Communications Act 2003.*

### Schedule C

*On 19 August 2022, without lawful excuse, made a threat to kill Person B with the intention that Person B would fear it would be carried out. Contrary to Section 16 of the Offences Against the Person Act 1861.*

*On 19 August 2022, without lawful excuse, made a threat to kill Person C with the intention that Person C would fear it would be carried out. Contrary to Section 16 of the Offences Against the Person Act 1861.*

*Between 19 August 2022 and 20 August 2022, for the purpose of causing annoyance, inconvenience or needless anxiety to another persistently made use of a public electronic communications network. Contrary to section 127(2)(c) of the Communications Act 2003.*

*On 4 September 2022, in contravention of Article 3 of the Protection from Harassment (Northern Ireland) Order 1997 pursued a course of conduct which amounted to harassment of Person D and which you knew or ought to have known amounted to harassment, Contrary to Article 4(1) of the Protection from Harassment (Northern Ireland) Order 1997.*

*On 4 September 2022, for the purpose of causing annoyance, inconvenience or needless anxiety to another persistently made use of a public electronic communications network. Contrary to section 127(2)(c) of the Communications Act 2003.*

8. In advance of the hearing, the Committee was provided with a bundle of documentary material which included, but was not limited to:

- a statement of case and skeleton argument on behalf of the Council;
- particulars of the allegation;
- witness statements of Person A;
- witness statement of Person B;
- witness statement of Person C;
- witness statement of Civilian 1;
- witness statement of Civilian 2;
- witness statement of Constable 1;
- witness statement of Person D;
- statement of Amy Beales, Assessment Manager;
- copy certificates of conviction;
- screenshots of text messages;
- screenshots of emails;
- Certificates of analysis for drugs from Cansford Laboratories;
- Copy correspondence from KL Peters, Forensic Toxicologist at NIVHA;
- Copy email correspondence from the Registrant;
- Bundle of references;
- Medical reports and documentation relating to the Registrant’s health; and
- Written submissions from the Registrant provided during the course of the hearing.

### **Preliminary applications**

#### **Service of Notice**

9. The Registrant was neither present at the start of the hearing, nor was he represented. Mr Lawson therefore made an application to proceed in the absence of the Registrant, first dealing with the question of service of the Notice.
  
10. Rule 25 of the General Pharmaceutical Council (Fitness to Practise and Disqualification, etc, Rules) Order of Council 2010 (“the Rules”) provides:

*“Where the person concerned is neither present nor represented at any hearing, and the Committee is satisfied that:*

*(a) service of the Notice of Hearing or the Interim Order Notice has been properly effected, or*

*(b) all reasonable efforts have been made to serve the person concerned with Notice of Hearing or the interim order notice;*

*the Committee may nevertheless proceed to consider and determine the matter or allegation.”*

11. Accordingly, the Committee first considered whether the Registrant has been properly served with notice of this hearing.

12. Rule 16(1) of the Rules provides that where the Committee is to hold a hearing other than an interim order hearing, the secretary must serve a Notice of Hearing on the parties no less than 28 days before the date fixed for the hearing, and Rule 16(2) of the rules sets out what is required to be included in the Notice of Hearing.

13. Rule 3 of the Rules deals with service of documents. It states:

*“(1) subject to paragraph (2), any notice or document required to be served by the Council under these rules must be in writing and may be served by sending it by a postal service or another delivery service (including with the agreement of the person concerned by electronic mail to an electronic address notified to the Registrar as an address for communications) or by leaving it at:*

*(a) in the case of a Registrant their address as entered in the register.”*

*(b) .....*

*(c) .....*

*(2).....*



*(3) Where any notice or document is sent on behalf of the Investigating Committee or of the [Fitness to Practise] Committee by a postal service, unless sent by a service which records the date of delivery, it must be sent by first class post and is to be treated as having been served on the day after the day on which it was posted.*

*(4) Where a notice or document has been sent by electronic mail or left at an address, it is to be treated as having been served on the day on which it was sent or left at that address.”*

14. The Notice of Hearing was sent to the Registrant by email on 4 December 2023 to the email address on the register for the Registrant. The Notice complied with the requirements of the Rules so far as its content was concerned. The Committee was also satisfied, given the above, that the Registrant had received the notice of the hearing.
15. The Committee was also mindful that the Registrant was aware of the hearing, and had submitted documentation for consideration by the Committee.
16. The Committee was therefore satisfied that all reasonable efforts had been made to serve the notice on the Registrant and that the notice was served in accordance with the Rules.

### **Proceeding in absence**

17. On the first morning of the hearing, 29 January 2024, the Registrant did not attend the hearing, but emailed stating that, because of a health condition, he was unfit to attend but that he anticipated that he would be sufficiently well to attend on the morning of the second day of the hearing. Mr Lawson had not objected to that proposed course of action.
18. At 5.36am on the morning of the second day of the hearing, 30 January 2024, the Registrant emailed the Council stating:

*“Please thank the chair for adjourning yesterday. [PRIVATE] I wont be able to proceed today and i would like to request changing to a written submission instead. [PRIVATE]. I have had alot to deal with over the past couple of years. With the PSNI case, i have Barrister support which I cant afford for this one.*

*I am an excellent, caring pharmacist. I want the chance to keep my career and keep moving forward.”.*

19. In response, the Council responded as follows:

*“Thank you for your email below. Could you please clarify if your request to “change to written submissions” means that instead of giving evidence at the hearing, you intend on providing written submissions to the Fitness to Practise Committee? If so, can I kindly ask that you provide written submission at your earliest convenience.*

*The Council will make an application to the Committee to proceeding in your absence (In accordance with Rule 25 of the Rules) on the basis of the documents they have before them. The decision as to whether or not to proceed in your absence is a matter for the Committee.”*

20. At 9.26 am, the Registrant responded as follows:

*It may take me a couple of days to address all the points in a written submission. I just dont have the strength to go through a tough hearing. I feel i would be able to express myself better and fuller. Please let me know what you think and how to proceed.*

21. Having sought clarification from the Registrant as to whether he was stating that he was unfit to attend the hearing or whether he was stressed and needed time to prepare written representations, the Registrant emailed the Council at 11.18am as follows:

*“Hi,*

*I will be sending you over a copy of the request you asked for from my GP. My wife is dropping it off to our surgery. As soon as i receive it, i will forward it on to you.*

*Yes, it is extremely stressful to me and has been for the past number of years. I am happy for you to continue in my absence PROVIDED I am able to make a written submission to the allegations of the case. I haven't had written confirmation of this yet."*

22. At 11.33 am, the Council emailed the Registrant as follows:

*"Please can you confirm whether you are medically unfit to attend the Hearing OR you need more time to prepare for the Hearing and provide written submissions.*

*The Panel would like a definitive answer on your position."*

23. At 12.44 pm, the Registrant responded as follows:

*"In my opinion and by describing my symptoms clearly, i feel it is clear that i am unfit to attend the hearing. You also are aware [PRIVATE] over this with the potential implications to my life.*

*I had suggested a way around this was to provide the committee with a written submission. I am waiting confirmation that i can do this, there is a lot to get through so i said 48 hours would be a reasonable amount of time."*

24. Mr Lawson submitted that the Registrant was aware of the hearing in that he had responded to the Notice by providing a bundle of documents for consideration by the Committee. He submitted that the Registrant was ambivalent about what he was seeking and that Mr Lawson was still not sure. He stated that he remained uncertain as to whether the Registrant unequivocally admitted the factual allegations or whether the representations related solely to impairment and, potentially sanction.
25. He reminded the Committee that the Registrant had not produced any supporting medical evidence to corroborate his inability to engage in these proceedings. As such he submitted that the Committee should conclude that the Registrant had voluntarily absented himself from the hearing and that the hearing should proceed in his absence.

### **Determination on Proceeding in Absence**

26. The Committee then went on to consider whether it should exercise its discretion to proceed in the absence of the Registrant under the provisions of Rule 25. The Committee reminded itself of the criteria for considering whether to proceed in the Registrant's absence as set out in the case of *R V Jones & Hayward [2002] UKHL 5*. The case of *GMC v Adeogba and Visvardis [2016] EWCA Civ 162* reminded the Committee that its primary objective is the protection of the public and the public interest. In that regard, the case of *Adeogba* was clear that, *"where there is good reason not to proceed, the case should be adjourned; where there is not, however, it is only right that it should proceed"*.
27. The Committee is mindful that its discretion to proceed in the absence of a Registrant must be exercised with the utmost care and caution. The Committee was also mindful of the need to ensure that fairness and justice were maintained when deciding whether or not to proceed in the Registrant's absence. In reaching that decision, the Committee must decide whether the Registrant had deliberately and voluntarily chosen to absent himself.
28. As identified in the case of *Adeogba*, there is a burden on Registrants, as there is with all professionals subject to a regulatory regime, to engage with the regulator, both in relation to the investigation and ultimate resolution of allegations made against them. That is part of the responsibility to which they sign up when being admitted to the profession.
29. The Committee was mindful of the principle derived from the case of *GMC v Hyatt [2018] EWCA Civ 2796*, albeit in relation to applications to adjourn on health grounds, in which it was said:

*"There must be evidence that the individual is unfit to participate in the hearing.... That evidence must identify with proper particularity the individual's condition and explain why that condition prevents their participation in the hearing....*

*The Tribunal has a discretion to conduct further enquiries if the medical evidence does not meet the requirements noted above.... The onus remains on the individual to engage*

*with the Tribunal and the process, and "a culture of adjournment is to be deprecated": see Adeogba at [61] where, in addition, at [59], Sir Brian Leveson expressly rejected the suggestion that the Tribunal should have made its own further enquiries."*

30. In reaching a determination to grant the application, the Committee bore in mind the following:
  - a. The Registrant in his email correspondence was equivocal as to whether he was medically unfit to attend and positively participate in the hearing, or whether he was content for the hearing to continue in his absence, subject to being given adequate time to make written representations;
  - b. The Registrant has not produced any evidence of the medical condition that he stated is making him unfit to attend, or why it might prevent his participation in the hearing;
  - c. Whilst this hearing would undoubtedly be stressful for the Registrant, that would remain the same irrespective of whether the hearing proceeded today or whether it was adjourned until some future date. The Committee could not be satisfied that by not proceeding today, and adjourning the hearing, that the Registrant would be more likely to attend at any future resuming date;
  - d. There was a public interest in this hearing being held expeditiously.
31. In all the circumstances, the Committee was satisfied that the Registrant had voluntarily absented himself on the basis that he was content, if given time to make written representations to the Committee, for the case to proceed in his absence. In all the circumstances, the Committee did not consider that there was a real prospect of the Registrant attending a hearing at a later date. Having weighed the public interest for expedition against the Registrant's own interests, the Committee determined to proceed in the Registrant's absence.
32. Having made that decision, the following email exchange between the Council and the Registrant took place. At 13.12pm, the Council emailed the Registrant as follows:

*"The Panel have decided to proceed with the Hearing in your absence.*

*The Panel will not deal with impairment until 12pm tomorrow, so you have until then to provide submissions."*

33. At 1.33pm, the Registrant responded as follows:

*Thanks for your email. I have done all you asked and my wife has been to our surgery Our Dr is also off unwell but they are aiming to get it done for week end. Which its clearly important that you see. 12pm doesnt leave me very much time to defend myself.[PRIVATE]*

*I am please asking directly for you to change the time to 5pm tomorrow. I have helped the Society by providing a witness statement during a controlled drug investigation that Anna was conducting.*

*Therefore, i would expect courtesy to be a two way process. I dont think this is an unreason request."*

34. In the circumstances, the Committee adjourned the hearing at approximately 2.00pm on 30 January until 9.30 am on 1 February 2024. It directed that this should be communicated to the Registrant who should submit any written representations on which he intended to rely, to the Council by 4.00pm on 31 January 2024. This, the Committee concluded would be an effective balance between the need to hear cases expeditiously yet would grant the Registrant the time he required to prepare and lodge his written representations.

35. Having made that determination the Committee does not draw any adverse conclusions from the fact of the Registrant's absence.

**Application for part of the hearing to be held in private.**

36. The Committee invited Mr Lawson to consider whether those parts of the hearing that relate to the health and private life of the Registrant should be held in private. Having invited representations from Mr Lawson, he agreed that such matters should properly be heard in private.

37. The Committee was aware of the public interest in regulatory hearings being held in public. This public interest is reflected in Rule 39(1) which provides that *“Except as provided for in this rule, hearings of the Committee must be held in public.”* Rule 39(3)(b) provides that the Committee may hold the hearing in whole or in part in private if it *“is satisfied that the interest of the [Registrant] in maintaining their privacy outweighs the public interest in holding the hearing.....in public.”*
38. Having weighed the Registrant’s right to privacy regarding his health and private life against the public interest in open justice, the Committee was satisfied that the Registrant’s right to privacy outweighs the public interest. The Committee was satisfied that so far as it was intended to refer to the Registrant’s health or private life, that part of the hearing should be held in private.

#### **Application to withdraw Particular 4**

39. At the outset of the hearing, Mr Lawson made an application to withdraw Particular 4 of the Allegation.
40. He conceded that, based on the medical evidence available, the Registrant was unwell at the relevant time. He referred the Committee to a letter dated 15 June 2022 produced by the Registrant in advance of the hearing [PRIVATE].
41. In the circumstances, he accepted that because of health grounds, the Registrant would not have been able to report his conviction to the Council within the 7 day timeframe set out in the Rules. As such, he submitted that it was not appropriate to pursue this Particular against the Registrant.
42. On the basis of the Council’s application, the Committee marked that Particular as withdrawn.

#### **Background**

43. The Registrant was referred to the GPhC on 28 September 2023. The relevant details of the convictions are as set out in the schedules to the allegation. In summary, the 18 convictions include multiple occasions where the Registrant misused electronic communications, harassment or making threats to kill. The Registrant made sectarian comments on numerous occasions during his offending behaviour, these comments included, but are not limited to the following text messages:

- “I am going to slit your throat and that fat fenian you brough into our family. Your a fat waste of space. How dare you speak down to me. Your a dead man walking be carefuL I’ve a bounty on you”;
- “Mert me u fat cunt let’s have it out....I will finish you you’re a fat bastard and a fenain... I’ll bury you, your animals are going to be burned”;
- “Fuck you. You are all a pack of cunts. Your Fat fenian bitch of a bird I will get her done in you fat bastard”;
- “...She is one fat huge ugly fuck come on open your eyes your kids will be fenian little fat fucks. Horrific you’re an ugly fat family I will spit on you and your bastard kids go to hell u little chubby cunt”;
- “Fenian fat cunt... I ever bump into your fenian kids ill castrate them and I will slit you up you fat fuck...”
- “...You’re a fat stupid condescending cunt. I want nothing to do with you and your fenian family. Your fiancée is a fat ugly bitch...If I bump into you I will be knocking you out the fuck out. Keep an eye out for your dog and cat you fat cunt”.

### **Registrant’s Response**

44. In an email 9 November 2021, the Registrant has stated that he used cocaine on one occasion in August 2021, but this was due to issues in his personal life which had since improved.



45. In a further email dated 9 August 2022, the Registrant again admitted to using cocaine at his stag night.
46. In both emails he apologises for his conduct but provides no evidence of remediation, nor did he provide any explanation for his conduct that led to his numerous convictions.
47. The Registrant also provided written submissions in which he set out the background to his conduct, addressed his cocaine use and the steps he has taken to address his behaviour, and gave an update on his current personal circumstances.

### **Findings of facts**

48. The Committee had regard to Rule 28 of the Rules which states:

*Rule 28 (Consideration of allegations that relate to more than one category of impairment) states:*

*(1) As regards any fitness to practise allegation before the Committee, if—*

*(a) the particulars of the allegation in the Notice of Hearing relate to more than one category of impairment of fitness to practise; and*

*(b) those particulars include a conviction or caution, the chair must ensure (by adapting the procedure for the hearing, where necessary) that at the principal hearing, the Committee makes its findings of facts in relation to the allegations that do not relate to the conviction or caution before it hears and makes its findings of fact in relation to the conviction or caution.*

*(2) In the circumstances set out in paragraph (1), the chair must also ensure (by adapting the procedure for the hearing, where necessary), that the Committee only makes its decision as regards impairment of fitness to practise once it has made its finding of fact in relation to all the allegations set out in the Notice of Hearing.*

49. The Committee therefore first considered those factual allegations that did not relate to convictions.

50. At the outset of the hearing, the Committee had regard to the Registrant's emails of 9 November 2021 and 9 August 2022 in which he accepted that he had taken cocaine. In addition, the Registrant accepted in his written submissions that he has *"used cocaine on occasion socially during the last few years....Although I am not dependent, I recognise that this has to stop permanently and have sought support to get to complete and continued abstinence"*.
51. The Committee was satisfied that these admissions amounted to an unequivocal admission to Particulars 5-7 of the Allegation and were consistent with the documentation provided to the Committee. It therefore found the factual allegations set out in Particulars 5-7 proved on the basis of the Registrant's admissions, pursuant to Rule 31(6) of the Rules.
52. In accordance with Rule 28, the Committee then considered those Particulars relating to convictions. Again, the Committee had regard to the Registrant's written submissions in which he referred to *"disclosing these convictions to the GPhC"* and that *"I've admitted and accepted my punishments from the court. I have one case deferred for a year which will be another 2 year suspended sentence"*.
53. The Committee was therefore satisfied that the admissions were unequivocal, and were consistent with the certificates of conviction provided to the Committee. It therefore found the factual allegations set out in Particulars 1 – 3 proved on the basis of the Registrant's admissions, pursuant to Rule 31(6) of the Rules.

### **Misconduct and Impairment**

54. Having found all the facts proved, the Committee went on to consider whether the Registrant's fitness to practise is impaired by reason of the convictions and/or by reason of the Registrant's misconduct.
55. Article 51(1) of the Pharmacy Order 2010 provides:

*“(1) A person's fitness to practise is to be regarded as “impaired” for the purposes of this Order only by reason of—*

*(a) misconduct;*

*(e) a conviction in the British Islands for a criminal offence;”*

56. Rule 5 of the Rules provides:

*5(1) The Committee must have regard to the criteria specified in paragraph (2) or, where appropriate, (3), or, where appropriate, paragraphs (2) and (3), when deciding, in the case of any Registrant, whether or not the requirements as to fitness to practise are met in relation to that Registrant.*

*(2) In relation to evidence about the conduct or behaviour of the Registrant which might cast doubt on whether the requirements as to fitness to practise are met in relation to the Registrant, the Committee must have regard to whether or not that conduct or behaviour—*

*(a) presents an actual or potential risk to patients or to the public;*

*(b) has brought, or might bring, the profession of pharmacy into disrepute;*

*(c) has breached one of the fundamental principles of the profession of pharmacy;*

*or*

*(d) shows that the integrity of the Registrant can no longer be relied upon.*

### **The Council's submissions**

57. Regarding the approach to be taken by the Committee at the impairment stage, Mr Lawson made reference to a number of High Court authorities. These authorities assist the way in which regulatory committees should approach the issue of impairment, including:

- *Cheatle v GMC [2009] EWHC 645 (Admin);*

- *Roylance and General Medical Council (No.2) [2000] 1 A.C. 311;*
- *R (Remedy UK Ltd) v GMC [2010] EWHC 1245 (Admin);*
- *Nandi v General Medical Council [2004] EWHC 2317 (Admin);*
- *Cohen v GMC [2008] EWHC 581 (Admin);*
- *Meadow v General Medical Council [2006] EWCA Civ 1390 [2007] 1 QB 462: and*
- *CHRE v NMC and Grant [2011] EWHC 927 (Admin).*

58. Mr Lawson invited the Committee to conclude that the Registrant's actions breached the following provisions of the Council's *Standards of conduct, ethics and performance (2017)* ("the 2017 Standards").

*"Standard 6: Pharmacy professionals must behave in a professional manner"*

59. In relation to misconduct, Mr Lawson submitted that the Registrant's repeated use of Class A drugs must amount to misconduct. Within the meaning of *Remedy*, he further submitted that the second limb is engaged, this being "*conduct of a morally culpable or otherwise disgraceful kind... but which brings disgrace upon the doctor and thereby prejudices the reputation of the profession.*" The sixth of the principles in *Remedy* is also relevant in providing clarity, defining conduct which "*falls into the second limb if it is dishonourable or disgraceful or attracts some kind of opprobrium; that fact may be sufficient to bring the profession of medicine into disrepute. It matters not whether such conduct is directly related to the exercise of professional skills.*"

60. Mr Lawson referred to the case of *Cheatle v GMC*, in which it was said:

*"21. There is clear authority that in determining impairment of fitness to practise at the time of the hearing regard must be had to the way the person has acted or failed to act in the past. As Sir Anthony Clarke MR put it in Meadow v General Medical Council [2006] EWCA Civ 1390 [2007] 1 QB 462:*

*"In short, the purpose of fitness to practise proceedings is not to punish the practitioner for past misdoings but to protect the public against the acts and omissions of those who are not fit to practise. The FPP thus looks forward not back. However, in order to form a*

*view as to the fitness of a person to practice today, it is evident that it will have to take account of the way in which the person concerned has acted or failed to act in the past”.*

*22. In my judgement this means that the context of the doctor’s behaviour must be examined. In circumstances where there is misconduct at a particular time, the issue becomes whether that misconduct, in the context of the doctor’s behaviour both before the misconduct and to the present time, is such as to mean that his or her fitness to practise is impaired. The doctor’s misconduct at a particular time may be so egregious that, looking forward, a panel is persuaded that the doctor is simply not fit to practise medicine without restrictions, or maybe not at all. On the other hand, the doctor’s misconduct may be such that, seen within the context of an otherwise unblemished record, a Fitness to Practice Panel could conclude that, looking forward, his or her fitness to practise is not impaired, despite the misconduct”.*

61. Mr Lawson reminded the Committee that the High Court revisited the issue of impairment in the case of *CHRE v NMC and Grant [2011] EWHC 927 (Admin)* where Mrs Justice Cox noted:

*“In determining whether a practitioner’s fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.”*

62. As such, Mr Lawson submitted that in reaching a decision as to whether the Registrant’s convictions impair his current fitness to practise, the Committee should take into account the maintenance of public confidence in the profession and upholding proper standards of conduct and performance.

63. He submitted that:

- By dint of his convictions and drug use, the Registrant presented an actual or potential risk to patients or the public in general;

- The Registrant has brought the profession into disrepute by his conduct;
  - The Registrant has breached one of the fundamental tenets of the profession of pharmacy, being “Standard 6: Professionals Must Behave in a Professional Manner” (Standards for Pharmacy Professionals, 2017), by his conduct in relation to his convictions; and
  - The integrity of the Registrant can no longer be relied upon.
64. Mr Lawson submitted that the Registrant’s written representations whilst dealing with his current personal circumstances, has not stated why the Registrant has 18 convictions, noting that there is a further criminal matter outstanding. The Registrant had committed a number of criminal offences on three separate occasions over an extended period of time. He recognised that the Registrant had endeavored to make changes in his personal life, by trying to stop his cocaine use, and that he was now in a more stable and supportive personal relationship. Nevertheless, he concluded that as the Registrant had convictions for 18 offences, it would be hard for the public to maintain trust in the profession.
65. He submitted that the Registrant’s statement did not assist in understanding why the Registrant’s offending occurred. In addition, whilst the Registrant has undergone counselling, there could be no assurance that the Registrant’s behaviour would not be repeated if placed in a stressful situation again.
66. He submitted that the Registrant’s use of cocaine was significant and that as a Pharmacist responsible for safely dispensing drugs, by taking illicit drugs, the Registrant’s conduct would undermine public confidence in the profession.
67. He therefore invited the Committee to find that the Registrant’s fitness to practise is impaired by reason of his convictions and his misconduct.

### **The Registrant’s submissions**

68. No specific submissions have been received by or on behalf of the Registrant in relation to misconduct.

69. However, in his written submissions, the Registrant stated *“I genuinely am sorry for my behaviour. I have always been a loyal person who stands up for what I believe is right, but with hindsight I’m ashamed to say I have taken this too far”*. He accepted *“that taking cocaine is not acceptable and was a foolish way to try to ‘cope’ with the stressful situations of the last few years”* and recognised that *“this has to stop...I sincerely apologise to everyone I have hurt, especially my profession, fellow colleagues, family and wife....”*.

70. He also stated that:

*“I am very ashamed and extremely remorseful of my actions and regret how I behaved. Since then I independently sought help and completed a series of CBT sessions with Inspire. I also completed a ‘Building Better Relationships’ course through Probation. While this course was challenging at times, [PRIVATE] I have learnt a lot from the course which I continue to put in to practice today, in particular in learning to take a ‘time out’ / step back before reacting to things and also to take a ‘helicopter view’ and look at the bigger picture. I am genuinely sorry for the hurt and distress I caused to [redacted]. I admitted all charges against me straight away and have served my punishment from the Court.”*

71. The Registrant has also produced a bundle of documentation in relation to the professional help he has received, including CBT with which he engaged positively, and has provided a number of positive references.

### **The Committee’s decision on impairment**

72. The Committee has had regard to the submissions made, including the legal authorities referred to. It has reminded itself that its determination is a matter for its own independent judgement and that there is no burden or standard of proof that applies.

73. The Committee recognises that any failing must be serious such that it would attract a degree of opprobrium or harsh criticism. The Committee has borne in mind the case of

*Spencer v General Osteopathic Council [2012] EWHC 3147 (Admin)* and accepts that “mere negligence does not constitute misconduct” and that “a single negligent act or omission is less likely to cross the threshold of misconduct than multiple acts or omissions (*The Queen on the Application of Dr Malcolm Noel Calhaem v General Medical Council [2007] EWHC 2606 (Admin)*).

74. *Misconduct was defined in the case of Roylance v GMC [2000] 1 AC 311 as, “a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a medical practitioner in the particular circumstances”.*
75. The meaning of misconduct was further considered in the case of *Remedy UK v GMC [2010] EWHC 1245* as referred to above.
76. In considering whether the Registrant’s conduct amounts to misconduct, the Committee has also considered the case of *R (on the application of Pitt and Tyas) v General Pharmaceutical Council [2017] EWHC 809 (Admin)*. In deciding whether it does, the Committee has considered the potential damage caused by the Registrant’s conduct to the public reputation of the profession.
77. The Committee is mindful that this case relates to conduct outside of the Registrant’s professional practice. The Committee has therefore also had regard to the case of *Beckwith v SRA [2020] EWHC 3231 (Admin)*. It was held that professional rules may reach into private life only when conduct that is part of a person’s private life “realistically touches on his/her practise of the profession....or the standing of the profession....Any such conduct must be qualitatively relevant..... It must, in a way that is demonstrably relevant, engage one or other of the standards of behaviour which are set out in, or necessarily implicit from [the Code]”.
78. The Committee has taken into account all the evidence before it together with both Mr Lawson’s submissions and the written representations of the Registrant.



79. It has had regard to Standard 6 of Standards for Pharmacy Professionals which sets out a fundamental principle of the pharmacy profession with which Pharmacists must comply. It states that:

*“People expect pharmacy professionals to behave professionally. This is essential to maintaining trust and confidence in pharmacy. Behaving professionally is not limited to the working day, or face-to-face interactions. The privilege of being a pharmacist or pharmacy technician, and the importance of maintaining confidence in the professions, call for appropriate behaviour at all times. There are a number of ways to meet this standard and below are examples of the attitudes and behaviours expected.”*

80. Noting that there is no evidence of direct harm being caused to any member of the public by reason of those matters found proved at Particulars 5-7, the Committee was mindful that Pharmacists are responsible for the safe dispensing of drugs to the public and for ensuring that only those legitimately entitled to drugs, receive them. As such, the Registrant should have had a heightened awareness of the extent to which his taking of illicit drugs might undermine confidence in the Pharmacy profession. The Committee was therefore satisfied that the Registrant’s conduct as found proved in relation to his use of cocaine represented a serious falling short of the standard expected of a registered Pharmacist albeit that this did not occur in the course of the Registrant’s practice.
81. As such, it concluded that the matters found proved in relation to the Registrant's use of cocaine amounted to misconduct.
82. In relation to current impairment, the Committee has borne in mind the overarching objective of fitness to practise proceedings in that it should consider, not only the need to protect the public, but the need to uphold the reputation of the profession and to declare and uphold proper standards of conduct and behaviour. In doing so, the Committee has borne in mind the comments of Mrs Justice Cox in the case of *CHRE v NMC and Grant [2011] EWHC 927 (Admin)* which mirror Rule 5(2) of the Rules, in which it was said that impairment would arise where a practitioner:

- “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 the medical profession 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.”*

83. The Committee took into account the case of *Yeong v GMC [2009]* in which it was said:

*“It is a corollary of the test to be applied and of the principle that a FTPP is required to look forward rather than backward that a finding of misconduct in the past does not necessarily mean that there is impairment of fitness to practise – a point emphasised in *Cohen and Zygmunt...in looking forward the FTPP is required to take account of such matters as the insight of the practitioner into the source of his misconduct, and any remedial steps which have been taken and the risk of recurrence of such misconduct. It is required to have regard to evidence about matter that have arisen since the alleged misconduct occurred.**

84. In the case of *Cohen v General Medical Council [2008] EWHC 581 (Admin)*, it was noted that when considering the question of impairment, the Committee should give appropriate weight to the public interest, including the protection of the public, the maintenance of public confidence in the profession and upholding proper standards of conduct and behaviour. The Committee is mindful that it is relevant to consider whether the conduct is easily remediable, whether it has been remedied and whether it is highly unlikely to be repeated. The Committee notes that the questions posed in the *Cohen* case are not a test in which the answers determine the question of impairment, but are a part of the analysing process to be undertaken.

85. The Committee was satisfied that the Registrant has demonstrated some insight into his failings as set out in his written submissions. However, it noted that the Registrant has not meaningfully reflected on his criminal behaviour and the extent to which it impacts on the reputation of the profession. It remained concerned that,

notwithstanding the changes in his personal circumstances, the Registrant had not meaningfully demonstrated that he now has the necessary skills in place to ensure that, during times of stress, his behaviour would not be repeated.

86. The Committee had particular concerns given the Registrant's repeated criminal behaviour over a number of years, despite having been placed on Probation and having satisfactorily completed his sentences. The Registrant continued his criminal behaviour, knowing that his conduct was unlawful. The Committee further noted that the Registrant has stated that he has a further outstanding criminal case.
87. In all the circumstances, the Committee concluded that there remained an ongoing risk that his misconduct and/or criminal behaviour might be repeated.
88. The Committee has therefore concluded that paragraphs 5(2)(b) and (c) are both applicable in this case. The Registrant had breached a fundamental tenet of the profession by his criminal behaviour and by taking illicit drugs and therefore not behaving in a professional manner. The Committee concluded that his criminal behaviour and misconduct bring the profession into disrepute.
89. Furthermore, the Committee determined that a right-minded member of the public, on hearing all of the circumstances and evidence in this case, including the identified ongoing public interest concerns, would consider that a finding of current impairment is required if public confidence in the profession and in the regulatory process were to be maintained. Given the nature and seriousness of the misconduct found proved, and the repeated nature of the Registrant's criminal behaviour, the lack of sufficient insight, and the identified ongoing risk of harm to the public interest, the Committee is satisfied that a finding of impairment is also required to uphold proper professional standards and that public confidence in the profession which would be undermined if no such finding were made.
90. Therefore, the Committee determined that the Registrant's fitness to practise is currently impaired on public interest grounds by reason of his convictions and his misconduct.

## Sanction

91. The Committee, having found that the Registrant's fitness to practise is impaired, went on to consider the question of sanction. In doing so, the Committee recognised that the decision is a matter for its independent judgment.

## The Council's submissions

92. The Committee heard submissions from Mr Lawson. He referred to his written skeleton argument regarding how the Committee should approach this stage of the hearing.

93. The sanctions available are set out in Article 54(2) of the Pharmacy Order 2010, which provides that if the Fitness to Practise Committee determines that the fitness to practise of the person concerned is impaired, it may:

- Give a warning to the person and give a direction that the details of the warning be recorded in the register;
- Give a direction that the entry in the register of the person concerned be subject to such conditions as the Committee thinks fit to impose for such period not exceeding three years;
- Give a direction that the entry in the register of the person concerned be suspended for such period not exceeding 12 months as may be specified in the direction; or
- Give a direction that the entry in the register of the person concerned be removed.

94. Mr Lawson reminded the Committee to have regard to *Good decision making: Fitness to practise hearings and sanctions guidance* (Revised March 2017) ("the sanctions guidance") when considering a decision on sanction. The Committee should consider sanctions starting with the least severe and moving up until an appropriate and proportionate sanction is identified. Committee members should use their own judgement when deciding on the sanction to impose. They should also make sure that any sanction is appropriate and proportionate, based on the individual facts of the case,

and is in the public interest. If the Committee chooses not to follow the sanctions guidance, it should explain why it has done this in its reasons for choosing the sanction. To make sure that the sanction is proportionate, the Committee should consider each available sanction, starting at the least restrictive, and decide if it is appropriate to the case. If it is not, the Committee should consider the next sanction, and so on, until it decides that a particular sanction is appropriate. The Committee should also consider the sanction immediately above the one it has decided to impose, and give reasons why a more serious sanction is not appropriate and proportionate.

95. At paragraph 4.3 of the guidance, the various sanctions and the circumstances in which they may be appropriate are set out. Mr Lawson submitted that, whilst the Committee may consider that a period of suspension may be appropriate, removal is the only appropriate sanction and fulfils the circumstances set out therein, namely: *“Removing a Registrant’s registration is reserved for the most serious conduct. The committee cannot impose this sanction in cases which relate solely to the Registrant’s health. The committee should consider this sanction when the Registrant’s behaviour is fundamentally incompatible with being a registered professional.”*
96. Mr Lawson identified the following aggravating factors:
- The Registrant was convicted of 18 varied but serious and significant offences;
  - The offences occurred over a sustained period of offending;
  - The Registrant’s actions would cause potential damage to public confidence in the profession;
  - The Registrant has expressed extremely limited remorse; and
  - The Registrant has not provided any real evidence of reflection.
97. Paragraph 6.4 of the sanctions guidance states that: *“This is not a full list. It is meant to show that in cases of this type, given the risk to patients and the impact on public confidence in the profession, removal from the register is likely to be the most proportionate and most appropriate sanction.”*

98. Mr Lawson informed the Committee about the Registrant's regulatory history, including that from the Pharmaceutical Society of Northern Ireland ("PSNI"), noting the following matters:

- Albeit that it did not amount to a formal regulatory finding, in February 2009, the Registrant was issued a letter of advice by the Investigating Committee ("IC") in respect of allegations of misconduct in relation to failure to honour a locum booking and arriving late for work;
- In 2009, following a finding of impaired fitness to practise, the Registrant was issued with a warning in relation to a conviction for harassment without violence, and made subject to 18 months conditions of practice (Private);
- The Registrant was issued with a warning by the IC in 2020 in relation to an incident on 15 and 16 September 2018. The Registrant was the responsible Pharmacist when he slept in the dispensary for a total of 3 hours, across the two days whilst the pharmacy was open, leaving a dispenser to work and serve patients on her own; and
- The Registrant has been subject to an Interim Order from PSNI since 25 January 2021 in relation to his chronic cocaine misuse. An Interim Suspension Order was imposed for 18 months on 25 January 2021. A further Committee replaced the Interim Suspension Order for interim conditions on 21 July 2021. The interim conditions order was then replaced with an Interim Suspension Order on 5 January 2022.

99. In conclusion, Mr Lawson submitted that the only appropriate sanction which adequately maintains public confidence in the profession and upholds proper standards of conduct is removal from the Register in accordance with Rule 54(2)(c).

### **The Registrant's submissions**

100. No specific submissions have been received by or on behalf of the Registrant in relation to which sanction might be appropriate. He recognised in his written submissions that

*"I know I deserve to be punished for my mistakes but I hope we could come to an agreement that would work for everyone, so I can continue to use my skills for the benefit of the community and patients."*

101. The Committee noted the Registrant's submissions in relation to impairment and has taken them into consideration in relation to its decision on sanction.

#### **Committee's decision on sanction**

102. The Committee has paid due regard to all the evidence received, the submissions made by Mr Lawson, and the sanctions guidance in considering the question of sanction.

103. The Committee recognised the need to act proportionately, in other words that the sanction should be no more serious than it needs to be to achieve its aims. The Committee was mindful that the purpose of sanction in regulatory proceedings is not to punish Registrants, but is to protect the public and the wider public interest. It was mindful of the need to weigh the interests of the Registrant against the public interest, which includes the protection of members of the public, maintenance of public confidence in the profession, and the declaring and upholding of proper standards of conduct and performance.

104. The Committee recognised that in undertaking that task, a sanction may have a punitive effect. In order to arrive at the right conclusion and to ensure proportionality, the Committee adopted what is called a 'stepped' approach, which involves starting by considering the least restrictive sanction, and whether that is appropriate, and continuing until the right and appropriate sanction is reached. The sanction should be no more severe than is needed to achieve its ends.

105. The Committee took into account the submissions received, and identified the following aggravating factors:

- the Registrant has a previous conviction in relation to a similar matter, albeit from 2009. He was also subject to conditions being imposed on his practice (Private) As

such, the Registrant should have had a heightened awareness of his obligation to comply with his professional obligations;

- at the time of the events found proved in relation to Particulars 2, 3, 6 and 7, which relate to the Registrant committing a further 7 criminal offences of a similar nature to the 2009 conviction and in relation to ongoing cocaine use, the Registrant was subject to an Interim Order from PSNI imposed because of alleged chronic cocaine misuse;
- the Registrant's criminal behaviour, which included making threats to kill, was deliberate and repeated on several occasions over a three year period,
- the criminal behaviour occurred even after he had served two sentences of probation; and
- the Registrant has demonstrated limited insight into his criminal behaviour and its impact on the reputation of the profession generally.

106. The Committee has identified the following mitigating factors:

- He has engaged with the regulatory process, albeit that he did not attend in person;
- He admitted the factual allegations;
- He has apologised for his actions and taken some positive steps to address his behaviour through, for example CBT and partaking in the 'Building Better Relationships Programme', and that he intends to continue seeking professional support;
- He has provided positive references attesting to his clinical competence and otherwise good character;
- The Committee has taken into account his difficult personal circumstances at the time and the fact that he now has a more settled family life.

107. The Committee also gave careful consideration to the sanctions guidance. In particular, the Committee noted the guidance at paragraphs 4.3 and paragraphs 5.17-5.19.

108. The Committee has reminded itself that a sentence from a criminal court is not necessarily a reliable guide to the appropriate sanction to impose bearing in mind the



need within a regulatory context to ensure the maintenance of public confidence in the profession: *R (Low) v General Osteopathic Council* [2007] EWHC 2839 (Admin).

109. It was said in the case of *Dey v GMC* [2001] UKPC 44:

*“The object of disciplinary proceedings against a medical practitioner who has been convicted of a criminal offence is twofold. It is to protect members of the public who may come to him as patients and to maintain the high standards and reputation of the profession. It is not to punish him a second time for the same offence. Nevertheless the same conduct which constitutes the offence for which he has been convicted may also demonstrate that the need to maintain the standards and reputation of the profession or to protect the public or both requires the erasure of his name from the Register. There is no clear line of demarcation: the difference lies not in the facts themselves but in the perspective from which they are viewed.”*

110. The Committee has also had regard to the case of *CHRE v GDC and Fleischmann* [2005] EWHC 87 (Admin). The Committee was mindful that it should consider the sentence imposed by the courts to the extent that a Registrant should not be allowed to resume practice until satisfactory completion of his criminal sentence. Only circumstances which plainly justify a different course should permit otherwise. The rationale for the principle is not that it can serve to punish a practitioner whilst serving his / her sentence, but that good standing in a profession must be earned if the reputation of the profession is to be maintained. The Committee has taken account that on 9 June 2023, the Registrant was made the subject of a four month period of imprisonment, suspended for 2 years. The Registrant therefore remains subject to that suspended period of imprisonment until 8 June 2025.

111. The Committee was also mindful of the principle derived from the case of *Bolton v Law Society* [1991] 1 WLR 512 CA, in which it was said that:

*“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 part of the price.”*

112. In considering the sanction appropriate in this case, the Committee first gave consideration to the aggravating and mitigating features. Having done so, the Committee first considered taking no action but considered that taking no action would be insufficient to protect the public interest or to uphold confidence in the profession given the seriousness and repeated nature of the Registrant's offending and drug taking.

113. The Committee then considered imposing a warning. Such an outcome may be appropriate where there is a need to demonstrate to a Registrant, and to the wider public, that the Registrant's conduct fell below acceptable standards. Such an outcome may be appropriate where there is no continuing risk to the public and where there is need for there to be a public acknowledgement that the conduct was unacceptable.

114. However, the Committee considered that the Registrant's convictions and misconduct relate to matters that are significantly too serious for such an outcome. Imposing a warning, would not adequately address the serious public interest concerns identified.

115. The Committee next considered whether to impose a period of conditional registration. The Committee noted that the sanctions guidance indicates that conditions may apply 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.*

*There is not a significant risk posed to the public, and it is safe for the Registrant to return to practice but with restrictions."*

116. Given that this case relates to the Registrant's criminal behaviour and illicit drug use, rather than to shortcomings in his practice as a Pharmacist, the Committee considered that such a sanction would not be relevant to the facts of this case. This is not a case in relation to failings in his clinical practice which could be addressed by conditions.

117. The Committee then went on to consider the imposition of a period of suspension. The Committee noted from the sanctions guidance 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 the public that the conduct of the Registrant is unacceptable and unbefitting a member of the pharmacy profession. Also when public confidence in the profession demands no lesser sanction.”*

118. Having regard to all the circumstances of this case, the Committee concluded that this would not be an appropriate sanction to impose. Such an outcome, it considered, would inadequately reflect the grave seriousness of the Registrant’s offending behaviour given the gravity of the aggravating factors identified. The Committee recognised, and gives the Registrant credit for the steps he has taken to address his behaviour and drug issues. Nevertheless, it concluded that the Registrant’s convictions and misconduct were so serious, occurring as they did whilst subject to an Interim Order imposed by PSNI, that the Committee has concluded that his behaviour, in all the circumstances is fundamentally incompatible with remaining on the register.

119. Having taken into account the sanctions guidance, it concluded that, in accordance with Rule 54(2)(c), only removal from the register would be appropriate and proportionate given the serious and repeated pattern of the Registrant’s offending behaviour and misconduct to adequately promote and maintain public confidence in the profession and promote and maintain proper professional standards and conduct for members of the profession.

120. The Committee therefore directs removal of the Registrant’s name from the register.

### **Interim Measures**

121. The decision to impose removal of the Registrant's name from the register will not take effect until 28 days after the Registrant is formally notified of the outcome, or until any appeal is concluded.
122. Article 60 of the Pharmacy Order provides that the Committee may order that the Registrant be suspended with immediate effect if it is satisfied that to do so is necessary for the protection of members of the public, or is otherwise in the public interest, or is in the interests of the Registrant.
123. The Committee invited submissions on whether interim measures should be imposed to cover this period. Mr Lawson invited the Committee to impose an interim measure, pursuant to Article 60 of the Pharmacy Order 2010, given the rationale for the Committee's substantive decision on sanction.
124. Given the Committee's rationale for directing removal of the Registrant's name from the Register, the Committee therefore concluded that an interim measure was otherwise in the public interest in order to maintain public confidence in the pharmacy profession and the regulatory process.
125. The Committee therefore imposes an interim order of suspension.
126. There is no interim order in place to revoke.