

General Pharmaceutical Council

Fitness to Practise Committee

Review Hearing

Remote videolink hearing

Thursday 21 March 2024

Registrant name:	Rebin Abdullah
Registration number:	2213446
Part of the register:	Pharmacist
Type of Case:	Misconduct
Committee Members:	Alice Robertson Rickard (Chair) Raj Parekh (Registrant member) Isobel Leaviss (Lay member)
Legal Adviser:	Scott Ivill
Clinical Adviser:	Dr Jennifer Bearn
Committee Secretary:	Adam Hern
Registrant:	Present and represented by Zain Siddiqi
General Pharmaceutical Council:	Represented by Gareth Thomas, Case Presenter
Order being reviewed:	Suspension (12 months)
Fitness to practise:	Impaired
Outcome:	Suspension – 9 months
Interim measures:	Imposed

This decision including any finding of impairment and sanction is an appealable decision under *The General Pharmaceutical Council (Fitness to Practise and Disqualification etc. Rules) Order of Council 2010*. Therefore, this decision will not take effect until 19 April 2024 or, if an appeal is lodged, once that appeal has been concluded. However, the suspension set out in the decision takes effect immediately and will lapse when the decision takes effect or once any appeal is concluded.

Documentation

Exhibit 1- GPhC hearing bundle

Exhibit 2- GPhC skeleton argument dated 7 March 2024

Exhibit 3 – 1 page update from GPhC

Exhibit 4- Registrant’s witness statement

Introduction and preliminary matters

1. This is the written determination of the Fitness to Practise Committee following the second Principal Hearing Review before the Fitness to Practise Committee (‘Committee’) in respect of Mr Rebin Abdullah (‘the Registrant’). The Registrant is a Pharmacist first registered with the General Pharmaceutical Council (‘the Council’) on 15 October 2016 under registration number 2213446.
2. The task of the Committee at a review hearing is to decide whether the Registrant’s fitness to practise remains currently impaired and, if so, what should be the appropriate outcome. If the Committee finds that the Registrant’s fitness to practise is no longer impaired the current order will lapse on expiry.

Background (as set out in the Council’s skeleton argument)

3. The Principal Hearing was heard on 22 and 23 February 2022. Mr Abdullah did not attend the hearing and the Committee granted the Council’s application to proceed in his absence. Mr Abdullah faced three allegations regarding the impairment of his fitness to practise through misconduct and a conviction. The Committee found all allegations to be proved and subsequently found that Mr Abdullah’s fitness to practise was impaired. The Committee directed that Mr Abdullah should be suspended for a period of 12 months.
4. A Principal Hearing Review was heard on 9 March 2023. Mr Abdullah did not attend the hearing. The Committee hearing the review determined that Mr Abdullah continued to be impaired and imposed a further suspension of 12 months. The current suspension is due to expire on 7 April 2024.

Relevant Legislation

5. The Committee’s powers in relation to reviewing a registrant’s suspension are contained in Article 54 (3)(a) of the Pharmacy Order 2010 (“the Order”), the relevant parts of which state:

(a) Where the entry in the Register of the person concerned is suspended, give a direction that:-

- (i) the entry be removed from the Register;*
- (ii) the suspension of the entry be extended for such further period not exceeding 12 months as may be specified in the direction, starting from the time when the period of suspension would otherwise expire;*
- (iii) the entry be suspended indefinitely, if the suspension has already been in force throughout the period of two years,*
- (iv)*

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

6. The procedure for review hearings is set out at Rule 34 of the GPhC (Fitness to Practise and Disqualification etc. Rules) Order of Council 2010 ('the Rules').

Principal Hearing

7. On 7 July 2020, the Council were informed by Northumbria Police ('the police') that Mr Abdullah had been arrested on 19 March 2020 for possession of a Class B drug (Cannabis). Following this, on 11 September 2020, he was convicted for possession of Cannabis. Mr Abdullah did not disclose his conviction to the Council, as required by Rule 4(2)(i) of the Rules. The evidence resulted in three allegations in relation to: (REDACTED); his conviction for possession of Cannabis; and his failure to disclose his conviction to the Council.

FtP History

8. The Council also identified that Mr Abdullah had relevant fitness to practise history and had been previously suspended following another Principal Hearing that concluded on 5 February 2019. At that Principal Hearing, the Committee determined that Mr Abdullah was impaired by reason of his misconduct (REDACTED) and imposed a period of suspension on his registration for five months.

9. On 17 July 2019, a Principal Hearing Review was held in relation to this and Mr Abdullah's fitness to practise was found to be no longer impaired.

10. Allegation 1 subsequently arose in relation to Mr Abdullah's past proceedings.

Allegation 1

You, a registered Pharmacist,

- 1. Having been found impaired by reason of misconduct (REDACTED) and suspended for 5 months:**

1.1. (REDACTED)

11. On 19 March 2020, Mr Abdullah was stopped by police officers while driving. During the stop, the police officers identified that Mr Abdullah possessed a small clear plastic bag containing Cannabis. A road-side drug wipe of Mr Abdullah's car was conducted and it tested positive for Cannabis. Mr Abdullah was arrested and cautioned. During an interview, (REDACTED)

12. (REDACTED)

13. (REDACTED)

14. (REDACTED)

15. (REDACTED)

Allegation 2

You, a registered Pharmacist,

- 2. On 11 September 2020, were convicted at Cleveland Magistrates Court for the following offence:**

2.2 on 19 March 2020, at Billingham had in your possession a quantity of Cannabis a controlled drug of class B in contravention of 5(1) of the Misuse of Drugs Act 1971. Contrary to section 5(2) of and Schedule 4 to the Misuse of Drugs Act 1971.

16. The Council relied on the memorandum of conviction dated 11 September 2020 which confirmed that Mr Abdullah was convicted of *“on 19 March 2020, at Billingham had in your possession a quantity of Cannabis a controlled drug of class B in contravention of 5(1) of the Misuse of Drugs Act 1971. Contrary to section 5(2) of and Schedule 4 to the Misuse of Drugs Act 1971.”*

Allegation 3

3. 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.

17. The Council relied on the signed witness statement of Sharan Longia, dated 24 May 2021. In her statement, Ms Longia confirmed that registrants are required to complete a ‘Something to Declare’ form to inform the Council of a conviction and/or caution they have received and to notify the Council within seven days of receiving said caution and/or conviction. Ms Longia confirmed that having checked the Council’s electronic register and other relevant internal sources, the Council had not received anything from Mr Abdullah declaring his conviction.

Findings at the Principal Hearing

18. At the Principal Hearing, the Committee found that all three allegations were proved based on the evidence.

19. In relation to the question of current impairment, the Committee considered the evidence particularly that provided orally by Dr Agrawal. (REDACTED)

20. (REDACTED)

21. (REDACTED)

22. REDACTED)

23. The Committee considered Mr Abdullah's insight into the misconduct and the conviction. The Committee referred to Mr Abdullah's evidence at the review hearing following his previous Principal Hearing in July 2019. They stated that Mr Abdullah, at the time, had demonstrated good (REDACTED) on his ability to practise and the impact of his behaviour on public confidence in the profession. The Committee stated that while some credit might have been due to Mr Abdullah, little weight could now be given to his evidence of insight (REDACTED).

24. (REDACTED)

25. The (REDACTED)

26. The Committee considered the impact of Mr Abdullah's conduct on public confidence in the profession and the regulator. The Committee were satisfied that the public would be concerned to learn that a registrant was attending work (REDACTED) and that Mr Abdullah's conviction for possession of Cannabis and subsequent failure to notify the Council would undermine public confidence in the profession. The Committee concluded Mr Abdullah's fitness to practise *"to be currently impaired on all three heads of the statutory objectives for regulation, namely public protection, upholding public confidence and promoting professional standards."*

27. The Committee stated that based on their analysis and conclusions, they were satisfied that Rule 5(2)(a), (b) and (c) were engaged.

28. The Committee went on to consider the matter of sanction. The Council submitted that the Committee should consider a sanction of removal. Having identified a number of aggravating and mitigating factors, the Committee determined that the appropriate sanction was that of a suspension order for the maximum length possible, namely 12 months.

29. The Committee noted the following when considering the Council's submission in favour of removal:

30. *"In an earlier submission (in the context of impairment) it was submitted that the findings against the Registrant were possibly remediable. The Committee agrees: it is, just, possible, and depending on a number of matters, that the Registrant could remediate the failings that have been identified. To do so may require a great deal of effort on the part of the Registrant and a considerable amount of evidence may be required to establish remediation. As an early step, he would need to re-engage with his regulator, (REDACTED) The Registrant's non-attendance at this hearing has not helped in this regard. However, at this stage, on the information the Committee has, the Committee cannot rule out the possibility that the Registrant may be able to remediate his failings."*

31. In relation to the review hearing, the Committee indicated that the reviewing Committee may be assisted by:

- A reflective piece dealing with the issues of concern identified by the Committee, showing insight on why he made the wrong decisions that he did;
- (REDACTED)
- Information on how he has been maintaining his CPD;
- An update on what if any work, voluntary or paid, he has been undertaking; and
- Any testimonials that he wishes to provide.

First Principal Review Hearing

32. The first Principal Review Hearing was heard on 9 March 2023. Mr Abdullah did not appear at the hearing nor was he represented. Prior to the hearing, on 9 January 2023, Mr Abdullah wrote to the Council (REDACTED) but no further correspondence had been received from him after the Council responded to him the next day. The

Committee were subsequently satisfied that it was fair and appropriate to proceed in Mr Abdullah's absence.

33. Ms Ivana Raimundova, a Case Administrator for the Council, provided a witness statement detailing her correspondence with Mr Abdullah regarding his compliance with the suspension. Only one piece of correspondence was received from Mr Abdullah prior to this, on 9 January 2023, (REDACTED). Mr Abdullah did not make any further contact with the Council after this date, nor did he provide any evidence or submissions for the purposes of the review.
34. The Council submitted that the Respondent remained impaired and invited the Committee to impose a sanction of removal from the register.
35. In considering whether Mr Abdullah's fitness to practise continued to be impaired, the Committee noted that he had not provided any evidence that could persuade them of the contrary, such as evidence of abstinence or treatment. As a result, the Committee determined that there was no evidential basis upon which it could conclude that he was no longer impaired and that he continued to pose a risk to patients.
36. The Committee went on to consider whether a further period of suspension would be reasonable and proportionate. In doing so, the Committee stated their concerns towards Mr Abdullah's lack of engagement with the process and failure to provide updates on his activities between the Principal Hearing and the first review. They further noted that Mr Abdullah had been given ample opportunity but had not shown that he had taken any of the steps suggested by the Committee at the Principal Hearing.
37. The Committee determined that a further period of suspension was sufficient to protect the public and patients, maintain confidence in the profession, and maintain professional standards. They did not consider that the case was serious enough to warrant removal, although the Committee stated that continued non-engagement could render it such. The Committee reiterated that the Committee at the Principal

Hearing gave useful indications *'as to what [Mr Abdullah] could, and should, do to assist'* the Committee. As a result, a further suspension of 12 months was imposed on Mr Abdullah's registration to provide him with adequate time to provide evidence of remediation, insight and ongoing recovery.

Current position at the second Principal Review Hearing

38. Ms Ivana Raimundova, a Case Administrator for the Council, provided a monitoring record dated 26 February 2024 detailing her correspondence with Mr Abdullah regarding his compliance with the suspension and arranging for drug testing. (REDACTED).
39. Further correspondence from the Council was sent to Mr Abdullah on 11 January 2024 but was not responded to until 15 February 2024. Mr Abdullah stated that he was assisting with his father's business abroad (REDACTED).
40. On 16 and 21 February 2024, Mr Abdullah was re-invited by the Council to engage in testing and provide documentary evidence capable of assisting the Committee in making a determination as to his current impairment. No response or evidence was provided at that stage.
41. On the morning of the hearing the Committee was provided with a witness statement from the Registrant. In this the Registrant formally apologised for the fact that he had not engaged with the guidance from previous committees, which he said was due to the fact that he had been distracted with having to deal with criminal proceedings in respect of which he had now been acquitted. (REDACTED) He had not previously had the benefit of legal advice, but now that he had, he wished to engage in a more proactive manner. He asserted that he had remained obedient to the terms of the suspension order (REDACTED). However, he conceded that he was not in a position to substantiate his assertion that he had undergone remediation and rehabilitation and had not discharged the persuasive burden of showing that his fitness to practise was no longer impaired. He conceded that as at today's date, his fitness to practise

remained impaired, and asked that a further period of suspension be imposed to allow him to demonstrate his remediation and rehabilitation.

42. On the morning of the hearing, the Committee was also provided with further information from the Council, namely an update in relation to a new fitness to practise investigation which had been opened against the Registrant. Since the first review, the Council had received information that the Registrant may have been working as a pharmacist in contravention of the suspension placed on his registration. The Council has opened a case but its investigation into this matter is on hold pending the outcome of the connected police investigation. Mr Thomas stated that information in relation to the new fitness to practise investigation was provided for information only. He did not invite the Committee to resolve this issue today, and did not submit that it should play any part in the Committee's decision.

Council's Submissions at the Second Principal Review Hearing

43. The Council referred the Committee to the case of *Abrahaem v GMC [2008] EWHC 183 (Admin)*, which it submitted makes it clear that the Committee must consider whether the concerns raised in the initial hearing have been addressed and whether or not Mr Abdullah is able to persuade the Committee that he now has the insight and understanding into his actions so as to offer assurance that his fitness to practise is no longer impaired. At paragraph 23, Blake J stated:

"In my judgment, the statutory context for the rule relating to reviews must mean the review has to consider whether all the concerns raised in the original finding of impairment through misconduct had been sufficiently addressed as to the panel's satisfaction. In practical terms there was a persuasive burden on the practitioner at a review to demonstrate that he or she has fully acknowledged why past professional performance was deficient, that through insight, application, education, supervision or other achievement sufficiently addressed past impairment."

44. The Council submitted in its written submissions that Mr Abdullah had not provided any evidence that could be used to persuade the Committee that he had reflected on his misconduct over the past 24 months. Mr Abdullah had shown sporadic interest in engaging with the fitness to practise process, but his responses had been either extremely delayed or non-existent. (REDACTED). The Council submitted that he had not discharged the 'persuasive burden' to evidence his remediation. In relation to sanction, the Council submitted that the time had come to consider removing Mr Abdullah's entry as a pharmacist from the register.
45. In his oral submissions, Mr Thomas submitted that the Council had now softened its stance. This was because there had been a significant change in the Registrant's position. He had provided a witness statement (REDACTED). He had explained the factors which had led to his lack of engagement in the past.
46. However, he submitted that the Registrant had not discharged the evidential burden of demonstrating that his fitness to practise was no longer impaired and invited the Committee to make a finding of current impairment, for the reasons identified by the Committee at the Principal hearing and the by the Committee at the first review.
47. In terms of sanction, he referred the Committee to the cases of *Annon v The Nursing and Midwifery Council [2017] EWHC 1879 (Admin)* and *Abbas v The Nursing and Midwifery Council [2019] EWHC 971 (Admin)* which he submitted the Committee may find relevant to their considerations. Both cases concern registrants who were subject to conditions following substantive proceedings before their regulator. In both cases, the registrants were struck off by Committees after several years of being subject to their conditions.
48. In *Abbas*, Lang J stated that where a registrant has failed to show that they have remediated the concerns surrounding their fitness to practise over a sufficient period of time, the panel was entitled to make a decision to remove the registrant from the register. Reference was also made to *Annon*, in which it was recognised that substantive orders and review cannot continue indefinitely. McGowan J stated that a

time limit should be considered in cases where the registrant's return to practice is subject to the completion of certain conditions.

49. Mr Thomas emphasised that in light of the Registrant's recent engagement, he was no longer seeking removal from the register. But he submitted that those cases were relevant in so far as the Council may resurrect its request for removal from the register if the Registrant were to disengage again.

50. He submitted that both parties were in agreement that an appropriate sanction for today's purposes was one of suspension, and that an appropriate length would be between six and nine months.

Registrant's Submissions and the Second Principal Review Hearing

51. Mr Siddiqui stated at the outset that he agreed with all of the Council's submissions, and did not seek to challenge anything that had been said. He accepted that the Registrant had not discharged the persuasive burden upon him to show that his fitness to practise was no longer impaired, and that he had not yet demonstrated remediation and rehabilitation.

52. Mr Siddiqui submitted the Registrant had engaged in the regulatory process in the past, and that his recent non-engagement could be explained by the context. This was that criminal charges had been brought against him in October 2021 which had taken all his energy and focus. He was unable to concentrate on anything else during the course of those proceedings, including the regulatory process. He apologised on behalf of the Registrant for his previous lack of engagement, REFACTED. He now had benefitted from legal advice for the first time, and wished to fully engage.

53. Mr Siddiqui submitted that a further period of suspension would afford the Registrant with the opportunity to substantiate his assertion that he had remediated the previous concerns and to engage with the guidance given by previous committees. He

submitted that a period of nine months would give the Registrant time to engage with professionals and to demonstrate his remediation.

The Committee's Findings at the Second Principal Review Hearing

54. In reaching its decision, the Committee took into consideration all of the written documentation and the submissions of both parties.

55. (REDACTED)

56. The Committee accepted the advice of the Legal Adviser, who advised the Committee in relation to the relevant caselaw, statutes, rules, guidance and standards. He advised the Committee to treat the new concern that had been raised with caution, in light of the fact that as yet no findings had been made in relation to this.

57. The Committee found that Mr Abdullah failed to discharge the persuasive burden as set out in the case of *Abrahaem*.

58. It determined that a finding of current impairment was required to maintain the protection of members of the public and uphold proper standards and maintain public confidence in the profession.

59. It noted that the Registrant conceded that his fitness to practise remained impaired, but it reached its own decision on this, exercising its own independent judgement.

60. It found that there was no evidential basis upon which to conclude that the Registrant's fitness to practise is no longer impaired, as there is no independent evidence in relation to the Registrant's current Cannabis use. In the absence of this, the Committee considered that the Registrant continues to present a potential risk to patients and the public (REDACTED). A finding of Impairment was also required in the wider public interest, to maintain public confidence in the profession.

61. It was satisfied that Rules 5(2)(a), (b) and (c) remained engaged in this case.
62. The Committee then went on to consider sanction. It considered the Council's *Good decision making; fitness to practise hearings, sanctions and guidance' 2017 and 2024*. It noted that it should impose a sanction that was no more serious than it needed to be to achieve its aims. The aims of a sanction include protecting the public, maintaining public confidence in the profession and maintaining proper professional standards. The Committee took note of its powers as set out in Article 54(3)(a) of the Order.
63. The Committee found that taking no action, giving a warning, or imposing conditions would be insufficient to protect the public or the public interest in light of the nature and seriousness of the identified concerns.
64. The Committee then considered whether a further period of suspension would be reasonable and proportionate, or whether it should move to the next sanction up and remove the Registrant's entry as a Pharmacist from the register.
65. At the Principal Hearing, the Committee did not impose the sanction of removal on the basis that Mr Abdullah's conduct was remediable. They stated that it "*may require a great deal of effort on the part of the Registrant and a considerable amount of evidence may be required to establish remediation*".
66. At the first principal review hearing, the Committee stated as follows: *'the Committee was very concerned at the Registrant's lack of engagement with the process, and of his failure to provide the Committee with evidence as to what has happened over the last 12 months. The Principal Hearing gave useful indications as to what the Registrant could and should do to assist this Committee, and the fact that the Registrant had taken none of these steps was very concerning. The Committee considered that the Registrant has been given repeated opportunities to take steps to remediate his conduct, but no evidence has been adduced by him to show that he has done so'*. In the event, that Committee decided to impose a further period of suspension but noted as follows: *'Removal from the register is reserved for the most serious of cases, and*

although the Committee did not presently think that this was such a case, continued non-engagement in the future could render it such'.

67. The Committee noted that the Registrant had now, albeit late in the day, engaged with these proceedings. In light of this recent engagement, it concluded that the public and the public interest could be protected by a further suspension order. This would provide the Registrant with what may well be the last chance to submit evidence of his remediation and undergo testing, and to engage with a clinical assessment.

68. In light of his engagement, we concluded that removal from the register would, at this stage, be disproportionate. We were mindful of the fact that removal from the register is reserved for the most serious conduct.

69. The Committee decided that a suspension of nine months would be appropriate, to allow sufficient time for the Registrant to re-engage and to demonstrate his reflections and remediation. Whilst this Committee cannot bind any future reviewing Committee, it is likely that if the Registrant does not meaningfully engage in that time, the only remaining option will be removal from the register.

70. This decision will be reviewed by the Committee before the sanction expires. A future Committee may be assisted by:

- A reflective piece dealing with the issues of concern identified by the Committee, showing insight on why he made the wrong decisions that he did;
- (REDACTED)
- (REDACTED)
- Information on how he has been maintaining his CPD;
- An update on what if any work, voluntary or paid, he has been undertaking; and;
- Any testimonials that he wishes to provide.
- (REDACTED)

Interim Measures

71. Mr Thomas made an application for an interim measure under Article 60 of the Order. He submitted that the current order will not take effect for 28 days and an interim suspension order was necessary to protect the public and the wider public interest during the period between the lapsing of the current suspension order and the current order coming into effect.
72. Mr Siddiqui did not oppose the application.
73. The Committee accepted the advice of the Legal Advisor.
74. The Committee was mindful of the fact that it had found that the Registrant continues to pose a potential risk to the public and to the wider public interest. It was satisfied that in light of its substantive findings above, it was necessary for the protection of the public and that it was also in the public interest to order that the entry of the Registrant be suspended pending the coming into force of its direction.
75. That concludes this determination.