

General Pharmaceutical Council

Fitness to Practise Committee

Principal Hearing

Remote videolink hearing

20-21 March 2024

Registrant name:	Daniel John Dempsey
Registration number:	2052069
Part of the register:	Pharmacist
Type of Case:	Misconduct
Committee Members:	Angela Black (Chair) Pat North (Registrant member) James Kellock (Lay member)
Committee Secretary:	Zainab Mohamad
Registrant:	Present and not represented
General Pharmaceutical Council:	Represented by David Sadeh Case Presenter
Facts proved by admission:	All
Fitness to practise:	Impaired
Outcome:	Suspension (2 months)

This decision including any finding of facts, 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 22 April 2024 or, if an appeal is lodged, once that appeal has been concluded.

Particulars of Allegation (as amended)

You, a registered pharmacist, in your role as a Superintendent Pharmacist, Responsible Pharmacist and a director of Ritecare Pharmacy, Unit 106 Compass Network Centre, Compass Industrial Park, Speke, Liverpool, L24 1YA (“the pharmacy”), between approximately March 2019 and November 2019:

- 1. Entered into an arrangement with a third party prescribing service, prescriptiontoday.co.uk (“the Service”) which was not regulated by any UK regulator of health services. **[ADMITTED AND FOUND PROVED]***
- 2. You failed to carry out any risk assessments and/or audits into the supply of opioids or Z-drugs through the Service. **[ADMITTED AND FOUND PROVED]***
- 3. You failed to confirm and/or ensure that the Service’s prescribers:*
 - 3.1. Were competent or qualified to prescribe high-risk medicines including opioid and Z-drugs; **[ADMITTED AND FOUND PROVED]***
 - 3.2. Followed UK prescribing guidance including GMC Good Medical Practice on prescribing and managing medicines and devices; **[ADMITTED AND FOUND PROVED]***
 - 3.3. Contacted the patient’s GP before issuing a prescription. **[ADMITTED AND FOUND PROVED]***
- 4. You allowed and/or failed to prevent the Service’s prescribers prescribing contrary to the GMC Good Medical Practice on prescribing and managing medicines and devices in that they prescribed in circumstances where the prescriber:*
 - 4.1. failed to obtain adequate information; **[ADMITTED AND FOUND PROVED]***
 - 4.2. failed to establish whether the patient had communication or support needs; **[ADMITTED AND FOUND PROVED]***
 - 4.3. failed to determine capacity to provide consent to treatment; **[ADMITTED AND FOUND PROVED]***
 - 4.4. failed to contact or attempt to obtain details of their physical health; **[ADMITTED AND FOUND PROVED]***

4.5. failed to contact or attempt to obtain details of their mental health; **[ADMITTED AND FOUND PROVED]**

4.6. failed to access and/or attempt to access patient's GP medical records and/or specialist clinic records in order to have a full picture of their physical and/or mental health, current prescribed medication and/or addiction history; **[ADMITTED AND FOUND PROVED]**

4.7. failed to request a face to face consultation with patients in order to adequately examine the clinical need for medication; **[ADMITTED AND FOUND PROVED]**

4.8. failed to adequately consider the possibility of medication dependence and misuse; **[ADMITTED AND FOUND PROVED]**

4.9. failed to query with patients the frequency of requests for medication and/or the amounts requested; **[ADMITTED AND FOUND PROVED]**

4.10. failed to refer patients back to their GP for appropriate assessment; and **[ADMITTED AND FOUND PROVED]**

4.11. failed to put adequate safeguards in place. **[ADMITTED AND FOUND PROVED]**

5. You dispensed high risk medicines against prescriptions issued by the Service's prescribers in circumstances where:

5.1. Prescriptions were issued by way of patient completed questionnaire; **[ADMITTED AND FOUND PROVED]**

5.2. Yes/No questions were framed such that it would be apparent to a patient when an answer would prevent a prescription being issued; **[ADMITTED AND FOUND PROVED]**

5.3. Yes/No questions could be amended by a patient after they had provided an answer; **[ADMITTED AND FOUND PROVED]**

5.4. You knew the Service's prescribers did not have access to patients' medical records; **[ADMITTED AND FOUND PROVED]**

5.5. You knew or ought to have known that the prescriptions were issued in circumstances where the patients had provided unverified information in relation to high-risk medicines; **[ADMITTED AND FOUND PROVED]**

5.6. In respect of 5.5 above, you dispensed high-risk medicines in circumstances where you would not have been able to carry out a proper clinical check of the appropriateness of the supply; **[ADMITTED AND FOUND PROVED]**

5.7. The Pharmacy did not carry out robust identity checks to verify the identity of the patient before medicines were supplied; **[ADMITTED AND FOUND PROVED]**

6. Caused, allowed or permitted the Pharmacy to make repeat supplies of high-risk medicines against prescriptions issued by the Service's prescribers in circumstances where no records were kept to justify why such supplies were made and/or to show that attempts had been made to check the prescriber's decision. **[ADMITTED AND FOUND PROVED]**

7. Your conduct in entering into an agreement with the Service and dispensing against prescriptions as set out at 1 – 6 above lacked integrity in that you failed to put the safety of patients who might be at risk of harm from high risk medicines above any financial reward arising out of the agreement. **[ADMITTED AND FOUND PROVED]**

By reason of the matters set out above, your fitness to practise has been impaired by reason of your misconduct.

Documentation

Document 1 - Combined GPhC and Registrant hearing bundle

Document 2 - GPhC skeleton argument

Document 3 – email from the Registrant to the GPhC's Case Presenter of 19 March 2024

Document 4 – email chain between Registrant and his professional indemnity insurer in November 2019

Witnesses

Witness A - gave evidence at the impairment stage

Witness B – evidence taken as read

Determination

Introduction

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

Service of Notice of Hearing

6. The Committee has seen a letter dated 31 January 2024 from the Council headed 'Notice of Hearing' addressed to the Registrant. The Committee was satisfied that there had been good service of the Notice in accordance with Rules 3 and 16.

Application to amend the particulars of allegation

7. Of its own motion the Committee proposed amendments to the particulars of allegation pursuant to Rule 41, as follows:
 1. 3.2 to be amended to refer to "GMC Good Medical Practice on prescribing and managing medicines ..."
 2. 4. To be amended to refer to "GMC Good Medical Practice on prescribing and managing medicines and devices ..."
 3. 4.9 to be amended from "patient's" to "patients".
 4. 4.10 to be amended from "patient's" to "patients".
8. The parties did not object to these proposed amendments and the Committee made them accordingly.
9. In addition, Mr Sadeh applied to withdraw sub-paragraph 5.8 of the Particulars of Allegation. The Registrant had provided evidence of his having confirmed in November 2019 the existence of indemnity insurance cover for dispensing services. That evidence had been provided to the Council's inspector previously. The Committee acceded to this application and the sub-paragraph was withdrawn accordingly.

Application for the hearing to be held in private

10. The Committee heard an application from Mr Sadeh pursuant to Rule 39(3) to hold in private those parts of the hearing when the Registrant's health was addressed.

11. The Registrant supported this application.
12. As requested, the Committee decided to hold in private those parts of the hearing when the Registrant's health was mentioned; he was entitled to privacy on that issue.

Registrant's response to particulars of allegation

13. The Registrant admitted, in their entirety, all the Particulars of Allegation, as amended.
14. In the light of the above, and by the application of Rule 31(6) of the Rules, the admitted factual particulars were found proved.
15. The Committee therefore went on to consider whether the Registrant's fitness to practice is currently impaired which is a matter for the Committee's judgement.

Background

16. The Registrant was employed as a Superintendent Pharmacist, Responsible Pharmacist, and director at Ritecare Pharmacy, Unit 106 Compass Network Centre, Compass Industrial Park, Speke, Liverpool, L24 1YA. ("the Pharmacy"), between March 2019 and November 2019.
17. On 8 November 2019, following an enforcement action meeting, the Council received an internal referral via email from a Council inspector, Witness A, who stated that an unannounced routine intelligence-led inspection of the Pharmacy had been conducted on 5 November 2019 as a result of a rising number of concerns relating to the supply of high-risk medication by online pharmacies.
18. The Pharmacy offered a dispensing service via a website, which he commissioned, offering online prescribing services using a prescriber based in Romania. The patient completed a questionnaire which he could amend if he entered an answer which

would prevent supply of the drug requested. The prescriber was a doctor registered with the Irish Medical Council. He was not registered with the General Medical Council. The website called www.prescriptiontoday.co.uk offered medicines for the treatment of various conditions, including pain and insomnia.

19. Following the inspection, the Council imposed conditions on the Pharmacy's registration. The Notice of Conditions was served on the Pharmacy on 8 November 2019.
20. The Council's concern was that there were system wide failures in the operation of the Pharmacy which presented a serious risk to patient safety. The risks were heightened by the nature of the services provided by the Pharmacy, which involved the dispensing and supply of high-risk medicines, including opioids, at a distance, against prescriptions issued by a prescriber registered outside the UK.
21. The Council considered it necessary, for the purpose of securing the safe and effective practice of pharmacy at these premises, to make the Pharmacy subject to the following condition: *"The pharmacy must not sell or supply any controlled drugs from Schedule 1 to 5 of the Misuse of Drugs Regulations 2001, with the exception of supplying these medicines against a legally valid NHS Prescription"*.
22. The Registrant, as Superintendent Pharmacist, was responsible for the overall management and oversight of the Pharmacy pursuant to Section 71(1)(a) of the Medicines Act 1968:

"(1)The conditions referred to in section 69(1)(b) of this Act are that the business, so far as concerns the keeping, preparing and dispensing of medicinal products other than medicinal products on a general sale list, is under the management of a superintendent in respect of whom the requirements specified in subsection (2) of this section are fulfilled, and that, at all premises where the business is carried on and medicinal products, other than medicinal products on a general sale list, are sold by retail—

(a) the business, so far as concerns the retail sale at those premises of medicinal products (whether they are medicinal products on a general sale list or not) or the supply at those premises of such

products in circumstances corresponding to retail sale, if it is not under the personal control of the superintendent, is carried on, subject to the directions of the superintendent, under the personal control of a manager or assistant who is a pharmacist, ...”

Decision on Impairment

23. At the second stage of the hearing, the Committee heard the oral evidence of Witness A, the Council’s inspector. He identified various risks associated with the business model used by the Registrant and the non-UK registered prescriber.
24. The Registrant chose not to give oral evidence at this stage but relied on his reflective statement and his email of 19 March 2024 to the Council. The Committee has also had regard to the evidence in the combined bundle of documents.
25. Having found all particulars of the amended allegation proved, the Committee went on to consider whether the particulars found proved amounted to misconduct and, if so, whether the Registrant’s fitness to practise is currently impaired.
26. The Committee took account of the guidance given to the meaning of ‘fitness to practise’ in the Council’s publication *“Good decision-making”* (Revised March 2017). Paragraph 2.11 reads:

“A pharmacy professional is ‘fit to practise’ when they have the skills, knowledge, character, behaviour and health needed to work as a pharmacist...safely and effectively. In practical terms, this means maintaining appropriate standards of competence, demonstrating good character, and also adhering to the principles of good practice set out in your various standards, guidance and advice.”
27. The Committee took into account the submissions made by Mr Sadeh and those of the Registrant.
28. Mr Sadeh submitted, in summary, that the Registrant’s behaviour fell far below the standards expected of a registered pharmacy professional. He identified breaches of

various standards of the profession. He submitted that the Registrant's fitness to practise was currently impaired. The conduct could have caused serious harm to patients although it was accepted by the Council there was no evidence of actual harm. It was submitted that the Registrant's conduct brought the profession into disrepute. He had breached fundamental principles of the profession. It was accepted the Registrant had remediated the misconduct and that the likelihood of repetition was low. However, a finding of impairment was required on public interest grounds, given the high profile of online pharmacy cases such as this.

29. The Registrant made detailed oral submissions. He accepted he had brought the profession into disrepute and had breached fundamental principles of the profession but asserted his conduct did not amount to misconduct because his actions had not been deliberate; they arose from naivety. There were mitigating circumstances to explain his failure to abide by the principles of the profession: his family circumstances and business background. He had disbanded the prescriptiontoday website immediately after the inspection and had no intention of returning to it or to a similar business model; he had restricted the Pharmacy business to the provision of NHS online pharmacy services and the Pharmacy was now thriving. He had undertaken retraining in the years since the inspection; his business was now focussed on patient safety and wellbeing. He had created a person-centred approach. He had employed a clinical governance lead to ensure an appropriate regulatory framework.

Misconduct

30. When considering whether the particulars found proved amounted to misconduct the Committee took into account the *Good Decision making guidance*.
31. The facts found proved relate to the Registrant's competence as a registered pharmacist insofar as the provision of non-NHS pharmacy services were concerned in the period March – November 2019. The Committee accepts that the website, prescriptiontoday.co.uk, did not function well after its inception in April 2019 and that it was taken down in July 2019. It was reinstated in September 2019 after

redevelopment. There was a notable and significant upsurge in business from the website in the course of October 2019 when the pharmacy was dispensing up to 200 prescriptions a day, 95% of which were for opioids or Z drugs. The website was taken down by the Registrant after the inspection on 5 November 2019.

32. The Committee considered whether the Registrant had breached any of the Council's Standards for Pharmacy Professionals (May 2017). The Committee determined that there had been breaches of the following Standards:

a. Standard 1 – Pharmacy professionals must provide person-centred care.

The nub of this case is the very limited focus of the Registrant, during the material period, on the care and well-being of patients. There were no risk assessments despite the Registrant's knowledge of the process by which the patients would be prescribed medications, including those open to misuse by vulnerable members of society. The Registrant has admitted, to his credit, that his conduct lacked integrity in that he "failed to put the safety of patients who might be at risk of harm from high risk medicines above any financial reward arising out of the agreement". As he told the Committee, he adopted a transactional approach to the supply of medications.

b. Standard 2 - Pharmacy professionals must work in partnership with others;

The Registrant did not demonstrate effective team working; he liaised with the prescriber yet did not focus, in his dealings with the prescriber, on the well-being and safety of patients. Rather he focussed on the efficiency of the business, including the identification of particular medications for the treatment of particular conditions; there was no detailed consideration, in conjunction with the prescriber, of the risks associated with such a transactional approach. He did not work with the patients' GPs or other carers to ensure the best interests of the patients were addressed in the supply of high-risk medications. No risk assessment was undertaken with the prescriber despite the Registrant knowing the prescriber was not UK-registered, therefore not subject to professional oversight in the UK. The Registrant did not discuss or otherwise address continuity of care of patients with the prescriber or the patient's GP.

- c. Standard 4 – Pharmacy professionals must maintain, develop and use their professional knowledge and skills

The Registrant failed to keep up to date with current guidance issued by the GPhC. It was admitted by Witness A that the Pharmacy, as a provider of online pharmacy services, should have been provided by the Council with the Guidance for registered pharmacies providing pharmacy services at a distance, including on the internet, which was issued in April 2019. However, it was incumbent upon the Registrant, as a registered pharmacist, to ensure that he and his pharmacy complied with such relevant guidance issued by his regulator. That Guidance was available on the Council's website. This was particularly so given his role as Superintendent Pharmacist and a director of the company which owned the Pharmacy. Rather he appears to have relied on his experience running a pharmacy business providing online services only to NHS patients. The two business models were distinct and gave rise to different risks, as the Registrant would have identified had he taken into account the Council's guidance issued in April 2019.

- d. Standard 5 – Pharmacy professionals must use professional judgment;

The Registrant did not use his professional judgment to deliver safe and effective care. He did not assess the risks associated with the business model he had created. He did not make the care of the patients his first concern or act in their best interests. He did not consider or manage appropriately his business goals ensuring they were not prioritised over the care of the patients.

- 33. The Committee bore in mind that the Standards may be taken into account when considering the issues of misconduct and impairment but that a breach of the Standards does not automatically result in a finding of misconduct (Rule 24(11) of the Rules).
- 34. In summary, the Registrant was responsible for setting up the business model yet failed to take into account the risks associated with it or to address those risks. He failed to make the best interests of the patients his first concern, instead taking a

transactional approach to the supply of medications, including high-risk medications which were subject to misuse and which could cause serious harm to patients.

35. The Committee is in no doubt that the acts and omissions of the Registrant amount to misconduct.
36. The business model set up by the Registrant, in conjunction with the non-UK-registered prescriber at prescriptiontoday, effectively provided a facility for people to apply for, and be supplied, prescription only medications without meaningful challenge or query as to their proposed use or the context of their administration. Patients were, in effect, supplied with the medications they requested. The almost unfettered supply of such medications is in direct breach of the Registrant's duty as a gatekeeper of prescription only medications. The Registrant appears to have been misled by his positive experience of providing online NHS pharmacy services without considering the impact of the prescriptiontoday business model. There were a number of red flags which the Registrant failed to register or address: the transactional nature of the business model, the lack of UK regulatory oversight and the potential for abuse by vulnerable members of society seeking access to drugs open to misuse. The Registrant was, by his own admission, naïve.
37. The deficiencies in the Registrant's practice were serious, fundamental and wide-ranging. They went to the core of good pharmacy practice in that his acts and omissions could have resulted in serious harm to those supplied with prescription only medications. There were several failings in the Registrant's dispensing practices: by his own admission he breached fundamental principles of the profession.
38. The Committee accepts it was not the intention of the Registrant to set up a business model in such a way that vulnerable members of society might abuse it to obtain high-risk medication. His misconduct was not deliberate. Nonetheless the Registrant's behaviour was reckless and ill-conceived and his professional judgment was flawed. His conduct fell far below the standard to be expected of a registered pharmacist, particularly a Superintendent Pharmacist.

Current Impairment

39. Having found that the particulars of allegation amounted to misconduct, the Committee went on to consider, pursuant to Rule 5(2), whether the Registrant's fitness to practise is currently impaired. In doing so the Committee considered whether the particulars found proved show that acts / omissions of the Registrant:
- *present an actual or potential risk to patients or to the public*
 - *has brought, or might bring, the profession of pharmacy into disrepute*
 - *has breached one of the fundamental principles of the profession of pharmacy*
 - *means that the integrity of the Registrant can no longer be relied upon*
40. The Committee agrees with the Council that the misconduct is remediable. The Registrant is capable of understanding why his conduct was inappropriate and unacceptable. Indeed he has shown full insight into the impact of his misconduct and the wider implications of it. He has shown genuine remorse and has apologised for his actions. To his credit, he ceased trading with prescription today immediately after the inspection on 5 November 2019. The Committee accepts he has no intention of reinstating that business or any similar business model. His reflective statement is insightful and detailed. He has identified the trigger for his misconduct, his desire to improve his business against the background of an earlier business failure. The Registrant now appreciates the wide-ranging and serious risks associated with the business model he set up and the Committee accepts that he would, in future, take a conscientious and professional approach to potential changes to his business. He told the Committee about the steps he has taken to ensure the pharmacy provides person-centred care and complies with governance requirements.
41. The Committee is satisfied the Registrant has fully remediated his misconduct by his learning, changing his professional practice and demonstrating regret and remorse. He is highly unlikely to repeat his misconduct. There is no realistic prospect of the misconduct being repeated.

42. The Committee concluded that Rule 5(2)(b) and (c) were engaged by the Registrant's misconduct because he had brought the profession of pharmacy into disrepute and had also breached fundamental principles of the profession.
43. The wider public interest (ie maintaining public confidence and upholding professional standards) requires a finding of impairment to mark the seriousness of what occurred. Such a finding is necessary to maintain public confidence and promote professional standards by making clear to other professionals what is expected and deterring other professionals from failing to meet required standards. This is particularly the case here because the risks associated with the provision of online pharmacy services are under public scrutiny: there is a significant risk of harm to vulnerable members of society who seek to support their addiction to prescription only medications by obtaining them through sources on the internet. It is important that this Committee sends a strong message to members of the profession and to the public that misconduct in the context of the provision of online pharmacy services will not be condoned.
44. In summary, the Committee found the Registrant's current fitness to practise to be impaired on public interest grounds alone.

Decision on Sanction

45. Having found impairment, the Committee has gone on to consider the matter of sanction. The Committee's powers are set out in Article 54(2) of the Order. The Committee should consider the available sanctions in ascending order from the least restrictive, taking no action, to the most restrictive, removal from the register, in order to identify the appropriate and proportionate sanction that meets the circumstances of the case.
46. The purpose of the sanction is not to be punitive, though a sanction may in fact have a punitive effect. The purpose of the sanction is to meet the overarching objectives of regulation, namely the protection of the public, the maintenance of public

confidence and to promote professional standards. The Committee is therefore entitled to give greater weight to the public interest over the Registrant's interests.

47. The Committee had regard to the Council's '*Good decision making: Fitness to practise hearings and sanctions guidance*' to inform its decision.
48. The Registrant gave oral evidence, adopting his reflective statement and his email of 19 March 2024. His evidence is that

"The picture in March 2024 is very different to the one we portrayed in November 2019. All of our work is now NHS based, we dispense in the region of 20,000 prescriptions per month and have not offered any private services since the 2019 inspection. I now work alongside two other pharmacists, one who is my governance lead and manages with all of our regulatory and clinical requirements. I also employ an accuracy checking technician, 7 dispensers and three delivery drivers. My team are proud providers of probably the best pharmaceutical service in Liverpool. We look after 25 care homes and hundreds of housebound and vulnerable patients, lots in Liverpool but also care for patients throughout the UK.

Throughout the pandemic regional medication management teams would call on us to deliver urgent meds throughout the city especially but unfortunately, palliative care medications. The relentless efforts we put in through these tough times is what has given us such a solid reputation. On a daily basis we receive direct requests from Liverpool's hospitals to help patients once discharged manage their medication and try to minimise any chances of readmission. We are also responsible for the provision of medication to all of Liverpool's Intermediate Care Units where we offer twice daily deliveries of bespoke medication packs to these facilities. Our pharmacists are available all day every day for clinical advice and support to the care homes and community patients alike.

These are just a few things we do each day at Ritecare Pharmacy and I personally am involved in most of what goes on. I feel it will be really detrimental if I were to be removed from the register although I understand and appreciate the severity of the allegations. It feels like I have been on probation for nearly five years and that has weighed heavily on me. I have suffered personally as a result of my actions, ... I feel I am in a much better place now. Another point I must mention is the problems I have faced having the conditions placed on my pharmacy licence and the justified but damning inspection report from that day in 2019. These factors have made recruitment difficult and we also lost two groups of care homes as a direct result of this 'black mark' on our record.

... I 100% regret getting involved with the online prescribing service but I must emphasise it was never my intention to do anything outside of the legal framework. This was not a blatant disregard for the rules or for patient safety, my nature and my instinct is to care and protect and I hope I can continue to serve my patients for a long time to come.”

49. The Registrant told the Committee that he accepted its reasoning and decision on misconduct and impairment and he would accept any sanction imposed. He asked the Committee to take into account the five years since the inspection in November 2019 which he considered to be akin to a period of probation. He referred to the financial pressures on pharmacies and the positive impact of his pharmacy on the community in Liverpool. He said that suspension of his registration would require the recruitment of a Superintendent Pharmacist, which might be difficult to secure and would be expensive and a financial strain on the business. It would also add another managerial layer which would be difficult. He was concerned that the impeccable safety record of the pharmacy might be compromised. He ran a tight ship and “putting in another pharmacist at the head could have negative implications”. Suspension of his registration would also, he said, have a detrimental impact on his family life.

50. Mr Sadeh made oral submissions for the Council. In the context of the Registrant's insight and remediation, he advocated a short period of suspension of 8 weeks or 2 months.
51. By way of submissions, the Registrant referred the Committee to his oral evidence. He asked that the Committee consider imposing a warning given the lengthy period since the inspection in November 2019 when the Council's concerns were raised.
52. The Committee first considered what, if any, aggravating and mitigating factors there may be.
53. The Committee identified the following aggravating factors:
 - a. The Registrant was the Superintendent Pharmacist and director of the Pharmacy business. He should have been aware of the Council's guidance on the provision of online pharmacy services.
 - b. The misconduct could have caused serious harm to a large number of patients (although there is no evidence of actual harm). The Registrant dispensed drugs which were high-risk and prone to misuse. They were well known to be drugs of addiction.
 - c. The misconduct may have continued if the Pharmacy had not been inspected in November 2019.
54. The Committee identified the following mitigating features:
 - a. The Registrant closed the business as soon as Witness A identified, during the inspection in November 2019, the risks to patient safety associated with the business model.
 - b. The Registrant's misconduct occurred principally as a result of his naivety. He had not appreciated or given consideration to the potential risks to patient safety arising from the business model he set up with prescription today.
 - c. The Registrant has cooperated throughout with the Council's investigation and these proceedings; he made full admissions at the outset of the hearing.
 - d. There are no previous fitness to practise concerns in over 20 years' practice.

- e. The Registrant has shown full insight, has remediated his misconduct and is remorseful. His misconduct is highly unlikely to be repeated.
 - f. There are many positive testimonials which attest to the Registrant's good character and high level of professionalism in pharmacy practice.
55. The Committee also considered the following factors to be relevant: the misconduct occurred over a relatively short period: few prescriptions were dispensed in the period April – July 2019 before the website was taken down. That said, a significant number of prescriptions were dispensed after the website was reinstated in September 2019 and prior to its being taken down again after the inspection on 5 November 2019.
56. The Committee had regard to the mitigating and aggravating features at each stage of its decision-making on the appropriate and proportionate sanction. It also had regard to the testimonials. However, they warrant little evidential weight in this case which is one of public interest.
57. Throughout its consideration of an appropriate sanction, the Committee has had in mind the issue of proportionality, weighing the interests of the public against those of the Registrant. The Registrant is an impressive and eloquent witness. Apart from his web-based practice in 2019, there is nothing to suggest he is other than a very capable pharmacist. His submissions and oral evidence have been clear, comprehensive and insightful. The Committee acknowledges the value of his online pharmacy business within his local community and more widely in the UK. It provides a valuable and valued service to vulnerable members of society.
58. Nonetheless, this is not a case where no action can be taken; the misconduct was serious and warrants action by this Committee.
59. The Registrant proposed a warning by way of sanction. The Committee has had regard to the Council's guidance but has concluded a warning would not be sufficient in this case. There is a need to take action in circumstances where there have been multiple professional failings notwithstanding the Registrant's full remediation and his remorse. A warning is not sufficient to mark the gravity of the misconduct or the

wider public interest in maintaining public confidence in the provision of online pharmacy services and upholding proper professional standards in that setting. In the Committee's view the issue of a warning would send the wrong message to the public and the pharmacy profession.

60. The Committee next considered whether to impose conditions on the Registrant's practice.
61. This is not a case of deficient professional performance although there were failings in the Registrant's professional judgment. There is no challenge to his NHS clinical practice. The nub of this case was the failure of the Registrant to undertake sufficient research into the risks associated with the business model he set up with prescription today. Had he undertaken that research it is likely he would have addressed those risks. His failure to undertake proper research led to a situation where vulnerable members of society had ready access to high-risk drugs of potential misuse. The gravity of the Registrant's misconduct, in the context of the provision of online pharmacy services, renders this case one of particular public interest.
62. The Council and this Committee have serious concerns about the risks to patient safety arising from the provision of online pharmacy services in the private sector. While future patient safety is not of concern to this Committee in this case, the wider public interest in the safety of online pharmacy services is a priority issue for the Council and this Committee. It is essential that the public have confidence in the provision of such services and that professional standards are promoted and upheld in the online sector.
63. Against that background the Committee considered the option of imposing conditions on the Registrant's registration. It fully accepts the Registrant is undertaking a useful and valuable role in his current work: he and his pharmacy business are clearly valued by patients and customers alike. He provides a valuable NHS pharmacy service to vulnerable patients, particularly in care homes, across the country through his online pharmacy business. The testimonials are very positive indeed and wide-ranging. The Committee has no doubt that the Registrant would adhere to any conditions imposed. However, it considers that the imposition of

conditions would not be appropriate in this case given the current absence of concerns about the Registrant's practice. Nor would it be sufficient to mark the seriousness of the Registrant's misconduct in the context of the online supply of high-risk medications given the potential risk of serious harm to vulnerable patients who are, or might become, addicted to such drugs.

64. The significant public interest in this case requires suspension of the Registrant's registration. The Committee recognises the serious detrimental impact this will have on the Registrant, his family and his business. However, the Registrant would be able to maintain his involvement in the business, albeit as manager rather than a registered pharmacist. The Committee acknowledges the financial impact of recruiting a locum Superintendent but it has not been suggested this would cause the business to fail. The Committee is reminded of the guidance in **Law Society v Brendan John Salsbury [2008] EWCA Civ 1285** and gives significant weight to the public interest and the need to mark the gravity of the Registrant's misconduct in the context of online pharmacy provision in the private sector. That can only be done with the imposition of a proportionate and appropriate sanction, thus sending a message to the public and profession that this Committee does not condone misconduct in the provision of online pharmacy services.
65. The Committee agrees with the Council that a relatively short period of suspension is the proportionate response. The Committee takes into account the circumstances of the misconduct, that it is highly unlikely to be repeated and that an informed member of the public would acknowledge the Registrant's misconduct was not deliberate. The Committee determines that the Registrant's registration be suspended for a period of 2 months. This is the appropriate and proportionate response in this case. Given the Registrant's full insight and remediation, a review of his fitness to practise before the end of that period would serve no useful purpose.
66. The Committee did consider the option of removal of the Registrant's name from the register but considered this was a disproportionate response, notwithstanding the significant public interest here. This is not a case which falls within the categories identified in the Council's good decision-making guidance as warranting removal.

67. In summary, the Committee determines that the Registrant's registration be suspended for a period of 2 months.

Interim Measures

68. Mr Sadeh has not made an application for interim measures under Article 60 of the Pharmacy Order 2010.
69. The decision to suspend the Registrant's registration will not take effect until 28 days after he is formally notified of the outcome, or until any appeal is concluded. Until the conclusion of that period the Registrant would be free to practise without restriction.
70. The Committee has taken account of the Council's guidance of March 2024.
71. The Committee is satisfied that an interim measure of suspension of the Registrant's registration, in similar terms to that imposed in the substantive direction, is not necessary in the interests of public protection, otherwise in the public interest or in the Registrant's own interests. There are no public or patient protection concerns in this case. In a case such as this where only the wider public interest is engaged, the bar for the imposition of interim measures is high. Such a measure is not desirable here. A fully informed members of the public would not expect this Committee to impose an interim measure in the particular circumstances of this case given the Registrant's full remediation, insight and remorse. This decision is consistent with the determination of the Committee on the substantive issues.
72. The Committee does not therefore impose an interim measure.
73. This concludes the determination.