

General Pharmaceutical Council

Fitness to Practise Committee

Principal Hearing

General Pharmaceutical Council

1 Cabot Square, Canary Wharf, London E14 4QJ

Wednesday 27 – Thursday 28 March 2024

Registrant name:	Bhavin Kantilal Shah
Registration number:	2078033
Part of the register:	Pharmacist
Type of Case:	Misconduct
Committee Members:	Angela Black (Chair) Surinder Bassan (Registrant member) James Kellock (Lay member)
Committee Secretary:	Adam Hern
Registrant:	Present and represented by Martin Hadley
General Pharmaceutical Council:	Represented by Yesim Hall, Case Presenter
Facts proved by admission:	All
Fitness to practise:	Impaired
Outcome:	Removal
Interim measures:	Interim suspension Order

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 25 April 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.

Particulars of Allegation

You, a registered pharmacist,

1. *Whilst working as a pharmacist at Boots, High Road, Whetstone, N20 9HS obtained refunds from Boots on or around*

- 1.1 *1 December 2021 and/or*
- 1.2 *25 April 2022 and/or*
- 1.3 *22 May 2022 and/or*
- 1.4 *27 May 2022 and/or*
- 1.5 *16 June 2022 and/or*
- 1.6 *11 August 2022*

obtained the total sum of approximately £2018.59 by reason of the refunds set out in 1 above. [ADMITTED AND FOUND PROVED]

2. *Your actions at 1 above were dishonest in that you;*

- 2.1 *Knew that you were not entitled to the refunds which you obtained. [ADMITTED AND FOUND PROVED]*

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

Documentation

Document 1 - GPhC hearing bundle

Document 2 - GPhC statement of case and skeleton argument

Document 3 - Registrant's consolidated bundle

Document 4 – Registrant's statement of case and skeleton argument.

Document 5 – CPD Certificate

Document 6 – CPD Certificate

Document 7 – copies of signed testimonials in the Registrant's bundle together with signed copies of the particular of allegation.

Witnesses

The Registrant – gave oral evidence at the impairment stage

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 outcomes guidance* as revised March 2024.
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 8 March 2024 from the Council headed 'Notice of Principal 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 for the hearing to be held in Private

7. In the course of the Registrant's evidence in chief, Mr Hadley applied for parts of the hearing to be heard in private pursuant to Rule 39(3). He cited the Registrant's oral evidence about his health.

8. Ms Hall did not oppose the application.
9. The Committee decided to hold in private those parts of the hearing when reference was made to the Registrant's health because his right to privacy outweighed the public interest in the hearing being held in open session on those limited occasions.

Registrant's response to particulars of allegation

10. The Registrant admitted, in their entirety, the particulars of allegation.
11. In the light of the above, and by the application of Rule 31(6) of the Rules, the admitted factual particulars were found proved.
12. The Committee went on to consider whether the Registrant's fitness to practise is currently impaired which is a matter for the Committee's judgement.

Background

13. On 19 August 2022 Witness A, a store operations support specialist employed by Boots, was notified of suspicious refunds paid to the Registrant, the pharmacist store manager at Boots, Whetstone, London. A routine data mining exercise looking for high value refunds highlighted a large refund on 11 August 2022 at the Whetstone branch. The refund of £559.99 was for a Braun shaver.
14. Boots' data system holds the details of bank cards and associated Boots Advantage cards. It also holds the details of any staff discount card which has been used in conjunction with the bank card. As a result, Witness A identified that the bank card used to claim the refund on 11 August 2022 had previously been used in conjunction with the Registrant's staff discount and Advantage cards.
15. All transactions involving all the Registrant's known bank cards linked to his staff discount card and his Advantage card were then searched. Three additional high value refunds were discovered. All three refunds were processed as "Boots online refund". This meant that no item was presented for the refund, instead a code for generic online items plus the amount to be refunded were manually entered. Those additional refunds were as follows:
 - i. 1 December 2021 - £449.99
 - ii. 27 May 2022 - £449.99
 - iii. 16 June 2022 - £449.99
16. Thus the total amount refunded in respect of the four transactions was £1,909.96.

17. On 24 August 2022 Witness A viewed the CCTV recorded at the Whetstone branch on 11 August 2022. He saw that the Registrant, at 1549 hrs, entered the locked area where high-value goods were kept. The Registrant was seen to leave the area a minute later carrying a box for a Braun electric razor in a basket. He was seen completing some "In Store Pick" orders. He was seen putting the Braun razor box on a crate and leaving. He was seen at 1713 hours returning to the stockroom and picking up the Braun razor box and leaving the area. He was recorded at 1714 hrs approaching the healthcare counter and putting the box down next to the till. The recording showed he took his wallet from his pocket. The Assistant Manager, Witness B, processed the refund. The Registrant did not present a receipt to Witness B. The Registrant inserted his card into the card reader; he left the box on the counter and walked away.
18. On 25 August 2022 Witness A interviewed the Registrant at Boots, Whetstone. The Registrant admitted obtaining fraudulent refunds. He stated he had financial problems with loans and debts. When asked about the refunds the Registrant told Witness A "I got [redacted] and [redacted] to do a refund, I told them I didn't get a refund on a Boots.com order, I got them to put it through on the dump code". When asked about the most recent refund, he admitted that he had taken the razor from the stockroom and had told Witness B that he had lost the receipt and no longer wanted the item. This conduct was later confirmed by Witness B who had asked the Registrant for his staff discount card to process the refund; according to Witness B, the Registrant told him someone else had bought him the item but he did not wish to keep it. Witness B reported that the Registrant showed Witness B a receipt on his phone and Witness B processed the refund for the Registrant. The Registrant was asked "how long ago [he had] started refunding onto [his] own card" and replied "a few months ago". The Registrant told Witness A his colleagues were unaware of what he was doing.
19. Witness A showed the Registrant a record of his Boots.com returns and asked him whether they were genuine. The Registrant identified two transactions where he had bought the products, received a refund for them, and had not returned the products to Boots. These were as follows:
 - a. 25 April 2022 - £64.01
 - b. 22 May 2022 - £44.62
20. The Registrant's employment was suspended at the end of the interview. He was invited to attend a disciplinary meeting on 31 August 2022. Prior to that meeting the Registrant resigned from his role as a store manager for Boots.
21. According to Witness A, civil proceedings were commenced by Boots for recovery of the loss to Boots of £2,018.59.
22. These matters were reported by Witness A to the Metropolitan Police who decided not to take action against the Registrant because Boots had dealt with the matter

internally and because the Registrant was no longer employed by the company. Furthermore, Boots was engaged in civil recovery of their losses.

23. The Registrant has repaid £3,010.79 to Boots. This sum includes investigation costs.

Decision on Facts

24. The facts have been found proved in their entirety based on the full admissions of the Registrant.

Decision on Misconduct and Impairment

25. Having found all particulars of 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: Fitness to practise hearings and outcomes guidance*" (Revised March 2024). Paragraph 2.12 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 keeping to the principles of good practice set out in our various standards, guidance and advice."

27. The Committee took into account the submissions of Ms Hall and Mr Hadley. It also had regard to the evidence of the Registrant who provided various letters, testimonials and statements and gave oral evidence.
28. For the Council it was submitted that the Registrant's conduct fell far below the standard expected of a registered pharmacist. He had breached the following Standards for pharmacy professions (as issued May 2017) ("the Standards"): Standards 2, 6 and 9. The Registrant's actions were seriously reprehensible and an abuse of his privileged position both as a pharmacist and store manager. He acted solely for financial gain and his conduct could damage the reputation of the profession. Insofar as current impairment was concerned, Rule 5(2)(b), (c) and (d) were engaged. The Council was not persuaded, in the absence of evidence of financial hardship, by the Registrant's reassurance as regards his financial position. In any event this would not justify his actions. The risk of repetition was high in circumstances where the Registrant might experience similar problems.
29. For the Registrant, and in summary, Mr Hadley submitted that the Registrant accepted, by virtue of his admissions to the particulars of allegation, that his conduct

would be deemed to amount to misconduct as defined by law. It was accepted that allegations of dishonesty by a pharmacist would “not be seen as a trivial matter by any committee”. On the issue of current impairment, the Registrant sought to persuade the Committee that he had sufficiently remediated his wrongdoing. It was accepted that behavioural matters were more difficult to put right than performance issues. Dishonesty was not an automatic trigger to impairment. The mere fact of dishonesty was not indicative of a registrant having failed to “put it right”. The degree of remediation was to be decided at the date of hearing. There were no patient protection issues. The Registrant accepted Rule 5(2)(b)-(d) were engaged in the material period of the misconduct but submitted they were no longer engaged; he had sufficiently remediated. He had admitted his wrongdoing throughout. He admitted matters of which Boots were not aware. He had been remorseful from the outset; he had apologised. He had repaid the debt in full and Boots investigation costs. He had provided evidence of insight and reflection. He had acknowledged the wider impact of his wrongdoing. There would be no repetition as the Registrant was now managing his debts and he had disclosed his problems to his wife and family. That said, it was acknowledged by the Registrant that, even if the Committee found accordingly, it was likely that a finding of impairment was required on public interest grounds, namely to maintain public confidence and professional standards.

Misconduct

30. When considering whether the particulars found proved amounted to misconduct the Committee took into account the most recent Guidance.
31. The Committee considered whether the Registrant had breached any of the Council’s Standards for pharmacy professionals (May 2017). The Committee determined that the Registrant had not adhered to the following Standards:

- a. Standard 2 – Pharmacy professionals must work in partnership with others

The Registrant abused his position as a store manager. He persuaded a junior colleague to issue a refund in circumstances where he was not entitled to it. The Registrant, in effect, involved that junior colleague, in his deceit and dishonest conduct without the latter’s knowledge. He did not work professionally with Witness B whose trust he abused. Witness B’s evidence is that he is “very sad to think [the Registrant] lied to me. He has broken my trust. I processed that refund without question because I trusted him as a colleague, a manager, and a pharmacist ... I feel that the actions of [the Registrant] will make it more difficult for me to trust people in the future”.

- b. Standard 6 - Pharmacy professionals must behave in a professional manner

The Registrant did not act with honesty or integrity in his employment as a pharmacy store manager. He held a senior position of trust within the store and abused that trust. He stole money from his employer on several occasions. He

showed a lack of respect to Witness B by abusing Witness B's trust. The Registrant acted unprofessionally in the course of his employment as a pharmacist.

c. Standard 9 – Pharmacy professionals must demonstrate leadership

The Registrant's actions demonstrated a lack of leadership to those in more junior roles within the store, particularly Witness B. He abused his senior position as the pharmacy manager in that he accessed high value goods and persuaded a junior member of staff to process a refund to which he was not entitled. He did not lead by example.

32. The Committee bore in mind that the Standards may be taken into account when considering the issues of grounds and impairment but that a breach of the Standards does not automatically result in a finding of misconduct (Rule 24(11) of the Rules).
33. The Committee is in no doubt that the Registrant's conduct is serious misconduct. It is seriously reprehensible. It occurred in the course of the Registrant's employment as a pharmacist. It is misconduct going to the Registrant's fitness to practise as a pharmacist (**Remedy UK Ltd v GMC [2010] EWHC 1245 (Admin)**). Indeed, to his credit, the Registrant accepts his actions would amount to misconduct.
34. Accordingly, the Committee concluded that, in its judgement, the ground of misconduct is established.

Current Impairment

35. Having found that the facts amount to misconduct, the Committee went on to consider whether the Registrant's fitness to practise is currently impaired. In doing so the Committee considered whether the facts demonstrate, pursuant to Rule 5(2)(a)-(d) that the acts 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*
36. The Registrant's dishonest acts did not relate to his clinical practice. The dishonest acts and omissions did not give rise to a risk to patients or the public and the Committee finds that, even if the Registrant were to repeat his misconduct in the future, it would be unlikely to give rise to a risk to patients or the public.
37. There is no doubt the Registrant's misconduct has damaged the reputation of the profession. While his actions were not related to the practice of pharmacy they took place while he was employed in a role as a pharmacy store manager. It is important

that pharmacists are seen to be trustworthy and reliable: they take care of the most vulnerable in society who put their trust in them to act in their best interests. Here the Registrant abused his role as a manager for personal financial gain. He was untrustworthy and dishonest. He has brought the profession of pharmacy into disrepute.

38. The Registrant has also breached three of the fundamental principles of the profession, as set out above.
39. The Committee agrees with the Council that the misconduct is not easily remediated. The Registrant's actions arose from his attitude to honesty and integrity at the time; he prioritised his own perceived financial needs over the standards of the profession and over normal societal values. He told the Committee he knew, at the time, that his actions were dishonest; he admitted they were premeditated and planned. The dishonesty continued over a matter of about nine months.
40. The Committee has considered carefully the Registrant's evidence of remediation. In his reflective statement of 9 May 2023, the Registrant stated he was then in a more stable financial position. He has attributed his dishonest conduct to his parlous financial state at the time. He has provided a limited documentary breakdown of his debts over the material period. The Committee accepts the Registrant's oral evidence that he has managed to reduce the overall debt and that this is now manageable on his current salary and that of his wife who is in part-time work.
41. Of concern to the Committee is the evidence of the Registrant that his dishonest actions were premeditated and planned. This was not a spur of the moment opportunistic event. It is not clear to the Committee what triggered the Registrant's decision to plan the fraud which involved a degree of sophistication and knowledge of Boots' system for the refund of items purchased online. He stole the items despite knowing there was CCTV on the premises. Until the Registrant is able to identify his thought processes at the time the Committee cannot be satisfied that the Registrant has taken sufficient action to ensure it would not happen again if faced with similar circumstances, namely a perceived parlous financial state. The Committee does not doubt the Registrant's changed circumstances and good intentions but he has not yet demonstrated sufficient insight into the circumstances of his dishonest decision-making. The Committee does not consider that his explanation that his judgment was "clouded" is a sufficient explanation for his willingness to engage in dishonest conduct at work. Rather this appears to be a justification for his misconduct; it is not a comprehensive and insightful explanation for it.
42. The Committee is also particularly concerned by the content of the Registrant's letter of resignation to Boots. He makes no reference at all to having taken money from his employer; he makes no apology in that letter. Rather he refers only to personal issues as the reason for his resignation. This letter demonstrates that the Registrant did not, at the time, take responsibility for his actions. He did not demonstrate any remorse or regret at the time. This is despite having acknowledged his dishonest conduct in

the course of the investigatory interview. The lack of remorse and regret suggests a lack of insight, at that time, into the impact of his misconduct both on his employer and his former colleagues, particularly Witness B. He had not, at that time, acknowledged the harm he had caused both to colleagues, the profession and public confidence in the profession. Furthermore, the Committee agrees with the Council that the manner of the Registrant's resignation suggests he was avoiding dismissal. While he may not have taken steps to find a new post, he would have known he could obtain locum work as a registered pharmacist. It is likely that he would have perceived that dismissal by Boots would hamper the prospects of finding alternative employment. Hence his decision to resign from the job with Boots without reference to the ongoing investigation into his conduct. The content of this letter is not to the Registrant's credit. That said it is a reflection of the Registrant's state of mind at the time. It is not to the Registrant's credit that he suggested in oral evidence that he resigned to save Boots the inconvenience of continuing the investigation. The Committee finds it more likely he resigned to enable him more easily to apply for another role.

43. The Committee gives little weight to the absence of evidence of repetition since the Registrant's resignation from Boots. Given the existence of investigations by Boots and his regulator, culminating in these proceedings, the Registrant would be unlikely to put his registration at further risk by repeating his misconduct in the interim. This is a neutral point.
44. The Registrant has attended training on remediation, probity and ethics. He says he has learned from his dishonesty. He told the Committee it would not be repeated. His father was monitoring his finances and he was on target to pay off his outstanding debts (excluding his mortgage loan) by September 2025. He told the Committee that he had been reducing the debt over time.
45. The Registrant has expressed remorse for his actions; he is ashamed and embarrassed. He has apologised profusely.
46. The Committee acknowledges it is difficult for a registrant to demonstrate remediation of misconduct involving dishonesty. This Registrant now has the support of his family and friends. He has been open and transparent with professional colleagues including his current employer. He has gone some way to showing a change of attitude to matters of honesty and integrity. There is a slight discrepancy in the evidence as regards the timing of the Registrant's disclosure to his father of his current circumstances: the Registrant's father states in his letter to the Committee that this was in September 2023 whereas the Registrant's oral evidence is that this was in June 2023. On either account the Registrant was not open with his father until many months after the last fraudulent refund.
47. In conclusion, the Committee finds that the Registrant has embarked on his remediation journey; he is a considerable way along that journey but has not yet demonstrated sufficient remediation such that the Committee is persuaded that the

misconduct is highly unlikely to be repeated if the Registrant were to find himself in difficult financial circumstances again. He still owes significant sums. He told the Committee he may have to sell his family home if he cannot afford to service the debts. That is a very serious step which is both highly stressful and, to some extent, unpredictable. The Committee is not satisfied he would not resort again to dishonest conduct to avoid adverse repercussions in his family, personal or professional life.

48. The Committee does not doubt the good intentions of the Registrant but, in the absence of specific evidence as to the trigger for his decision to act dishonestly, the Committee is not satisfied that he has demonstrated sufficient remediation such that it is highly unlikely the misconduct will be repeated. Put another way, the Committee does not accept the mere assertion that his judgment was clouded by his circumstances. This might be an appropriate explanation in circumstances where the dishonest act was spontaneous or opportunistic but that is not the case here: the dishonestly was planned and repeated over a period of about nine months.
49. In summary, the Committee finds that Rule 5(2)(b), (c) and (d) are engaged in this case. The Registrant's current fitness to practise is impaired on public interest grounds. A finding of impairment is required to uphold standards in the profession and to maintain public confidence in it.

Decision on Sanction

50. 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.
51. The purpose of the sanction is not to be punitive, although 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.
52. The Committee has had regard to the Council's recent decision-making Guidance of March 2024 to inform its decision.
53. The Committee took into account the submissions made by Ms Hall and those of Mr Hadley. It has also had regard to the oral evidence of the Registrant at the impairment stage, together with the documentary evidence of both parties.
54. In brief Ms Hall submitted that the appropriate sanction was one of removal while Mr Hadley submitted that a warning would be appropriate; he also submitted that

notification conditions should be considered. As regards suspension he submitted that “This case falls squarely within the criteria set out in the guidance, when the sanction needs to send out a message to others”. In response to the Council’s position, Mr Hadley submitted that removal was reserved for the most serious cases; while the Registrant had conceded his misconduct was serious this was not “the most serious case”; that bracket of dishonesty would involve tens of thousands of pounds missing over a lengthy period. He submitted that, for example, removal was reserved for cases where the pharmacist supplied controlled drugs in “vast quantities”. Such a case would involve a pharmacist who had demonstrated no understanding or insight; that was not the case here.

55. The Committee first considered what, if any, aggravating and mitigating factors there may be.
56. The Committee identified the following aggravating factors:
 - a. The misconduct was premeditated and planned. The Registrant knew at the time that he was acting dishonestly.
 - b. It occurred six times over a period of nine months.
 - c. The Registrant stole from his employer. He abused the trust of his employer and his junior colleagues.
 - d. The Registrant’s misconduct has had a marked and continuing detrimental impact on Witness B who trusted the Registrant. The Registrant’s actions have caused Witness B to find it more difficult to trust people in future. The Registrant’s actions had the potential to damage effective team working (although there is no evidence it did so).
 - e. The dishonest conduct was for personal financial gain. It was not for altruistic purposes.
57. The Committee identified the following mitigating features:
 - a. The Registrant admitted his actions during the initial interview with his employer. He admitted two additional acts of dishonesty which were not known to his employer. The Registrant made early admissions in these proceedings also.
 - b. He has also been open with friends, family and professional colleagues about these proceedings.
 - c. The Registrant compensated Boots in full for the sums lost and expended on the investigation.
 - d. The Registrant has significantly remediated his misconduct, albeit not sufficiently for a finding that there is no risk of recurrence. He has undertaken targeted training and reflected on it.

- e. He has shown considerable remorse and shame. He has apologised to all concerned.
 - f. There are positive and informed testimonials relating to his behaviour both before and after the period of misconduct.
 - g. The Registrant now has the practical and emotional support of his wife, family and friends who are aware of the misconduct and the context of it.
58. The Committee also considered the following factors to be relevant: the Registrant has no previous adverse fitness to practise history. He has been a registered pharmacist since July 2011. In addition, there are no concerns about his clinical competence. There are no patient protection concerns as a result of his misconduct.
59. The Committee has had regard to the mitigating and aggravating features at each stage of its decision-making on the appropriate and proportionate sanction.
60. It has also had regard to the many positive testimonials. These warrant evidential weight because the authors are familiar with the issues in this case. The Committee particularly gives weight to the positive testimonial of Witness C, Clinical Lead Pharmacy, at the Registrant's current place of work; she is in a position to comment on the Registrant's current circumstances and attitude, especially as the Registrant has been open with her about these proceedings.
61. 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.
62. The Registrant gave his evidence in these proceedings in an open and transparent manner. He is to be commended for that. The Registrant told the Committee he had contemplated the possibility of being unable to practise and had discussed this with his wife. He has considered the possibility of selling the family home if he cannot service the debts he has accrued, including the mortgage on the house. His wife works part-time and does not earn sufficient funds to support the couple. Any sanction which prevents the Registrant from earning a living as a pharmacist, whether in the short or longer term, would have a significant detrimental impact on the Registrant himself and his wife given the seriousness of his debt burden. The Registrant has a right to work in his chosen profession. Any sanction would have a detrimental impact on his ability to work without restriction and would damage his professional and personal reputation. The Registrant, according to the testimonials, is a competent and able pharmacist who is providing an excellent pharmacy service to patients. He is a valued professional colleague. His clinical practice is of benefit to the community which he serves.
63. This is not a case where no action can be taken: members of the public, with knowledge of the misconduct and the circumstances in which it took place, would be horrified were that to be the case, particularly as the dishonest conduct occurred in

the course of pharmacy practice and might have continued had Boots not identified suspicious activity.

64. The Committee decided against imposing a warning because the Registrant's misconduct was too serious for such a limited response. While he has shown significant insight and remediation, there remains a risk of repetition until sufficient remediation has taken place. The Committee has made clear in its earlier determination that the Registrant is on a journey towards remediation. The misconduct involved breaches of several professional standards to which the Registrant was expected to adhere as a registered pharmacist. A warning would serve as a public acknowledgement that the misconduct was unacceptable, but it is not sufficient to mark the damage done to the reputation of the profession and the extent to which public confidence in the profession will have been damaged by his dishonesty (for his own ends) while working in a senior position of responsibility within pharmacy practice. Furthermore, pharmacy colleagues within the pharmacy profession would expect a more serious sanction to be imposed to mark the detrimental impact of the Registrant's dishonest conduct within the workplace.
65. The Committee next considered whether to impose conditions on the Registrant's registration but determined this was not appropriate given the absence of any concern about the Registrant's professional performance: there was no allegation of deficient practice. Nor is this a health case. In any event, conditions would not be workable or practicable in this case where there remains a risk of repetition, albeit low: the Registrant's dishonest activities were conducted clandestinely in the workplace. Mr Hadley proposed that notification conditions may be sufficient but the Committee does not accept that submission in the context of an existing risk of reoccurrence. In any event, conditions would not be sufficient to address the wider public interest in this case.
66. With regard to the option of suspension, the Committee noted from the "Good decision making: fitness to practise hearings and outcomes guidance" that suspension may be appropriate "when it is necessary to highlight to the profession and the public that the conduct of the professional is unacceptable and unbecoming a member of the pharmacy profession. Also when public confidence in the profession demands no lesser outcome."
67. The Committee has had regard to the specific guidance on the issue of dishonesty:

"6.8. Regulators ensure that public confidence in a profession is maintained. This is a long-established principle and our standards state that professionals should act with honesty and integrity to maintain public trust and confidence in the profession. There are some acts which, while not presenting a direct risk to the public, are so serious they undermine confidence in the profession as a whole. The GPhC believes that dishonesty damages public confidence, and undermines the integrity of pharmacy professionals. However, cases involving dishonesty can be complicated – committees should carefully

consider the context and circumstances in which the dishonesty took place. Therefore, although serious, there is not a presumption of removal in all cases involving dishonesty.

6.9. Some acts of dishonesty are so serious that the committee should consider removal as the only proportionate and appropriate outcome. This includes cases that involve intentionally defrauding the NHS or an employer, falsifying patient records, or dishonesty in clinical drug trials.

6.10. When deciding on the appropriate outcome in a case involving dishonesty, the committee should balance all the relevant issues, including any aggravating and mitigating factors. It is important to understand the context in which the dishonest act took place and make a decision considering the key factors. The committee should then put proper emphasis on the effect a finding of dishonesty has on public confidence in the profession.”

68. Ms Hall referred the Committee to various legal authorities resulting from Solicitors Regulatory Authority proceedings. Mr Hadley submitted that the degree of honesty required of a solicitor or barrister was higher than for other professionals, including pharmacists. The Committee does not accept that submission in the absence of any legal authority to support the proposition. While the Committee accepts that it must consider the dishonesty in the circumstances and context in which it occurred, it views dishonesty by a pharmacy professional in the course of his employment to be a matter of the utmost seriousness and no less serious than dishonesty by another other professional.
69. As regards the context of the dishonest conduct the Committee has taken into account it occurred in a pharmacy setting and in the course of pharmacy practice (albeit not clinical practice). It involved a gross breach of trust between the Registrant and his employer. The Registrant defrauded his employer. The dishonest conduct was planned and executed for the sole purpose of personal financial gain. The fraud was exacerbated by the Registrant lying to MM, telling him the product had been bought for him by someone else. This was not true. Thus he knowingly involved a junior member of staff in the fraud; this could have put MM’s relationship with his employer at risk (albeit there is no evidence that occurred). The financial loss to Boots was modest in terms of Boots’ likely turnover at the store but the sums involved were not insignificant. The products were not pharmacy items but items in general stock at the branch. They were undoubtedly targeted by the Registrant as high value items. The Committee draws the reasonable inference that the shavers, at the least, were amongst the highest value items at the store. While the dishonesty was very serious, it was not at the top end of the spectrum of dishonesty. Nor was it trivial. The Committee considers it to be towards the upper end of the spectrum of dishonesty, given that it occurred in the course of pharmacy practice, involved defrauding an employer, lying to a junior colleague who was being supervised and

managed by the Registrant, and was premeditated and repeated. Of note is the detrimental impact of the Registrant's lies on that member of staff's trust in others.

70. The Registrant has shown genuine insight into the detrimental impact of his misconduct. He has apologised profusely to all concerned. While there is a risk of repetition, it is a low risk because the Registrant has not fully identified or acknowledged the trigger for his plan to steal from his employer. On the one hand he told the Committee he knew, at the time, that what he was doing was dishonest; on the other he asserted that his judgment was clouded by his personal circumstances. The Registrant has not sufficiently identified the thought processes which led to his dishonesty at the time and until he does so there remains a risk of repetition. The Committee repeats that it does not doubt the Registrant's good intentions: he undoubtedly intends not to repeat his misconduct but good intentions are not sufficient to demonstrate sufficient remediation.
71. In any event, the public interest includes protecting the public, maintaining public confidence in the profession and maintaining proper standards of behaviour. It is not the purpose of this Committee to punish the Registrant but the Committee is entitled to give greater weight to the public interest than the Registrant's own interests.
72. The Committee is mindful of the Guidance on dishonesty. This makes it clear that the act of "intentionally defrauding ... an employer" is "so serious that the committee should consider removal as the only proportionate and appropriate outcome". The Committee has considered whether it should depart from that Guidance. It has had regard to the circumstances of the dishonesty, including the Registrant's personal circumstances at the time. However, the Registrant's own evidence that he knew, at material times, that what he was doing was dishonest places this case within the category of the most serious. Not only did he know on the first occasion that what he was doing was dishonest but he repeated it on five further occasions. The Registrant did not assert that his dishonest activities would have stopped if Boots had not discovered it. This is dishonesty which goes to the heart of a pharmacist's fitness to practise notwithstanding it does not relate to his clinical practice. The Registrant intentionally targeted high value items and planned the fraud and executed it meticulously.
73. Given the seriousness, circumstances and context of the dishonesty, and following the Guidance, the Committee concludes that suspension, even for the maximum period, is not sufficient to address the wider public interest. This is a case where removal from the register is the proportionate and appropriate outcome.
74. To reiterate, the Committee has considered the interests of the Registrant and set those against the wider public interest. The Registrant has worked hard to qualify as a pharmacist and to practise in that role. He has built up a good reputation as a clinician. There are no concerns about his clinical competence. The Registrant's ability to earn an income as a pharmacist will be curtailed. Removal of his name from the register will have a devastating impact on his family life, particularly given the

need to service the consolidated debt and mortgage. Nonetheless, the Committee considers that suspension of the Registrant's registration is not sufficient to mark the seriousness of his misconduct, given the aggravating features identified above.

75. The Committee recognises that removal of a registrant's registration is reserved for the most serious conduct. However, it considers the Registrant's misconduct, notwithstanding his efforts to gain insight and to remediate, is fundamentally incompatible with his continuing to remain a registered professional. MM
76. That is particularly the case in the context of an ongoing risk (albeit low) of reoccurrence.
77. Removal of the Registrant's name from the Council's register is appropriate given the considerable adverse impact on public confidence in the profession. Members of the public and the pharmacy profession will be concerned that they may no longer be able to trust the Registrant to act in the public interest rather than his own.
78. The Committee therefore directs that the Registrar remove the Registrant's name from the register.

Decision on Interim Measure

79. Ms Hall made an application for interim measures under Article 60 of the Pharmacy Order 2010. Given the most serious sanction had been imposed, it was otherwise in the public interest to suspend the Registrant's practice. To do otherwise would have a detrimental impact on public confidence. The findings on impairment did not marry with allowing the Registrant to continue to practise unrestricted, she submitted.
80. For the Registrant, Mr Hadley did not oppose the application.
81. The decision to remove the Registrant's name from the register 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 either of those periods the Registrant would be free to practise without restriction.
82. The Committee has taken into account the Guidance issued in March 2024.
83. The Committee has found there are no public protection issues. Consideration of interim measures falls to be determined on the basis of the wider public interest alone. Interim measures are by no means the default position; they are not a further sanction. Every case must be considered carefully to determine whether the bar for their imposition is met. That bar is high. The Committee takes into account its earlier findings.
84. The Committee is satisfied that, in the particular circumstances of this case, the public interest warrants the imposition of an interim measure of suspension. Public confidence in the profession and the promotion of professional standards will have been undermined by the Registrant's dishonest conduct in pharmacy practice. An

informed member of the public and pharmacy professionals would be surprised if the Registrant were able to continue in unrestricted practice in circumstances where the Committee had decided to remove his name from the Register because of the seriousness of his misconduct.

85. The effect of this determination is that from today's date the Registrant's registration will be suspended until the substantive order of removal takes effect.