

**General Pharmaceutical Council**

**Fitness to Practise Committee**

**Principal Hearing**

Remote videolink hearing

**9<sup>th</sup> May 2024**

<b>Registrant name:</b>	Russell Buglass
<b>Registration number:</b>	2044193
<b>Part of the register:</b>	Pharmacist
<b>Type of Case:</b>	Conviction
<b>Committee Members:</b>	Sarah Hamilton (Legally Qualified Chair) Pat North (Registrant member) Sarah Baalham (Lay member)
<b>Legal Adviser:</b>	Gary Leong
<b>Committee Secretary:</b>	Chelsea Smith
<b>Registrant:</b>	Not present and not represented
<b>General Pharmaceutical Council:</b>	Represented by Lara Oseni, Case Presenter
<b>Facts proved:</b>	All
<b>Fitness to practise:</b>	Impaired
<b>Outcome:</b>	Removal from the register
<b>Interim measures:</b>	Interim suspension

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 10 June 2024 or, if an appeal is lodged, once that appeal has been concluded. However, the interim suspension set out in the decision take/s effect immediately and will lapse when the decision takes effect or once any appeal is concluded.

### **Particulars of Allegation**

*You, a registered pharmacist,*

*1. On 16 May 2023, were convicted at Newcastle Upon Tyne Crown Court of,*

*1.1 Make indecent photograph / pseudo-photograph of a child.*

*1.2 Make indecent photograph / pseudo-photograph of a child.*

*1.3 Make indecent photograph / pseudo-photograph of a child.*

*1.4 Take indecent photograph / pseudo-photograph of a child.*

*1.5 Possess a prohibited image of a child.*

*1.6 Possess extreme pornographic image / images portraying an act of intercourse / oral sex with a dead / alive animal.*

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

### **Documentation**

Document 1- GPhC hearing bundle

Document 2- GPhC skeleton argument

Document 3- GPhC proof of service bundle

Document 4 – GPhC proceeding in absence bundle

### **Witnesses**

No witnesses were called to give evidence.

## Determination

### Introduction

1. This is the written determination of the Fitness to Practise Committee at the General Pharmaceutical Council ('the Council').
2. The hearing is governed by *The Pharmacy Order 2010* ("the Order") and *The General Pharmaceutical Council (Fitness to Practise and Disqualification etc. Rules) Order of Council 2010* ("the Rules").
3. The statutory overarching objectives for these regulatory proceedings are:
  - a. To protect, promote and maintain the health, safety and well-being of the public;
  - b. To promote and maintain public confidence in the professions regulated by the Council; and
  - c. To promote and maintain proper professional standards and conduct for members of those professions.
4. The Committee also has regard to the guidance contained in the Council's *Good decision making: Fitness to practise hearings and sanction guidance* as revised March 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.

### **Conflict of Interests**

6. The Committee members confirmed that there were no conflict of interest issues.

### **Service of Notice of Hearing**

7. The Committee has seen a letter dated 28 February 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 proceed in the absence of the Registrant**

8. The Registrant was not in attendance at this hearing, nor was he represented. The Committee heard submissions from Ms Oseni under Rule 25 to proceed in the absence of the Registrant.
9. The Committee noted the correspondence from the Registrant, wherein he stated on the listing questionnaire in relation to his preference for the mode of hearing, *"Remote – currently in prison, but I would prefer not to be present at the remote hearing"*.
10. The Committee decided to proceed in the absence of the Registrant for the following reasons:
  - The Committee has found good service of the notice of hearing.
  - Furthermore, the Registrant is aware of today's proceedings.
  - The Registrant indicated on the listing questionnaire he would not attend and he did not ask for an adjournment
  - There was no information to suggest an adjournment would result in the Registrant's attendance in future
  - There is a public interest in the expeditious disposal of cases

### **Application for the hearing to be held in Private**

11. The Committee heard an application from Ms Oseni under Rule 39(3) to hold parts of the hearing in private.
12. The Committee decided to hold certain parts of the hearing in private as there will be reference to the Registrant's health and facts from which third parties would be identified.

### **Background**

13. On 29 January 2022 police officers attended the Registrant's address. They seized several devices, including a mobile telephone, a laptop, a hard drive, and disk drives.
14. Examination of the devices revealed the presence of a very large number of indecent images of children:
  - a. Category A, 311 images and 12 videos;
  - b. Category B, 553 images and 2 videos;
  - c. Category C, 40,621 images and 47 videos.
  - d. In relation to the prohibited images there were 4,299 of those and 6 videos, and
  - e. in respect of extreme pornography, 910 images and 115 videos.
15. The time stamps on the images and the videos were between the dates of 5 March 2009 and 2 January 2022.
16. On 16 May 2023, at Newcastle Upon Tyne Crown Court, the Registrant was convicted of the following offences:
  - a. *Make indecent photograph / pseudo-photograph of a child.*
  - b. *Make indecent photograph / pseudo-photograph of a child.*
  - c. *Make indecent photograph / pseudo-photograph of a child.*
  - d. *Take indecent photograph / pseudo-photograph of a child.*
  - e. *Possess a prohibited image of a child.*

f. *Possess extreme pornographic image / images portraying an act of intercourse / oral sex with a dead / alive animal.*

17. The Registrant was sentenced on 22 August 2023 and given a 24-month consecutive custodial sentence together with a notification requirement to register with police from 16/05/2023 for 10 years at the nearest police station upon release and a Sexual Harm Prevention Order made to run for 10 years.

### **Decision on Facts**

18. The allegation in this case is a conviction. The Committee had sight of the memorandum of conviction and therefore found the facts proved in accordance with Rule 24(4).

### **Impairment**

19. Having found the particulars of allegation proved, the Committee went on to consider whether the Registrant's fitness to practise is currently impaired by reason of their conviction.
20. Ms Oseni outlined the background facts of the conviction and submitted that the Registrant's fitness to practise is currently impaired in that that the conviction and the nature of the offences were serious matters, and the public interest requires that a finding of impairment be found so as not to undermined the public confidence in the profession and the regulatory process. The Registrant is still serving his sentence of imprisonment. Ms Oseni submitted that the relevant considerations in this case are the seriousness of the offences, the nature of the sentence, the public perception of such criminal offences and of registrants convicted of such offences.
21. 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 (March 2024 edition)*'. 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 or pharmacy technician 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.*”

22. The Committee took into account the submissions made by Ms Oseni. It also considered the sentencing remarks of His Honour Judge Gittins when sentencing the Registrant to 24 months imprisonment.

23. The Committee also considered Rule 5 of the Rules.

Rule 5(2) states:

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

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

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

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

*or*

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

24. The Committee had regard to the sentence received by the Registrant, but also bore in mind that the sentence imposed is not necessarily a good indicator of the seriousness of the offences when considered in a regulatory context. This is because the prime consideration of regulatory tribunals is the protection of the public and of the wider public interest. As Dame Janet Smith noted in the Fifth Shipman Inquiry Report,

*“The fact that the court has imposed a very low penalty or even none at all should not lead the [regulator] to the conclusion that the case is not*

*serious in the context of [its own] proceedings The role of the [regulator] in protecting [service users] involves different considerations from those taken into account by the criminal courts when passing sentence. What may well appear relatively trivial in the context of general criminal law may be quite serious in the context of [professional] practice.”*

25. The Committee noted that the Registrant had co-operated with the police investigation and had pleaded guilty at the first opportunity. The Committee determined that this demonstrated some level of insight on the part of the Registrant.
26. However, the Committee considered that his level of insight was limited. The Committee noted that whilst there is some recognition of the impact of his actions upon others, the Registrant appears to be more concerned about the impact the criminal proceedings and these proceedings had upon him. The Committee also noted that the Registrant did not, either in his mitigation before His Honour Judge Gittins nor in his correspondence with the Council, recognise that the true victims in his case are the children whose sexual abuse was recorded on the images he used to satisfy his sexual predilections.
27. The Committee determined that the Registrant’s conduct leading to his conviction and his conviction coupled with his limited level of insight, meant that he
  - a. continues to present a risk to patients or to the public; and
  - b. has brought the profession of pharmacy into disrepute; and
  - c. has breached one of the fundamental principles of the profession of pharmacy.
28. The Committee determined that the Registrant’s actions leading to the conviction breached Standard 6 of the Standards for Pharmacy Professionals, namely that they must behave in a professional manner.
29. Although the Registrant’s conduct is potentially remediable, there is insufficient evidence of remediation before this Committee. Accordingly, the Committee concluded that there is a real risk of repetition, taking into account the number of images involved over the course of thirteen years.



30. In addition to the above, the Committee determined that the conviction of the Registrant related to very serious criminal offences and had clear implications in terms of the wider public interest in maintaining public confidence in the profession. The Committee determined that other practitioners would consider that the Registrant's actions were abhorrent and would attract the highest public opprobrium.
31. The Committee determined that the conviction was such that the need to uphold professional standards and public confidence in the professions would be undermined if a finding of impairment were not made.
32. Therefore, the Committee determined that the Registrant's fitness to practise is currently impaired by reason of his conviction.

#### **Decision on Sanction**

33. 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 least restrictive, take no action, to most restrictive, removal from the register, in order to identify the appropriate and proportionate sanction that meets the circumstances of the case.
34. 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.
35. The Committee took into account the submissions made by Ms Oseni. She reminded the Committee of the principle of proportionality and drew its attention to the document entitled "*Good decision making: Fitness to practise hearings and sanctions guidance*".
36. Ms Oseni submitted that the aggravating features included

- a. The conduct took place over several years since 2009.
  - b. The volume of the indecent images that were recovered.
  - c. The Registrant has been convicted of a serious sexual offence.
  - d. The offence involved young children.
  - e. The Registrant is required to register as a sex offender for 10 years.
  - f. The Registrant is subject to a sexual harm prevention order for 10 years.
37. Ms Oseni submitted that the following were among mitigating factors:
- a. The Registrant is of previous good character.
  - b. The Registrant pleaded guilty at the earliest available opportunity.
  - c. The long and protracted police investigation.
38. Ms Oseni submitted that removal from the register was the appropriate and proportionate sanction in this case. The Registrant, on his listing questionnaire, stated *"I am more than happy to be removed from the register."*
39. The Committee had regard to the Council's *'Good decision making: Fitness to practise hearings and sanctions guidance'* to inform its decision.
40. The Committee reminded itself that it had found that the Registrant continues to pose a real risk to patients and members of the public.
41. The Committee took into account the following aggravating features of this case:
- a. The period of the Registrant's criminal behaviour;
  - b. There were a very large number of images found in the possession of the Registrant across all official categories of such images, including the most serious; and
  - c. The convictions related to charges of indecent images (stills and moving) of children and bestiality.
42. The Committee took into account mitigating features of this case that the Registrant had cooperated with the police investigation and pleaded guilty at the first available opportunity. The Committee also noted that he made admissions during his third interview with the police.

43. The Committee determined that the Registrant had been convicted of a serious criminal offence. Furthermore, the Committee could not be satisfied that there was a low risk of repetition as it has not had any communication or evidence from the Registrant that would enable it to determine otherwise.
44. In considering the matter of sanction, the Committee started with the least restrictive moving upwards.
45. The Committee first considered taking no action but concluded that, given the seriousness of the criminal offence, this would be wholly inappropriate and insufficient to declare and affirm proper standards of conduct and behaviour, nor to maintain public confidence in the profession.
46. The Committee then considered whether to give a warning. The Committee determined that circumstances of the criminal offence are such that a warning is not appropriate for the same reason as set out above.
47. The Committee next considered the imposition of a Conditions of Practice Order. However, this is not a case that is suitable for the imposition of conditions of practice. There are no concerns with the Registrant's practice or competency as a Pharmacist. Conditions of Practice are more suited to cases where there is a competency issue. In any case, the serious nature of the criminal offences makes a Conditions of Practice Order inappropriate as a sanction for the same reasons as set out above.
48. The Committee then considered whether a period of suspension would be a sufficient and proportionate response in order to maintain a proper degree of confidence in the profession and the regulatory process, and to declare and maintain proper standards among fellow professionals. As stated above, taking the circumstances of the criminal offence into consideration, the Committee has determined that the Registrant had been convicted of serious criminal offences and the general principle is that he should not be permitted to resume his practice until he has satisfactorily completed his sentence. The maximum period of suspension would be twelve months, whereas the Registrant's sentence reaches beyond this.

49. The Committee also considered the public interest in allowing a competent Pharmacist to return to practice at the completion of his criminal sentence.
50. The Committee weighed all the above considerations, and also reminded itself of the mitigating features in this case, as set out above. Nevertheless, the Committee determined that the matter before it was so serious that a Suspension Order, even for the maximum duration, would not be sufficient to maintain and declare proper standards of conduct and behaviour, nor to maintain the reputation of the profession, nor to maintain public confidence in the profession and the regulatory process.
51. This case involves such extreme indecent images of children that the imposition of a suspension order, even for the maximum duration of one year, would undermine public confidence in the regulatory process as well as in the profession.
52. The Committee therefore went on to consider removal of the Registrant's name from the Council's register. The Committee took into account the impact that such an order would have on the Registrant in terms of his finances and his reputation. However, it concluded that this was such a serious departure from the standard of behaviour expected from a Pharmacist that only removal of his registration would be sufficient to maintain and declare proper standards of conduct and behaviour, to maintain the reputation of the profession, and to maintain public confidence in the profession and the regulatory process. The seriousness of the Registrant's convictions, which are fundamentally incompatible with registration as a Pharmacist, demands the ultimate sanction of a striking off order.
53. The Committee therefore directs that the Registrar removes Mr Russell Buglass' name from the register.

### **Interim Order**

54. After the pronouncement of the sanction, Ms Oseni applied for an Interim Suspension Order to be imposed upon the Registrant under Article 60 of the Order.

### **Decision on Interim Measure**

55. In coming to its decision, the Committee took into consideration that the Committee's substantive decision will not take effect until 28 days after notice of this decision has been sent, or until any appeal has been finally disposed of.
56. The Committee noted that the Registrant was sentenced to a period of imprisonment of 24 months from 22 August 2023. Therefore, he is due to be released from prison on 21 August 2024 at the latest (which is when he will have served half the period of incarceration imposed), whereupon he would be free to practise as a pharmacist if no interim measure is imposed.
57. In light of the Committee's findings set out above, it determined that an interim suspension order was necessary to protect the public and also in the public interest. An interim conditions of practice order would not be sufficient for the same reasons as set out in the Committee's decision on sanction.
58. This concludes the determination.