General Pharmaceutical Council

Fitness to Practise Committee

Principal Hearing

Remote videolink hearing

26 - 28 February 2024 & 13 June 2024

Registrant name:	Nura Ali Baroot
Registration number:	2069055
Part of the register:	Pharmacist
Type of Case:	Misconduct
Committee Members:	
Name (Chair)	Mr Andrew Lewis
Name (Registrant member)	Ms Pat North
Name (Lay member)	Ms Carolyn Tetlow, 27, 28 and 29 February 2024
	Ms Isobel Leaviss, 13 June 2024
Committee Secretary:	Ms Zainab Mohamad
Registrant:	Not present but represented by Mr Martin Hadley
General Pharmaceutical Council:	Represented by Ms Priya Khanna Case-Presenter
Facts proved by admission:	Particulars 1,2 ,3, 5 and 6
Facts not proved:	Particular 4
Fitness to practise:	Impaired

Outcome:	Suspension for 3 months
Interim measures:	Not reached

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 12 July 2024 or if an appeal is lodged, once that appeal has been concluded.

Particulars of Allegation ***(as amended)***

You, a registered pharmacist, whilst employed at Northern General Hospital, Herries Road, Sheffield, S5 7AU and/or in other locations:

1. Accessed Patient A's IVF treatment log on:

1.1. 11 January 2017 at around 14:43 and 14:44,

1.2. 13 September 2017 at around 12:40.

2. Accessed Patient A's dispensing record on:

2.1. 28 September 2018 at around 16:52.

3. In relation to your actions as set out at paragraph 1 and/or 2 above, accessed the medical records in circumstances where:

3.1. you knew that there was no clinical need for you to access those records,

3.2. you knew that the access was without the consent of Patient A.

4. In relation to the records accessed at 1 and/or 2 above, subsequently shared information about Patient A's IVF treatment directly and/or indirectly with members of the Somali community you both knew in common.

5. On more than one occasion, accessed a patient's medical records in circumstances where:

5.1. you knew that that there was no clinical need for you to access those records,

5.2. you knew that the access was without the consent of the patients.

Documentation

Exhibit 1- GPhC Statement of Case and Skeleton Argument

Exhibit 2- GPhC Principal Hearing Bundle

Exhibit 3- Registrant's Skeleton Argument

Exhibit 4- Registrant's Statement

Exhibit 5 – Registrant's Bundle

No further documents at stage 1

Witnesses

Witness A: former case officer at the Council, gave evidence at the facts stage.

Witness B: chief pharmacist at the Sheffield Teaching Hospitals, NHS foundation Trust, gave evidence at the facts stage.

Introduction

1. This is the written determination of the Fitness to Practise Committee (the 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 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. At the start of the hearing, the Registrant did not attend, but was represented by Mr Martin Hadley.

7. The Committee saw a letter dated 24 January 2024 from the Council headed 'Notice of Hearing' and addressed to the Registrant. The Registrant was not present at the start of the hearing but was represented. Having spoken to both Ms Khanna and Mr Hadley the Committee was satisfied that no issue arose regarding service of notice and that there had been good service of the Notice in accordance with Rules 3 and 16.

8. The Committee, then considered whether it should proceed in the absence of the Registrant. Mr Hadley told the Committee that he did not seek an adjournment, and was satisfied that he had sufficient instructions to

represent the Registrant in her absence. He explained that the Registrant had told him in writing on Friday (23 February 2024) and confirmed by telephone, shortly before the Hearing, that she would not attend and instructed him to proceed in her absence. He told the Committee that the Registrant had informed him that she thought attending would have an adverse effect on her health.

9. Ms Khanna agreed that the hearing should continue in the Registrant's absence.

10. Nevertheless, the Committee considered whether it was in the interests of justice to continue in the absence of the Registrant. The Committee had regard to the questions set out in the decision of the House of Lords in ***R v Jones*** *[2002] UKHL 5* and the further guidance given to panels by the Court of Appeal in ***GMC v Adeogba*** *[2016] EWCA Civ 162*. These include the following:

- The discretion to continue in the absence of the Registrant should be exercised with great caution and with close regard to the fairness of the proceedings;
- The decision whether or not to proceed must be guided by The Council's primary objective of protecting the public;
- Fairness to the Registrant is very important, but so is fairness to The Council and the public;
- Whether all reasonable efforts have been taken to serve the Registrant with notice;
- The panel should consider the nature of the Registrant's absence and in particular whether it was voluntary;
- Whether there is any reason to believe the Registrant would attend or make submissions at a subsequent hearing;
- Whether the Registrant wishes to be represented;

- Any disadvantage to the Registrant in not attending the hearing;
- The duty of professionals to engage with their regulator;
- There must be an end to the "adjournment culture".

11. The panel had regard to the direction given by the Court of Appeal in Adeogba (above) *"Where there is good reason not to proceed, the case should be adjourned; where there is not, however, it is only right that it should proceed."*

12. Having regard to the material set out above, the Committee was satisfied that the Registrant had been properly served with notice of the hearing, and had chosen not to attend. The Committee bore in mind that the Registrant was represented by her solicitor, who had instructions to proceed and represent her at the hearing. The Committee acknowledged that there was likely to be a disadvantage to the Registrant in not attending the hearing, but concluded that it had to balance that against the reason for her non-attendance and the public interest in completing without further delay, this matter, which related to events that had occurred a number of years ago. The Committee also bore in mind that the Registrant would be represented by Mr Hadley who had instructions which he was satisfied were adequate.

13. Having regard to all these matters, the Committee decided that it would proceed with the hearing. Nevertheless, it allowed Mr Hadley a few minutes to contact the Registrant and inform her that the hearing was proceeding, and if she changed her mind and wished to attend at any time, she would not be prevented from doing so. In particular, she would be free to attend to give evidence. The Committee also indicated that it would consider sympathetically any application to allow the Registrant to observe the proceedings with her camera turned off, except of course, when she was giving evidence.

Application to amend the Particulars of Allegation

14. The Committee, of its own motion, proposed to amend the Particulars of Allegation in accordance with rule 41 of the rules.

15. The effect of the proposed amendment was to insert the words "directly/or indirectly" into Particular 4 of the Allegations in the way sent out above in the "Amended Particulars of Allegation". The purpose of the amendment was to ensure that the Allegation covered the situation where a disclosure had been made, perhaps inadvertently, to anyone who may later have passed it to a member of the Somali community.

16. The Committee heard submissions from Ms Khanna and Mr Hadley, both of whom agreed that the amendment could be made without injustice.

17. The Committee was satisfied that the amendment was necessary to enable it to fulfil its duty to protect the public, and could be made without injustice. Accordingly, the Committee made the proposed amendment.

Application for part of the hearing to be held in private

18. The Committee heard an application from Mr Hadley under Rule 39(3) to hold parts of the hearing in private.

19. Mr Hadley took the Committee to a number of passages in the Registrant's statement, which dealt with both matters of health and private matters relating to her family life. He accepted that the bulk of the hearing must be heard in public, but submitted that the parts of the evidence relating to those matters to which he had referred should be heard in private.

20. Ms Khanna told the Committee that the Council was neutral with regard to that application.

21. The Committee had regard to Rule 39 of the Rules which provides that:

39. (1) Except as provided for in this rule, hearings of the Committee must be held in public.

(2) Any hearing before the Committee relating to a health Allegation, or an interim order hearing before the Committee, must be held in private, unless the Committee is satisfied….that the public interest in holding the hearing in public outweighs the interest of the Registrant concerned or the third party in maintaining their privacy.

(3) A hearing before the Committee other than a hearing referred to in paragraph (2) may be held wholly or partly in private if the Committee;

(a) having given the parties (where present) and any third-party, from whom the Committee considers it appropriate to hear, an opportunity to make representations; and

(b) is satisfied that the interest of the person concerned or the third party in maintaining their privacy outweighs the public interest in holding the hearing, or the part of the hearing, in public.

22. The Committee reminded itself that a hearing relating to conviction, caution or misconduct should as far as possible be held in public. However, it was right that matters relating to health and/or personal family matters should be heard in private where a Registrant's right to privacy outweighed the public interest in holding the whole hearing in public.

23. The Committee decided that in this case the balance was correctly struck by hearing evidence relating to the alleged misconduct in public but hearing evidence and submissions relating to the Registrant's health and family life, in private.

24. The Committee also emphasised that any evidence that might lead to the identification of Patient A should be heard in private.

Registrant's response to Particulars of Allegation

25. In accordance with Rule 31 of the Rules, the Committee Secretary read out the Particulars of the Allegation and Mr Hadley admitted the following Particulars on behalf of the Registrant: Particulars 1,2,3, and 5.

26. The Chair announced that Particulars 1,2, 3 and 5 had been found proved by reason of those admissions.

27. The Committee went on to receive evidence and submissions regarding Particular 4 of the Allegations.

Background

28. The Registrant was first registered as a pharmacist in August 2008. She completed an MPharm at the University of East Anglia in 2007 and completed a pre-registration year at the Royal Hallamshire Hospital between August 2007 and 2008.

29. The Registrant worked as a locum pharmacist for the Sheffield Teaching Hospitals, NHS Foundation Trust (the Trust) between 2016 and 2019. The Registrant worked at the Northern General Hospital between August 2016 and January 2019. There is some evidence that she subsequently worked within the Assisted Conception Unit (known as the Jessop Wing) of the Royal Hallamshire Hospital from January until July 2019.

30. The Northern General Hospital and the Royal Hallamshire Hospital are some 3 miles apart and it is accepted the during the time the Registrant was working at the Northern General Hospital she was employed to provide a clinical service to the spinal injuries wards and renal units at the Northern General Hospital so that she had no reason to access the records of anyone being treated at the Jessop Wing of the Royal Hallamshire Hospital.

31. Nevertheless, on three occasions between January 2017 and September 2018, the Registrant accessed records of a patient (known throughout these

proceedings as Patient A) receiving IVF treatment at the Jessop Wing. On the first two occasions, she accessed blood results, which would have indicated that Patient A was receiving IVF treatment. On the third occasion, in September 2018, she accessed prescribing records, which showed that Patient A had received medication consistent with undergoing IVF treatment.

32. The records show that Patient A received IVF treatment at the Jessop Wing in 2016. It is accepted that she received no inpatient or outpatient treatment at the Trust in 2017 or 2018 and there is no record of her receiving further IVF treatment until February 2020.

33. There is no dispute that the Trust had in place, two policies, which made it clear that members of staff must comply with the requirements of the data protection legislation relating to the access to and confidentiality of patient information. It is also accepted that the Registrant received training on these policies on 8 May 2017 and 19 March 2019.

34. It is also accepted that both the Registrant and Patient A are of Somali heritage and have known one another since they were young.

35. On 20 February 2021 the Trust received a written complaint from Patient A complaining that she had become aware of a breach in the confidentiality of her medical records, in particularly distressing circumstances.

36. She revealed that “a Somali woman” she knew had telephoned her to say that her sister’s friend had just told her that she (Patient A) had had three failed IVF cycles. She set out in her complaint that she and her husband were “extremely private people” who had “not shared this information with anyone, including family members, never mind anyone else from the wider Somali community. There is a general misunderstanding and taboo associated with infertility in my community which was one of the main reasons we chose to keep this information private from even our close loved ones”.

37. Patient A set out in detail, the devastating effect this had had upon her and her mental health and her trust in the hospital, where she was receiving treatment. It had, she explained, made her doubtful that she could continue with the IVF treatment. She emphasised that she was clearly identifiable as a member of a relatively small minority community and added that, "there were other patients mentioned to me whose information was also compromised and accessed".

38. In her complaint, Patient A advanced the name of someone other than the Registrant who she suspected of accessing and/or revealing her records.

39. The Registrant responded in writing to the Allegations from the Council, placed a statement before the investigating Committee and submitted a signed statement dated 20 February 2024 to the Committee. From an early stage, the Registrant admitted accessing Patient A's Records without any clinical justification. She set out the personal difficulties that she was experiencing at the time and set out how this explained her actions to an extent. She emphasised that she had not discussed or divulged any of the information and explained that her motivation was essentially "self sabotage". She also added that she had accessed the records of other patients, apart from Patient A.

40. She added that she had read a letter from Patient A and said that she "felt sick with shame and embarrassment. I am tormented and even haunted day and night by the hurt I have caused. I am so sorry I've let you down." She added that she was herself a private person who would be hurt if she knew others had read her private records.

Decision on Facts

41. The Committee then considered particular 4, which was the only particular of the Allegation that the Registrant had not admitted.

Particular 4

4. In relation to the records accessed at 1 and/or 2 above, subsequently shared information about Patient A's IVF treatment directly and/or indirectly with members of the Somali community you both knew in common.

42. In reaching its decisions on facts, the Committee considered the documentation listed at the start of this determination, oral evidence and the submissions made by Ms Khanna and Mr Hadley.

43. The Committee accepted the advice of the Legally Qualified Chair. It reminded itself in particular that it should approach with caution the written evidence of the Registrant, and the material contained in Patient A's letter of complaint, because neither of these sources of evidence had been tested by the Committee, including by cross examination.

44. When considering each particular of Allegation, the Committee bore in mind that the burden of proof rests on the GPhC and that Particulars are found proved based on the balance of probabilities. This means that Particulars will be proved if the Committee is satisfied that what is alleged is more likely than not to have happened.

Evidence

45. The Committee heard the evidence of Witness A, who produced the documentation to which the Committee refers to below. It also heard the evidence of Witness B, the chief pharmacist at the Trust, who took over the investigation into the Registrant's unauthorised access of Patient A's medical records. Witness B explained to the Committee that the Trust had carried out an investigation into who had accessed Patient A's records between 2016 and 2020 and found that the Registrant had accessed her records on the three occasions identified in the Particulars of Allegation. He said that those carrying out the investigation were satisfied that all the others accessing Patient A's records had a clinical justification while the Registrant did not.

46. Both witnesses confirmed the background set out above and Witness B gave evidence, in his written statement, that Patient A had not received any further IVF treatment (or any other treatment) at the Trust between 2016 and 2020.

47. With their assistance, the Committee first established what the Registrant had seen when she accessed Patient A's records in 2017 and 2018.

48. The Committee saw a copy of the letter that the Trust wrote to Patient A on 19 April 2021 and was satisfied that in 2017, the Registrant saw four entries which showed the result of a pregnancy test on 1 February 2016, cycle monitoring on 11 November 2016, further Cycle monitoring on 21 November 2016 and a second pregnancy test on 7 December 2016.

49. The Committee noted that the Registrant saw the same results on both occasions (January and September 2017) because Patient A had not received any further tests or treatment after December 2016.

50. With the assistance of Witness B, the Committee also viewed the dispensing record which the Registrant viewed on 28th September 2018. Witness B confirmed that the Registrant would have seen the medication dispensed between 11 and 21 November 2016, which would have indicated that Patient A was undergoing the cycle of IVF treatment evidenced by the record of blood tests that the Registrant had accessed in 2017.

51. Witness B pointed out that the copy of the dispensing record put before the Committee also showed medication dispensed in connection with IVF treatment on 10 and, 11 February 2020. He confirmed that the Registrant could not have seen that entry, either when she accessed the record in September 2018 or even subsequently, because she left the trust in 2019.

52. In answer to questions from Mr Hadley, Witness B acknowledged the investigation that he had taken over, had been concerned to identify unauthorised accessing of Patient A's notes and had not addressed the

question of who, if anyone, had disseminated the information contained in those records.

53. He confirmed that the result was that although the investigators had identified at least 16 people who had accessed the records at the relevant times, all of whom had had the opportunity to pass on the information from Patient A's records, nobody had taken any steps to ascertain or even asked them whether they may have divulged the contents of Patient A's records. That had not been, he confirmed the focus of the investigation. He acknowledged that in those circumstances, his investigation had not given him any indication who had been responsible for "passing on" the information from the records.

54. In answer to questions, Witness B explained that a patient's hospital number was comprised of a random set of letters and numbers. He accepted that it was possible to access the wrong patient's records, initially by mistake, if one typed in one wrong digit. He confirmed that if that happened, you should leave the record as soon as you realised you had no reason to view it. He also confirmed that it was not possible to interrogate the system to see which other medical records the Registrant had accessed.

55. The Committee also had careful regard to the original complaint filed by Patient A. it noted that the person who had informed Patient A that she had become aware of her IVF treatment, told her that she had been informed that she had had three unsuccessful cycles.

56. The Committee also noted the letter from the Trust to Patient A on 19 April 2021, to which it has referred above. It noted that on 1 October 2020, Patient A had requested her medical records from the Trust and had consented to them being sent by email and paper. It noted that on 26 November 2020 she had telephoned to say that information was missing and this had been found and emailed to her on 27 November 2020.

Submissions

57. The Committee heard submissions from Ms Khanna, who acknowledged that there was no direct evidence that the Registrant had divulged the information in Patient A's records but submitted that there was a strong inference that she had. She submitted that this inference was supported by the evidence that the Registrant and Patient A were childhood friends, the information disclosed related to the same matters that the Registrant had accessed, that the Registrant's explanation for accessing the records, namely, self sabotage, was unbelievable as an explanation for accessing of medical records but might be an explanation for divulging them. Finally, she reminded the Committee that Patient A had said she was a very private person who would not share information about IVF in particular, because of the impact it would have within her own community. She submitted that the Committee should treat the written evidence of the Registrant with real care, because it had not been tested in cross examination.

58. Mr Hadley reminded the Committee of the burden and standard of proof, and took the Committee carefully through all the evidence. He submitted that at the end of the day the Council relied upon the results of a Trust investigation, which had not even tried to find out who had disclosed the information. He reminded the Committee of the number of people who had accessed Patient A's medical records, and had the same opportunity to disclose the contents as the Registrant.

59. In answer to questions from the Committee, he submitted that the Committee should not draw any adverse inference from the expressions of remorse in the Registrant's response to the Allegations, because it was not clear what she was responding to, and what she had said, was consistent with remorse for accessing the private records of someone she knew. He submitted that the Committee should be careful not to assume that because the Registrant had admitted accessing the confidential records, she was the person who disclosed the information in them. In those circumstances, he

submitted that the Council had not established its case, on the balance of probabilities.

60. The Committee has set out its approach above. It weighed up all the evidence and noted the following:

a. The Registrant has, by her own admission, accessed Patient A's medical and dispensing records on 3 occasions between January 2017 and September 2018;

b. The records the Registrant accessed related to the IVF treatment which was later disclosed;

c. The Registrant and Patient A were known to each other;

d. The Registrant's written response to the Allegation and her submissions to the investigating Committee were, consistent with remorse for disclosing Patient A's confidential information, although they were also consistent with remorse for accessing the records. They were written in a document in which she expressly denied disclosing the information about Patient A and also admitted, of her own volition, that she had accessed other patients' records.

61. The Committee also noted the following:

a. Information relating to the contents of Patient A's records was disclosed two years and four months after the Registrant last accessed Patient A's records and 18 months after she had last been able to access them.

b. It was, in the Committees view, significant that when the Registrant accessed Patient A's Records, she would have seen evidence of at most two IVF cycles. The Committee was satisfied that the third cycle, in 2020, had taken place well over a year after the Registrant had accessed Patient A's records and after she had left the Trust. The Committee concluded that there is no evidence that the Registrant would have even known of the third cycle.

c. It is apparent from the correspondence that the disclosure of Patient A's medical information occurred, only three or four months after her records had been sent

to her by post and email in circumstances where some material appears to have gone missing and had to be retrieved.

d. The Committee noted that at least 16 people had access to Patient A's records, and that is without even considering whether a "leak" could have occurred from the practice of Patient A's general practitioner.

e. With regard to the people who had access at the Trust, the Committee noted that there had been no investigation into whether any of them might have, even inadvertently, have disclosed the information.

f. The Committee acknowledges the suffering experienced by Patient A and it does not doubt for a moment that she has suffered real hurt and injustice. Nevertheless, it has to weigh in the balance that it has had no opportunity to enquire of her whether there was any possibility that she may herself have let the information slip in advertently to someone close to her, or whether her husband may have done so.

62. Balancing all those considerations, and reminding itself that the burden of proving this Allegation rests upon the Council, the Committee has come to the following conclusion.

63. It acknowledges that the circumstances surrounding the disclosure of Patient A's confidential medical information gives rise to a real suspicion with regard to the Registrant. Those circumstances, also remind the Committee that any unauthorised handling of a patient's information is likely to give rise to an unjustifiable risk of disclosure and harm.

64. Nevertheless, balancing all the evidence set out above the Committee is not satisfied that the Council has discharged the burden of proving, even on the balance of probabilities, that the Registrant was responsible for the disclosure of the information in Patient A's medical records.

Particular 4 is found NOT proved.

65. This concludes stage 1.

Misconduct and Impairment

66. Having found the Particulars of Allegation proved as set out above, the Committee went on to consider whether the Particulars found proved amounted to misconduct that is serious and, if so, whether the Registrant's fitness to practise is currently impaired.

67. Ms Khanna called no further evidence. In written and oral submissions, she submitted that the matters found proved all amounted to misconduct that is serious and the Registrant's fitness to practise is impaired as a result.

68. Ms Khanna first addressed the issue of whether the matters found proved amounted to misconduct that is serious. In her written and oral submissions, Ms Khanna drew the Committee's attention to the relevant legal principles, to which the Committee refers below. Ms Khanna drew the Committee's attention to the following provisions of the Council's Standards for Pharmacy Professionals (May 2017).

a. **Standard 1**: Pharmacy Professionals must provide person-centred care.

b. **Standard 5:** Pharmacy Professionals must use their professional judgment.

c. **Standard 6**: Pharmacy Professionals must behave in a professional manner

d. **Standard 8**: Pharmacy Professionals must speak up when they have concerns or when things go wrong.

69. Turning to impairment, Ms Khanna again drew the Committee's attention to the relevant legal principles.

70. She drew the Committee's attention to Rule 5(2) of the rules which provides:

"(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 on."

71. She submitted that the Registrant 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 and (d) had shown that her integrity could not be relied upon.

72. She drew the Committee's attention to Paragraph 2.11 of the Council's publication, Good decision-making (revised March 2017):

"*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 adhering to the principles of good practice set out in our various standards, guidance and advice".*

73. She also drew the Committee's attention to a number of authorities, which are referred to, where necessary, in the Committee's decision set out below. These included of ***Cheatle v GMC [2009] EWHC 645 (Admin)***, ***Meadow v General***

Medical Council [2006] EWCA Civ 1390 [2007] 1 QB 462 and CHRE v NMC and Grant EWHC 927 (Admin).

74. She submitted that the Registrant's fitness to practise is currently impaired because there was a risk that the Registrant would repeat her misconduct and because a finding of impairment is necessary in the wider public interest to maintain public confidence in the profession of pharmacy and to maintain standards of behaviour.

75. The Committee heard submissions from Mr Hadley who reminded the Committee that misconduct and impairment were matters for the Committee's independent judgement, and there was no burden or standard of proof at this stage. He drew the Committee's attention to the Registrant's written statement and submitted that, as far as she was able, she conceded that the matters admitted, and found proved amounted to misconduct.

76. Mr Hadley accepted that the matters proved were serious, but submitted that, taken as a whole, they were less serious than if the matters alleged at Particular 4 had been approved.

77. Mr Hadley reminded the Committee of the case of **Cheatle v GMC** (above) and submitted that even matters with very serious consequences could be remediated so that a Registrant's fitness to practice was no longer impaired. He submitted that, in this case, the Registrant's misconduct was not ingrained, and the Committee should find it was highly unlikely that the Registrant would repeat this misconduct in the future.

78. Mr Hadley reminded the Committee of the provisions of rule 5 (2) of the Rules (set out above) and submitted that the Registrant had sufficiently remediated what went wrong. He drew the Committees attention to the Registrant's statement. He pointed out paragraph 2, which refers to a long and unblemished work history. He reminded the Committee of the matters set out in paragraph 3, where the Registrant sets out her very difficult

domestic circumstances (PRIVATE) which form the background to the Registrant's misconduct and explains why she acted as she did. He reminded the Committee that these matters had been revealed at an early stage in the Registrant's response to the Particulars of Allegation.

79. Mr Hadley submitted that the Committee should consider whether there was really more than a fanciful risk of repetition and invited the Committee to "take comfort" from the fact that the Allegations related to 2017 and 2018, and there had been no misconduct since then.

80. He also drew the Committee's attention to the Registrant's initial response to the Allegation, in which she had touched upon her difficult family circumstances. He submitted that the Committee should be reassured by her apology, admissions and the evidence of her remorse. He submitted that it was evidence of insight that the Registrant had apologised to the Trust.

81. Mr Hadley submitted that the Registrant had taken significant steps to avoid repetition. These included (PRIVATE). He submitted that, although the Registrant still had a difficult life, she had overcome great adversity in the past, and was unlikely to repeat her misconduct. He reminded the Committee that over 5 1/2 years have elapsed since her last misconduct and submitted that if the Registrant were going to repeat her misconduct, she would have done it by now.

82. Finally, Mr Hadley submitted that a finding of impairment was not required in the wider public interest, because of the extent to which the Registrant's circumstances had changed since the misconduct. He submitted that a fully informed member of the public would not require a finding that the Registrant's fitness to practise was currently impaired.

The Committee's approach

83. The Committee considered first whether the facts found proved amounted to misconduct that was serious. When considering the question of misconduct, it reminded itself that this was a matter for its own judgement, although it had regard to the helpful submissions it heard.

84. The Committee reminded itself of the decision of the High Court in ***Roylance v General Medical Council*** *(No.2) [2000] 1 AC 311 "*Misconduct' is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a medical practitioner in the particular circumstances."

85. It also had regard to the decision of the High Court in **Solicitors Regulation Authority v. Day and others** [2018] EWHC 2726 (Admin) which gave the following guidance to Committees: "*We do not, we emphasise, say that there is a set standard of seriousness or culpability for the purposes of assessing breaches of the core principles in tribunal proceedings. It is a question of fact and degree in each case. Whether the default in question is sufficiently serious and culpable thus will depend on the particular core principle in issue and on the evaluation of the circumstances of the particular case as applied to that principle."*

86. Turning to the question of impairment, the Committee reminded itself that impairment is a matter for its own professional judgement. It is not bound to accept the submissions of the parties, even if they are agreed, and must decide the issue of impairment for itself.

87. In reaching its decision, the Committee had regard to the nature, circumstances and gravity of the Registrant's misconduct, the risk of repetition and the critically important public interest issues, in particular the need to maintain confidence in the profession as well as declaring and upholding proper standards of conduct and behaviour for the profession.

88. The Committee also reminded itself that it is concerned with the Registrant's current fitness to practise, and this is of particular significance where the Registrant's misconduct occurred nearly 6 years ago and there is evidence that the Registrant has worked since then without further misconduct.

89. The Committee reminded itself of rule 5 of the Rules, set out above and considered each of the criteria set out in that rule. It also reminded itself 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.

90. The Committee also had regard to the following passages in the judgment of Cox J in the case of **High Court in *CHRE v NMC and P Grant [2011] EWHC 927 (Admin)***: *"Do our findings of fact in respect of the (Registrant's) misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:*

a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or

b) has in the past brought and/or is liable in the future to bring the …..profession into disrepute; and/or

c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or

d) has in the past acted dishonestly and/or is liable to act dishonestly in the future."

91. It examined the risk that the misconduct found would be repeated and reminded itself of the observations of Silber J in **Cohen v GMC [2008] EWHC 581 (Admin):**

> *"There must always be situations in which a Committee can properly conclude that the act of misconduct was an isolated error on the part of a medical practitioner and that the chance of it*

being repeated in the future is so remote that his or her fitness to practice has not been impaired. Indeed, the Rules have been drafted on the basis that once the Committee has found misconduct, it has to consider as a separate and discreet exercise whether the practitioner's fitness to practice has been impaired."

92. It also had regard to the following guidance from the same case:

"*Any approach to the issue of whether a doctor's fitness to practise should be regarded as 'impaired' must take account of 'the need to protect the individual patient, and the collective need to maintain confidence [in the] profession as well as declaring and upholding proper standards of conduct and behaviour of the public in their doctors and that public interest includes amongst other things the protection of patients, maintenance of public confidence in the (profession)'*

93. It also reminded itself of the following passage from the Judgment of Cox J in the Grant case referred to above, to which Ms Khanna drew the Committee's attention in her submissions:

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

The Committee's decision on misconduct

94. When considering whether the Particulars found proved amounted to misconduct that is serious the Committee took into account the *Good Decision making guidance* and the Council's Standards for Pharmacy Professionals (May 2017).

95. The Committee determined that that by her actions, the Registrant was in breach of the following provisions of the Standards:

a. **Standard 1**: Pharmacy Professionals must provide person-centred care.

   i. The Committee noted that this standard includes "respecting and safeguarding, the person's dignity". The Committee is satisfied that by intruding on the private records of patients for her own reasons, the Registrant breached this standard.

b. **Standard 5:** Pharmacy Professionals must use their professional judgment.

   i. The Committee noted that this standard includes the obligations to practise only when fit to do so and make the care of the person their first concern and act in their best interests. The Committee is satisfied that by practising for a considerable period of time when her own personal reasons and pressures led her to access patient records without justification for her own purposes put her in breach of this standard.

c. **Standard 6**: Pharmacy Professionals must behave in a professional manner. The Committee was satisfied that by accessing patient records for her own purposes, the Registrant did not behave in a professional manner

d. **Standard 7**: Pharmacy professionals must respect and maintain a person's confidentiality and privacy. The Committee was satisfied that the Registrant breached this standard by accessing the records, even if she did not disseminate them.

e. **Standard 8:** Pharmacy professionals must speak up when they have concerns or when things go wrong. The Committee is satisfied that if the Registrant was unable to carry out her duties because of personal difficulties, which led her to "*self-sabotage*," she was under an obligation to report this, and by not doing so, she was in breach of this standard.

96. The Committee reminded itself that not every breach of the standards, will amount to serious misconduct. It reminded itself of the account given by the Registrant in her statement (PRIVATE).

97. The Committee reminded itself that each Particular of the Allegation admitted by the Registrant and found proved amounted to an intrusion into the private medical records, or dispensing records, of a hospital patient who was entitled to expect and trust the employees at the hospital to treat their records with respect and only access them with the purposes of providing treatment. The Committee was satisfied that the Registrant's actions were a serious breach of the trust placed in her both by her employer and patients.

98. The Committee is satisfied that the gravity of the Registrant's misconduct is aggravated by the fact that the Registrant intruded into the confidential records of someone known to her, who would inevitably feel the sense of intrusion more keenly and that the records contain details of matters which she knew were of particular sensitivity for Patient A.

99. The Committee also had regard to the Council's guidance on confidentiality (which is given to Registrants in "In practice: Guidance on confidentiality"): *"Maintaining confidentiality is a vital part of the relationship between a pharmacy professional and a person under their care. A person may be reluctant to ask for advice, or give a pharmacy professional the information they need to provide proper care, if they believe that the pharmacy professional may not keep the information confidential. When pharmacy professionals do not handle confidential information appropriately it can damage public trust and confidence in the pharmacy professions and other healthcare professions."*

100. With regard to the Registrant's culpability, the Committee noted that it was not easy to understand the full extent of the pressures upon her without hearing from the Registrant directly. However, it was able to accept that what it has read was likely to reduce her culpability to a certain extent, and that the Registrant did not act with a view to personal gain.

101. Nonetheless, balancing the Registrant's culpability and the gravity of the matters proved, the Committee is satisfied that each Particular of the Allegation amounts to misconduct that is serious.

Decision on Impairment

102. Having found that the Particulars of Allegation admitted and found proved amounted to serious misconduct, the Committee went on to consider whether the Registrant's fitness to practise is currently impaired.

103. The Committee reminded itself of what it has found about the gravity of the Registrant's misconduct, and reminded itself that the Registrant's misconduct continued for almost 20 months.

104. The Committee is satisfied that by intruding on confidential records and accessing them without authorisation, the Registrant's conduct had the potential to put patients at risk. It is satisfied that the breach of trust and confidentiality brought the profession of Pharmacy into disrepute and breached one of the fundamental principles of the profession. The Committee is also satisfied, that by demonstrating she could not be trusted to use her access to personal records for professional purposes only, as she was trusted to do, the Registrant had demonstrated a lack of integrity.

105. In order to assess whether there was a risk that the Registrant would repeat some or all of these concerns in the future, the Committee considered whether there was a risk that the Registrant would repeat her misconduct. The Committee asked itself whether the misconduct was (easily) remediable, and if so whether the Registrant had remedied that misconduct so that there was no longer a risk of repetition.

106. The Committee was satisfied the Registrant's misconduct was remediable, if she had sufficient insight to undertake effective remediation.

107. The Committee first examined the evidence before it of the Registrant's insight.

108. The Committee had regard to the statements from the Registrant. It accepts that the Registrant has understood that her misconduct was serious, why it was serious, and that it must not be repeated. It accepts that her remorse for the harm done to patients and the trust is genuine.

109. However, the area of insight which gives the Committee, the deepest concern is the Registrant's understanding of why she accessed records in the way she did.

110. The Registrant has written that she accessed patient records initially by accident and found that she recognised the patient whose records she had accessed. After that, she continued to access that patient's and other patients' records, when she had no justification. She explained this by saying that she wanted to "*self sabotage*". She explained that she hoped the police would catch her and take her away. This would end her career (PRIVATE).

111. Nevertheless, the Committee could not understand her reasoning without further explanation. Committee noted that secretly accessing Records was a notably ineffective way of drawing attention to herself and noted that her actions were inconsistent with that aim because she did not reveal her misconduct, even when she left her employment.

112. For those reasons, the Committee is concerned that the Registrant does not herself fully understand why she behaved as she did, and until she does, she cannot gain full insight or properly remediate.

113. The Committee found that this view was supported by the lack of evidence of what the Registrant had actually done to ensure that she did not behave in this way again.

114. The Committee accepted that the Registrant made contact with a counselling service in October 2023. However, it was concerned that there was no evidence, much less independent evidence, of how often she had attended and what the counselling dealt with that would address the Committee's

concerns. Similarly, the Committee found that there was no material before it regarding the counselling in Somalia that could reassure it that the Registrant's difficulties had been addressed.

115. The Committee read the explanation by the Registrant at the end of her reflection piece:

(PRIVATE) *I realise that, when life gets tough and I am under a lot of pressure, I need to step back, assess the situation, seek help and resolve the issue. I will no longer allow my emotions to overrule my professional overview, judgement and responsibility.*

116. The Committee acknowledged that this is evidence of some reflection but remains concerned that it does not deal with how her (PRIVATE) difficulties led her to offend in this way or what she needs to do to ensure that there is no repetition.

117. The Committee was encouraged to an extent by the fact that it is over five years since the Registrant's misconduct. It has also read a favourable testimonial from the Registrant's line manager at the Barnsley hospital where she worked as a locum pharmacist, first between October 2019 and March 2020 and then from September 2021 until July 2023.

118. The Committee noted that the testimonial said she had, *"demonstrated a high level of professionalism and commitment to her professional clinical pharmacy duties. She immediately integrated into the department where she is well liked and has formed good professional relationships with the clinical pharmacy team. As her line manager, I have always found her to be punctual, enthusiastic, competent and hard-working in her duties and have not encountered any negative feedback from any colleagues during her time employed with us here. She is always willing to be flexible with her working hours and has proven to be a valued member of our team."*

119. Nevertheless, the Committee was concerned that the writer did not appear to be aware of the concerns in this case and it was not apparent when the testimonial was written.

120. (PRIVATE) Nevertheless, the Committee has insufficient information about where the Registrant is currently working and her present state of mind, in circumstances where the Registrant has told the Committee, through Mr Hadley (PRIVATE), despite several messages from the Committee that she can attend at any time.

121. Taking all those matters together, the Committee cannot be satisfied that the Registrant has developed sufficient insight and undertaken sufficient remediation to reassure the Committee that there is no longer a risk that she will repeat her misconduct, if she is once again in a difficult personal situation.

122. The Committee concluded that, in those circumstances, the Registrant's behaviour presents a potential risk to patients, there remains a risk that she will again bring the profession into disrepute and breach a fundamental tenet of the profession and that her integrity cannot be relied upon.

123. For those reasons the Committee was satisfied that the Registrant's fitness to practise is currently impaired because of the risk that the Registrant will repeat her misconduct.

124. The Committee then asked itself whether a finding of impairment was necessary for the Committee to fulfil its overarching objective of promoting and maintaining public confidence in the profession and upholding standards of conduct for the profession.

125. Having regard to all the matters set out above, the Committee is satisfied that public confidence in the profession would not be maintained and the Committee would be failing in its duty to uphold standards of conduct if there were no finding of impairment in this case.

126. The Committee is satisfied that a finding of impairment is necessary to send a clear message to the public and the profession that the misconduct in this case, which breached the trust of patients and the Trust, is wholly unacceptable and will result in a finding that a Registrant's fitness to practise is impaired, in particular, where the Committee cannot be confident that there is no longer a risk of repetition.

127. Accordingly, the Committee finds that the Registrant's fitness to practise is currently impaired under all three limbs of the overarching objective.

Decision on Sanction

128. Having found the Registrant's fitness to practise impaired, the Committee has gone on to consider what if any sanction to impose.

Preliminary matters at the sanction stage

129. Before dealing with sanction the Committee dealt with two preliminary matters.

130. The first was that the lay member of the Committee, Ms Tetlow, was unable to sit any further on this case, for personal reasons, and it was uncertain whether she would be able to sit again in the foreseeable future. For that reason, the Committee replaced her with Ms Leaviss who was available to sit today and who had already read the Committees determination and the other relevant papers in this case.

131. The Committee heard submissions from Ms Khanna and Mr Hadley. It reminded itself of the power to replace a Committee member confirmed in the case of **R (on the application of Michalak) v GMC** [2011] EWHC 2307]**.** It also reminded itself that the only matter on which it had heard evidence had been resolved in the Registrant's favour.

132. The Committee was satisfied that in all the circumstances it was in the interests of justice to proceed with sanction with Ms Leaviss as a member of the Committee.

133. The second preliminary matter was that the Registrant did not attend, although she continued to be represented by Mr Hadley. The Committee inquired of Mr Hadley why the Registrant was not present and established that she knew of the hearing but did not feel able to attend in light of the personal difficulties which was set out in her statement. She did not seek an adjournment and was content for Mr Hadley to represent her in her absence. Ms Khanna submitted that it was right for the Committee to proceed in the Registrant's absence.

134. The Committee was satisfied that the Registrant knew of the adjourned hearing and was content for Mr Hadley to represent her in her absence. The Committee also had regard to the public interest in completing this matter and decided to proceed in the absence of the Registrant.

The Committee's powers on sanction

135. 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.

136. 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 uphold professional standards. The Committee is therefore entitled to give greater weight to the public interest over the Registrant's interests, although it must bear in mind the principle of proportionality and ensure that it balances the need to protect the public against the rights of the Registrant and imposes a sanction that is no more restrictive than is necessary to achieve its objective.

137. The Committee had regard to the Council's '*Good decision making: Fitness to practise hearings and outcomes guidance'* (the Guidance) to inform its decision.

138. The Committee had regard to its decision at the impairment stage regarding the risk that the Registrant's misconduct would be repeated and the impact of her misconduct on public confidence in the profession.

139. The Committee also had regard to materials submitted on the Registrant's behalf by Mr Hadley. These comprised:

a. a further reflective piece by the Registrant in which she reflected on her (PRIVATE) and set out the lessons she had learned about seeking help "at the earliest signs of distress."

b. (PRIVATE)

140. The Committee took into account the written and oral submissions of Ms Khanna. She drew the Committee's attention to the relevant principles of law and the relevant guidance set out above. She reminded the Committee of the importance of patient confidentiality in maintaining public confidence in pharmacists.

141. She reminded the Committee of the principle set out in Bolton v Law Society *[*1994] 1 WLR in which , Bingham LJ said:

"the reputation of the profession is more important than the fortunes of any individual member. Membership of a profession brings many benefits, but that is a part of the price"

142. She submitted that the aggravating features of this case were:

- The Registrant's misconduct took place in the Registrant's place of work where she was in a position of trust;
- The Registrant had access to numerous confidential records – she abused that trust by her inappropriate and unprofessional use of the records;
- There was direct harm to Patient A;
- The Registrant did not disclose her conduct to the Trust and made admissions only when caught, in effect, red handed;

143. She drew the Committee's attention to the following mitigating features:

- The Registrant made admissions, to the Council, of accessing patient records without authorisation and patient consent;
- The Registrant apologised to the Trust and Patient A in response to the concerns raised;
- There are no Fitness to Practise matters recorded against the Registrant.

144. Mr Hadley took the Committee through the relevant law and reminded the Committee that the Registrant had practised for 15 years without other incidents of misconduct, either before or in the 5 ½ years since this misconduct. He reminded the Committee that the misconduct had occurred during a prolonged period of distress during which the Registrant (PRIVATE). He submitted that there was now material before the Committee that the Registrant was addressing those matters and the effect they had (PRIVATE).

145. He also reminded the Committee of the favourable testimonial provided for the Registrant by the principal pharmacist clinical services/deputy chief pharmacist at the Barnsley hospital where she had worked both between 2019 and 2020 and 2021 until 2023.

146. He submitted that the Registrant's misconduct, although serious, fell short of being fundamentally incompatible with continued registration.

The Committee's decision

147. The Committee first identified the following aggravating features:

a. The Registrant's misconduct was directly related to her work;

b. The Registrant's misconduct amounted to a breach of the trust placed in her by her employers because of her professional status;

c. There was direct harm to patient A in knowing that her records had been accessed by someone she knew, so that she had doubts about continuing with her treatment;

d. The Registrant repeated her access to Patient A's records on 3 occasions over a period of 20 months.

148. The Committee also identified the following mitigating features:

a. The Registrant's misconduct occurred during a long standing period of serious domestic difficulties which appear to have affected her mental health and her judgement significantly;

b. There are no other matters recorded against the Registrant in a 15 year career, either before this misconduct or in more than five years since;

c. The Registrant expressed remorse and apology to the hospital where she worked and to patient A in writing to the Council, before the hearing of this case;

d. The Registrant made admissions to all the matters proved against her and notified those admissions in advance of the hearing.

149. The Committee balanced those aggravating and mitigating features and concluded that, having regard to all the circumstances, the Registrant's misconduct was serious but not fundamentally incompatible with continued registration as a pharmacist. The Committee was satisfied that the Registrant's misconduct fell below the most serious misconduct referred to in the Guidance, in particular in light of the Committee finding not proved the allegation that she was responsible for the dissemination of the contents of the records she had accessed.

150. The Committee then considered the Registrant's insight in light of the material placed before it at this hearing. The Committee has already indicated in its finding on impairment that the Registrant had good insight into the seriousness of her misconduct and the effect it had upon patients, colleagues and public confidence in the profession. The Committee is satisfied that this is reinforced by the Registrant's additional reflections put before the Committee at this hearing.

151. The Committee expressed its concern at the impairment stage that the Registrant did not appear to understand why she committed the misconduct

and considered with care whether the material now before it addressed that concern.

152. The Committee was satisfied that it did because the Registrant's reflective piece demonstrated both an understanding of the extent to which she had acted irrationally and the steps she needed to take to ensure that it did not happen again. The Committee was also reassured by the records of the counselling which the Registrant had attended.

153. Against this background, the Committee considered whether the material now before it and the submissions it had heard were sufficient to persuade it that there was no longer a significant risk of repetition of misconduct.

154. The Committee had regard to the Registrant's statement presented to the Committee today, in which she addressed the reasons for her misconduct in the first place in more detail than the Committee had seen before, including the extent to which (PRIVATE) and her own recognition that her thinking at the time was entirely irrational.

155. The Committee is satisfied that these are sufficient to address its concerns about the Registrant's insight into why she behaved as she did. The Committee has already observed that the Registrant has developed satisfactory insight into the gravity of her misconduct and the impact it had on patients, her colleagues and the profession as a whole.

156. The Committee then considered whether its concerns about remediation had been addressed. In the decision on impairment, the Committee highlighted the absence of any records of the Registrant's counselling and the impact that had had. The Committee has now seen records from the counselling sessions which the Registrant has attended and found them to be significantly reassuring.

157. The Committee has also born in mind the helpful submissions of Mr Hadley with regard to the significant time that is elapsed since the Registrant's misconduct and the evidence that she worked in a hospital setting until 2023

and more recently as a Community Pharmacy locum without any further repetition of misconduct.

158. The Committee was also reminded itself that the Registrant had worked for 15 years without any other misconduct.

159. For all those reasons, taken together, the Committee is satisfied that there is no longer a significant risk that the Registrant will repeat her misconduct.

160. Accordingly, the Committee considered each of the available sanctions in turn in order to ensure that it did not impose a sanction that was more restrictive than necessary to protect the public and the wider public interest in maintaining confidence in the profession and upholding proper standards of conduct.

161. The Committee first considered taking no action. The Committee was satisfied that taking no action would be inconsistent with its findings and the identified need to maintain confidence in the profession and uphold standards of conduct.

162. The Committee then considered whether it should give a warning to the Registrant. The Committee noted the relevant passage at paragraph 4.3 of the Guidance which sets out that a warning may be appropriate when, *"There is a need to demonstrate to a Registrant, and more widely to the profession and the public, that the conduct or behaviour fell below acceptable standards. There is no need to take action to restrict a Registrant's right to practise, there is no continuing risk to patients of the public and when there needs to be a public acknowledgement that the conduct was unacceptable."*

163. The Committee considered this sanction with care but concluded that it would not be sufficient to satisfy the wider public interest in this case. The breach of confidentiality involved accessing a patient's records on more than one occasion and over several months, when there was no clinical need to do so. The breach is more serious because the Patient was known to the Registrant and the treatment was a particular sensitive nature.

164. The Committee next considered the imposition of conditions of practice.

165. The Committee reminded itself of the paragraph of the Guidance which indicates that conditions are most likely to be appropriate where, *"There is evidence of poor performance, or significant shortcomings in a Registrant's practice, but the Committee is satisfied that the Registrant may respond positively to retraining and supervision."*

166. The Committee concluded that conditions were not appropriate to address the concerns in this case because they arose from deliberate misconduct, not shortcomings in the Registrant's practice. The Committee was also satisfied that conditions would not be sufficient to maintain public confidence in the profession and uphold standards of conduct.

167. The Committee next considered whether suspension would be a proportionate sanction. The Committee noted the relevant paragraph of the Guidance which indicates that suspension may be appropriate where:

"*The Committee considers that a warning or conditions are insufficient to deal with any risk to patient safety or to protect the public, or would undermine public confidence. It may be required when necessary to highlight to the profession and to the public that the conduct of the Registrant is unacceptable and unbefitting a member of the pharmacy profession. Also, when public confidence in the profession demands no lesser sanction."*

168. Having reminded itself of all the matters set out above, the Committee concluded that suspension was the appropriate sanction because it would send the necessary signal to the public and the profession that the misconduct found in this case was not acceptable and the profession took seriously a patient's right to privacy.

169. In order to satisfy itself that it was imposing a sanction that was sufficiently restrictive to uphold the public interest, the Committee considered whether a removal order was necessary. It had regard to the relevant paragraph of the

Guidance, which provides that *"removing a Registrant's registration is reserved for the most serious conduct."*. The Committee concluded that a removal order was not consistent with its findings set out above that the misconduct in this case fell short of the most serious conduct. The Committee was satisfied that public confidence in the profession would be maintained by a period of suspension having regard to both the nature of the misconduct and the evidence, set out above, that there was no longer a significant risk of repetition.

170. The Committee then considered the appropriate length of suspension. The Committee balanced the seriousness of the misconduct and the significant mitigating factors. It concluded that a period of three months was appropriate to reflect the seriousness of the misconduct but also to reflect that, in light of the mitigation, it fell significantly short of requiring the Registrant's removal.

171. The Committee therefore directs that the Registrar *suspend the registration of* ***Nura Ali Baroot*** for a period of **3 months**.

172. The Committee considered whether it should order a review of the Registrant's suspension before it expires.

173. The Committee concluded that a review would serve no useful purpose in this case because it had already decided that there was no significant risk of repetition. Therefore, the Committee was satisfied that there were no continuing concerns which the Registrant would need to demonstrate had been resolved at a review hearing. Accordingly, the Committee does not order a review in this case and the Registrant's period of suspension will expire at the end of three months.