

**General Pharmaceutical Council**

**Fitness to Practise Committee**

**Principal Hearing**

Remote videolink hearing

**22 April – 1 May 2024, 7 May 2024 and 12-13 June 2024**

<b>Registrant name:</b>	Douglas Rowland Hemingway
<b>Registration number:</b>	2218719
<b>Part of the register:</b>	Pharmacist
<b>Type of Case:</b>	Misconduct
<b>Committee Members:</b>	Lubna Shuja (Chair) Jignesh Patel (Registrant member) Nalini Varma (Lay member)
<b>Legal Adviser:</b>	Neville Sorab (from 22/4/24 to 26/4/24 pursuant to Rules 44(4) and 44(5) of the Rules)
<b>Committee Secretary:</b>	Chelsea Smith and Sameen Ahmed
<b>Registrant:</b>	Present (not represented)
<b>General Pharmaceutical Council:</b>	Represented by David Sadeh, Case Presenter
<b>Facts proved:</b>	2.1, 2.2, 2.3, 2.4, 2.5, 3.1, 3.3, 3.4, 3.5, 3.6, 3.7, 3.8, 4, 5.1 and 5.2  6 in relation to 2.1, 2.2, 2.3, 2.4, 2.5, 3.3, 3.4, 3.5, 3.6, 3.7, 3.8, 4, 5.1 and 5.2  6.1 in relation to 2.2, 2.3, 2.4, 3.7, 3.8 and 5.2  6.2 in relation to 2.2, 2.4, 2.5, 3.3, 3.4, 3.7, 3.8 and 4
<b>Facts proved by admission:</b>	3.2

<b>Facts not proved:</b>	6, 6.1 and 6.2 in relation to 3.1 and 3.2
<b>Fitness to practise:</b>	Impaired
<b>Outcome:</b>	Suspension Order for 12 months
<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 15 July 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 (as amended)**

*You, a registered pharmacist, whilst employed by Blackpool Teachings Hospitals NHS Foundation Trust (“the hospital”),*

*1. [Withdrawn].*

*2. Regarding Colleague B,*

*2.1 on 14 December 2018, whilst at a Christmas party at Madame Tussauds:*

*2.1.1 touched her bottom when group photographs were being taken;*

*2.1.2 subsequently touched her bottom for the second time when a photograph was taken of you with Colleague B;*

*2.2 during the week commencing 17 December 2018, said to her “I bet you liked it” or words to that effect with reference to 2.1 above;*

*2.3 on an occasion between 3 May 2019, grabbed her bottom whilst at a colleague’s leaving event at the Cube nightclub in Poulton;*

*2.4 in July 2019, whilst attending a Continuous Professional Development session at the hospital:*

*2.4.1 showed a question that you had written on a piece of paper, which asked if she used sex toys;*

*2.4.2 said “you must make time for yourself, you must use them” or words to that effect with reference to 2.4.1*

*2.5 in April 2021:*

*2.5.1 asked her if her back pain affected her sex life;*

*2.5.2 asked her if she “could not be as vigorous when having sex” or words to that effect.*

*3. Regarding Colleague E, on 28 November 2019,*

*3.1 asked her how her love life was;*

*3.2 said you liked the tattoo on her thigh, or words to that effect;*

*3.3 said to her “you must have been with people were are shit in bed” or words to that effect;*

*3.4 said her ex-boyfriends must have been shit in bed or words to that effect;*

*3.5 requested to see the tattoo on her leg;*

*3.6 asked her if she wanted a hug, and then gave her a hug by squeezing her when she refused;*

*3.7 said to her “you just need a good shag” or words to that effect;*

*3.8 whispered in her ear “no you need someone to make you come” or words to that effect;*

*4. Regarding Colleague F,*

*4.1 on 27 November 2019, looked at her in a suggestive manner and said “I just want to tell you, you look nice today” or words to that effect.*

*5. Regarding Colleague G,*

*5.1 on, or around the end of 2019, made a comment “you are quite attractive for an older lady” or words to that effect;*

*5.2 in September 2020, said “I bet you are dirty in bed” or words to that effect.*

*6. Your actions in relation to 1 to 5 above were in appropriate and/ or sexual in nature and/ or sexually motivated in that you;*

*6.1 Sought to obtain sexual gratification and / or;*

*6.2 Acted in pursuit of a sexual relationship / sexual interaction.*

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

## **Documentation**

- GPhC Hearing Bundle (206 pages)
- GPhC Combined Statement of Case and Skeleton Argument dated 12 April 2024
- Files Notes from GPhC dated 12 February and 8 April 2024 relating to Particular 1
- Email from GPhC dated 3 April 2024 relating to Particular 1
- Unredacted Photograph 1 of an Exhibit to Colleague B's statement in the GPhC Hearing Bundle
- Unredacted p124 of the GPhC Hearing Bundle
- Photographs 4, 5 and 6 relating to Particular 2
- The Registrant's Hearing Bundle (116 pages)
- The Registrant's Combined Statement of Case and Skeleton Argument dated 17 April 2024
- Reference dated 26 March 2024 from one of the Registrant's colleagues at Blackpool Teaching Hospitals
- Photographs 2 and 3 from the Registrant relating to Particular 2
- The Registrant's Professional Boundaries Course Information

## **Witnesses**

- Witness 2, Director of Pharmacy - gave evidence at facts stage
- Witness 4, Clinical Matron - gave evidence at facts stage
- Colleague B, Pharmacy Technician - gave evidence at facts stage
- Colleague E, Healthcare Assistant - gave evidence at facts stage
- Colleague F, Assistant Practice Nurse - gave evidence at facts stage
- Colleague G, Clinical Improvement Lead - gave evidence at facts stage
- The Registrant – gave evidence at facts and impairment stage

## Determination

### Introduction

1. This is the written determination of the Fitness to Practise Committee at the General Pharmaceutical Council ('the Council').
2. The matter concerns Douglas Rowland Hemingway ('the Registrant') who is registered with the Council as a Pharmacist, registration number 2218719.
3. 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").
4. 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.
5. 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.
6. 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.

### **Preliminary matter – Rule 44(4) and 44(5) of the Rules**

7. The Registrant was unrepresented for this Principal Hearing which involved allegations against a person concerned of a sexual nature. There were four witnesses who were the alleged victims. Consequently, in accordance with Rule 44(4) of the Rules, the Registrant could not cross-examine the four witnesses, who were the alleged victims directly in person.
8. For the following reasons, the Committee decided that the Legal Adviser would be an appropriate person under Rule 44(5) to cross-examine the four witnesses who were the alleged victims on behalf of the Registrant:
  - a. No representation for the Registrant could be found to cross-examine the four witnesses who were the alleged victims.
  - b. Neither the Rules nor the Order prohibit the Legal Adviser from cross-examining the four witnesses who were the alleged victims, subject to any conflict of interest.
  - c. This issue was raised prior to the Legal Adviser advising any of the parties or meeting the Committee, so there was no actual or perceived conflict of interest.
  - d. The Registrant, Legal Adviser, Case Presenter and Committee had no objection to the Legal Adviser cross-examining the four witnesses who were the alleged victims.
  - e. The Chair of the Committee is legally qualified.
  - f. The witnesses were all ready and available to give evidence. The Registrant did not want there to be any further delay. The Committee was satisfied that it was in the public interest for this matter to be determined as soon as possible. Rescheduling the Principal Hearing would lead to an extended delay given the number of witnesses involved and the need to reconstitute another Committee.
  - g. Some of the allegations were over five years old. Dealing with the Principal Hearing as soon as possible would be in the interests of justice and beneficial given the relative fresher memories of witnesses, compared to any further delay.

9. Practically, following this decision, the Legal Adviser was no longer an independent Legal Adviser to the Committee. The Legal Adviser was present for the sole purpose of cross-examining the four witnesses who were alleged victims on behalf of the Registrant, following which, the Legal Adviser no longer participated in the Principal Hearing.

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

10. The Committee has seen a letter dated 21 February 2024 from the Council headed 'Notice of Hearing' addressed to the Registrant. No issue was taken with service by either of the parties. The Committee was satisfied that there had been good service of the Notice in accordance with Rules 3 and 16.

### **Application to withdraw Particular 1 of the Allegation**

11. Mr Sadeh, on behalf of the Council, made an application to withdraw Particular 1 of the Allegation. He referred the Committee to the Council's file notes dated 12 February 2024 and 8 April 2024 and an email dated 3 April 2024 which related to Particular 1. These indicated that the witness involved in this Particular was not willing to attend the hearing to give evidence. Mr Sadeh confirmed the Council did not seek to offer any evidence on this Particular. The Council did not intend to rely on the witness's statement contained in the Hearing Bundle and Mr Sadeh did not apply to admit that evidence as hearsay. He submitted that although that evidence was contained in the bundle the Committee could disregard it. The Registrant agreed to the application to withdraw Particular 1 of the Allegation.
12. The Committee noted from the file notes and emails provided that the relevant witness did not wish to give evidence and had explained the reasons for this. The witness was not willing to attend the hearing and the Council did not seek to pursue this Particular any further. The Committee took into account the nature of the allegations in that Particular against the Registrant, and that the only evidence in support came from this witness who was not willing to attend the hearing. In light of



this, the Committee granted the application to withdraw Particular 1 of the Allegation.

13. The Committee confirmed that it was a professional Committee and would put Particular 1 out of its mind when considering the remaining Particulars.

#### **Application to amend the Particulars of Allegation**

14. The Committee heard an application from Mr Sadeh, on behalf of the Council, under Rule 41 to amend Particular 4 to correct a minor numerical typographical error in the subparagraph from “5.1” to “4.1”. The Registrant did not oppose the proposed amendment.
15. The Committee granted the application as it was simply to correct a typographical error and did not have any impact on the nature of the allegation contained within the Particular.

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

16. It was apparent from the witness statements provided that a number of witnesses would be likely to refer to health and personal issues during the course of the hearing. The Committee therefore proposed to allow parts of the hearing to be held in private under Rule 39(3). The parties did not object to this.
17. The Committee decided to hold certain parts of the hearing in private when there would be any reference to health or personal issues relating to the witnesses or the Registrant. This would maintain their right to privacy and protect their private life. The Committee was satisfied that the interests of maintaining their privacy outweighed the public interest in holding those parts of the hearing in public.

### **Application to admit further evidence**

18. The Registrant made an application under Rule 18(5) to admit two photographs into evidence, which he submitted were relevant to Particular 2.1 of the Allegation. These had been downloaded from social media posts and were relevant to the Registrant's case. Mr Sadeh did not oppose the application.
19. The Committee decided to admit the additional photographs into evidence. They were relevant to events that had taken place during the evening of 14 December 2018 and may be of assistance to the Committee when determining the facts. They were also on social media and therefore were or had been in the public domain already. The Committee was also mindful that the Registrant was not represented and had complied with the Rules in relation to disclosure of all his other documents. It was in the interests of justice and a fair hearing to allow the photographs to be admitted as requested.

### **The Registrant's response to the Particulars of Allegation**

20. The Registrant admitted Particular 3.2.
21. In light of the above, and under Rule 31(6) of the Rules, the admitted factual Particular 3.2 was found proved.
22. The Committee went on to receive evidence and submissions regarding the remaining disputed Particulars.

### **Background**

23. The Registrant undertook his pre-registration training as a pharmacist at Blackpool Teaching Hospitals NHS Foundation Trust ("the hospital") from July 2017 to July 2018. Having completed his training, he was employed by the hospital as a Band 6 Rotational Pharmacist until August 2020, when he was promoted to a Band 7 Rotational Pharmacist. From October 2020 until September 2021, the Registrant was employed by the hospital as a Haematology, Oncology and Palliative Care Clinical

Pharmacist. In September 2021 he was suspended by the hospital and in September 2022, his employment was terminated.

24. On 19 September 2022, the Council received a concern from the Chief Pharmacist at the hospital, reporting there had been whistle blowing from a number of female staff members. An initial investigation had taken place at the hospital in 2019 which had resulted in no formal action, as the Registrant was alleged to have reflected upon and apologised for the incidents. Further concerns were subsequently raised in September 2021 and on 23 September 2021, the Registrant was suspended from work pending a formal investigation.
25. Witness 2 was the Director of Pharmacy at the hospital and became aware of concerns about the Registrant in September 2021. She reported these to the HR Department. Witness 4 who was the Clinical Matron at the hospital, was then nominated the role of Investigating Manager and carried out a number of interviews with the staff members involved, including the Registrant. The investigation took 12 months to conclude. Both Witness 2 and Witness 4 had provided the Council with witness statements detailing their involvement in the matter.
26. The Council conducted its own investigation into concerns raised by four witnesses, who were all female employees at the hospital - Colleague B, Colleague E, Colleague F and Colleague G. They had all provided witness statements to the Council giving details of various alleged incidents involving the Registrant during the period from 2018 to 2021.

#### Colleague B – Particular 2

27. Colleague B, a Pharmacy Technician at the hospital, had worked with the Registrant since 2017 when the Registrant started his pre-registration training.
28. At a work Christmas party on 14 December 2018, at Madame Tussauds, while a group photograph was being taken, Colleague B alleged that the Registrant had

touched her bottom. Colleague B alleged that he had touched her bottom a second time, when a photograph of only the Registrant and Colleague B was taken.

Colleague B stated that she did not report these incidents at the time as she put them down to the Registrant being *“very drunk”*.

29. During the week following this incident, Colleague B alleged that the Registrant approached her whilst they were both allegedly on Ward 10. She alleged that as she was checking a patient’s locker, the Registrant had asked her: *“Did I put my hand on your bum at the party?”* She stated that she told him he had and he allegedly apologised. However, Colleague B alleged the Registrant went on to say: *“but I bet you liked it.”*
30. On 3 May 2019, Colleague B attended a *“leaving do in Poulton”* for another staff member at the Cube nightclub. She alleged that as she was ordering a drink from the bar, the Registrant appeared next to her and *“grabbed my bottom”*. Colleague B stated that she told the Registrant: *“No, you’re not doing that again”* and that he immediately *“backed off”*.
31. Colleague B stated in July 2019, she attended a Continuous Professional Development (CPD) session at the hospital on Ward 34/35. She alleged that during this session, the Registrant showed her a piece of paper on which he had written a question in green pen asking her if she used sex toys. Colleague B stated she wrote back on the paper *“no”* and shook her head as she did, to indicate she was not entertaining this sort of question. Colleague B alleged the Registrant wrote a further question which she could not recall and which she did not answer. She alleged the Registrant did not let go of the piece of paper.
32. During the internal hospital investigation, Colleague B had alleged the second comment the Registrant had written was: *“You must make time for yourself, you must use them”*.

33. In April 2021, Colleague B alleged that as she was leaving the hospital canteen at the same time as the Registrant, they were walking downstairs and she was experiencing back pain. She alleged the Registrant asked her about her back pain and how it affected her sex life. She alleged he asked her if this meant that she couldn't be as vigorous when having sex.

Colleague E – Particular 3

34. Colleague E was a Healthcare Assistant working at the hospital on Ward 6. She stated the Registrant sometimes covered her Ward. She stated that on 28 November 2019, the Registrant had come onto the Ward as she was sitting at the nurses' station and during their conversation, she alleged he had asked her questions about her "love life". She alleged he stated: "*I don't know how anybody could cheat on you*". Colleague E alleged the Registrant then said he liked the tattoo on her thigh. Colleague E stated she was confused as to how the Registrant knew she had a tattoo on her thigh as her uniform dress covered it and she did not think it could be seen through her tights, but she replied, "*thanks*" and told him it was of roses and lilies tied together with a bow. She said they then discussed their work Christmas parties and she informed him she would not be drinking much because the previous year she drank too much and couldn't remember the night as she had too many shots.
35. Colleague E said that she then got up and walked to the kitchen and alleged the Registrant followed her. She stated that the housekeeper came into the kitchen and alleged that the Registrant then asked her to go to the Doctors' office with him, which she did. Whilst in the Doctors' office, Colleague E alleged the Registrant continued talking about her ex-boyfriend cheating on her. She alleged the Registrant said she looked like she needed a hug to which she said she was fine. Colleague E alleged the Registrant then said she must have been with people who were "*shit in bed*". She alleged the Registrant then asked if he could see the tattoo on her leg. Colleague E stated that she showed him the bottom half by pulling her dress up slightly and stretching her tights so the tattoo could be seen through them although not clearly. Colleague E alleged there was another discussion about their work

Christmas parties which were on the same day, and she told him she would not stay long as it was her friend's 21<sup>st</sup> party on the same day. Colleague E alleged the Registrant suggested she should go into town but she told him she planned to go straight home. Colleague E alleged the Registrant then mentioned her ex-boyfriend again, saying he must have been: *"shit in bed"*. Colleague E said that she changed the subject, as she felt very uncomfortable and wanted to get out of the situation. As she got up, she alleged the Registrant asked if she wanted a hug, she said *"no"* but he came over to her and gave her a hug.

36. Colleague E said she walked out of the Doctors' office and alleged the Registrant followed her. As they walked along the corridor, Colleague E alleged the Registrant said: *"you just need a good shag,"* to which Colleague E panicked and replied *"no, I don't, I'm not desperate, there are other ways"*. Colleague E alleged the Registrant then came close to her and whispered in her ear: *"no, you need someone to make you come"*. Colleague E stated she felt very uncomfortable and continued walking down the corridor towards bed 12. She alleged the Registrant followed her and asked her to go to town after her friend's 21<sup>st</sup> birthday party and said he would buy her a shot. Colleague E stated she pulled the curtain around bed 12 and started crying.

#### Colleague F – Particular 4

37. Colleague F was an Assistant Practice Nurse who had worked at the hospital for 22 years. She had worked with the Registrant on Ward 6 in 2019. She stated that they initially had a good professional working relationship.
38. Colleague F alleged that on 27 November 2019, she had been discussing a patient's discharge with the Registrant. As the conversation was coming to an end, she alleged the Registrant looked at her in a suggestive way and said: *"I just want to tell you, you look really nice today"*. Colleague F stated this was *"totally out of context"* and she found it most uncomfortable and felt embarrassed. She stated that she had been

wearing her work uniform that day and had not dressed or looked any differently as “she looked the same every day”. Colleague F stated:

*“I didn’t think it was appropriate what Doug said, bearing in mind we were at work and having a work related discussion, but it was more the suggestive way that he looked at me and it was totally out of context and made me felt uncomfortable and embarrassed..... The look on his face and in his eyes, was not something I had seen from him before..... it made me feel anxious and uncomfortable.....”.*

#### Colleague G - Particular 5

39. Colleague G was the Clinical Improvement Lead at the hospital. She alleged she had worked with the Registrant in late 2019 on Ward C where he had been the Ward pharmacist. She stated that the Registrant seemed friendly and they would often talk about holidays and his dog. She alleged that around the end of 2019, he made comments to her like “you are quite attractive for an older lady”.
40. Colleague G stated that on a day in late 2020, she was at the end of her working day and was heading to the changing room to change out of her uniform before going home. She alleged the Registrant was walking along the corridor behind her heading in the same direction. Colleague G stated that when she came out of the changing room, the Registrant was allegedly standing there looking at his phone. Colleague G alleged he followed her as she walked to the exit door close by, and as she walked onto the stairwell, he stood in the exit doorway, pulled down his Covid mask and said to her: “I bet you’re dirty in bed.” Colleague G said she responded “that is disgusting” and left.
41. The Registrant denied the allegations. He accepted some of the events had taken place but not in the manner alleged.

## Submissions of the Parties

42. Mr Sadeh, on behalf of the Council, gave a summary of the evidence given by the witnesses and reminded the Committee it did not have to make a finding on every disputed matter but only on issues relevant to the allegations. He submitted in relation to Particular 6 that inappropriate behaviour was conduct which was not suitable or appropriate for a particular situation. He submitted these allegations related to professional employees in a professional setting and the Registrant had acted in a manner with junior staff which was not appropriate for that environment.
43. Mr Sadeh submitted that when considering whether the Registrant's conduct had been sexual in nature as alleged in Particular 6, it was relevant that the touching had been of buttocks which were private body parts. He conceded the Committee may conclude that the touching of Colleague B's bottom was not sexual in nature because his hand was outside her clothing.
44. In considering whether there had been sexual motivation, Mr Sadeh submitted the Committee must consider the definition of sexual motive given in the case of Basson v GMC [2018] EWHC 505:
- "...sexual motive means that the conduct was done either in pursuit of sexual gratification or in pursuit of a future sexual relationship..... the state of a person's mind is not something that can be proved by direct observation. It can only be proved by inference or deduction from the surrounding evidence."*
45. Mr Sadeh submitted the Registrant had engaged with colleagues with the intention of future sexual interaction, that it had given him a source of pleasure or a source of satisfaction. Mr Sadeh reminded the Committee of the case of Dutta (On the Application of) v GMC [2020] EWHC where it was held:

*"...the best approach from a judge is to base factual findings on inferences drawn from documentary evidence and known or probable facts. This does*



*not mean that oral testimony serves no useful purpose... But its value lies largely... in the opportunity which cross-examination affords to subject the documentary record to critical scrutiny and to gauge the personality, motivations and working practices of a witness, rather than in testimony of what the witness recalls of particular conversations and events. Above all, it is important to avoid the fallacy of supposing that, because a witness has confidence in his or her recollection and is honest, evidence based on that recollection provides any reliable guide to the truth".*

46. In relation to the issue of collusion which the Registrant had raised towards the end of his evidence, Mr Sadeh submitted the definition of collusion from the Collins dictionary was: *"1. Secret agreement for a fraudulent purpose; connivance; conspiracy. 2. a secret agreement between opponents at law in order to obtain a judicial decision for some wrong or improper purpose."* He submitted there was no evidence that the witnesses had conspired against the Registrant to falsify or change decisions. Mr Sadeh reminded the Committee that the allegation of collusion was not set out in the Registrant's witness statement, or in his Admissions/Denials document and it had not been mentioned during the hospital internal investigation. It had not been put to any of the witnesses that they had colluded with each other and there was no evidence that they had met up outside the hospital to conspire and make something up. Mr Sadeh stated the allegations involved different times, different months even different years, as well as different parts of the hospital and there was nothing from any of the witnesses to suggest they had an underlying vendetta against the Registrant.
47. The Registrant in his submissions pointed out what he considered to be the inconsistencies in the various witnesses' evidence. He submitted that in relation to some of the alleged incidents, he had not been working in the areas of the hospital as alleged, the dates given were incorrect, other people would have overheard the comments he was alleged to have made, and some aspects of the witnesses' recollections had changed over time. The Registrant submitted the version of events

given by some of the witnesses were implausible and they had not been telling the truth.

48. The Registrant alleged there had been collusion between some of the witnesses, although he conceded he did not allege Witnesses 2 and 4 had colluded, as he accepted they were doing their duty in the investigation. He referred specifically to the comment made by Colleague F in her evidence that she had *“heard things and spoken to people. Appears to be widespread and happened in other areas of the hospital. Not normal behaviour so yes that’s a problem. Involved different types of women...”*. The Registrant submitted this was evidence that staff members had shared their allegations with each other, as there was no other explanation for how Colleague F could have known this as she worked in a different area to the others.
49. The Registrant also alleged Colleague G had been involved in the collusion because she had said in her investigation interview that she had heard *“the pharmacy technicians talking to each other about it”*. He stated Colleague G’s interview had been last and there was clear collusion because she had been asked by HR in her interview: *“I just want to confirm with you about what we have been advised he has said to you previously. He apparently has referred to you how you would “be in bed”. Has he ever made a comment like that?”* The Registrant submitted Colleague G must have spoken to someone else about it for HR to have known about this before she was interviewed and indeed, he had provided a statement from another colleague, NH, who had said Colleague G had discussed it with her.
50. The Registrant submitted Witness 2 had contacted Colleagues E and F much later in the investigation. He submitted that by informing staff the Registrant had been suspended, Witness 2 had put the suggestion in their minds that he was the pharmacist being investigated.
51. The Registrant referred the Committee to the case of Sait v GMC [2018] EWHC 3160 (Admin) which emphasised the need for proper scrutiny of all evidence in order to determine whether “sexual motivation” can be proved. Lord Nicholls had stated:

*“.....the more serious the allegation the less likely it is that the event occurred and, hence, the stronger should be the evidence before the court concludes that the allegation is established on the balance of probability”.*

52. The Registrant referred the Committee to the case of Suddock v NMC [2015] EWHC 3612 (Admin) where it had been stated:

*“Whilst demeanour is not an irrelevant factor for a court or tribunal to take into account, the way in which the witness's evidence fits with any non-contentious evidence or agreed facts, and with contemporaneous documents, and the inherent probabilities and improbabilities of his or her account of events, as well as consistencies and inconsistencies (both internally, and with the evidence of others) are likely to be far more reliable indicators of where the truth lies.”*

53. The Registrant submitted he had worked in 22 areas across the hospital, he had been promoted three times, he had received excellent feedback on his work and he had provided the Committee with references. He submitted that if he had been in the areas of the hospital he should not have been in, this would have been noticed. [PRIVATE]. He reminded the Committee that he had made some concessions, submitted he had been open and honest and had engaged fully with his regulator.

### **Decision on the Registrant’s Allegation of Collusion**

54. The Committee noted that the allegation of collusion had only become apparent towards the end of the Registrant’s evidence, when he alleged the witnesses had discussed their complaints with each other. Unfortunately, these matters were not put to any of the witnesses during their evidence. When asked about this omission, the Registrant stated that he did not think it needed clarification with Colleague F as she had stated in her evidence that she was aware of others who had made allegations against him. The Registrant was unable to give an explanation as to what motive the witnesses may have for colluding, simply stating some of the witnesses had confirmed they did not like him, found him boring and annoying, and there had

been comments about him being “*creepy*”. He considered they may have wanted to get him into trouble.

55. No motive for collusion had been apparent to the Committee from the evidence given by the witnesses. The Committee therefore carefully considered the chronology and contemporaneous records provided. The relevant chronology was as follows:

- December 2018 – Three alleged incidents involving Colleague B at or after the Christmas party, none of which were immediately reported.
- May 2019 – Another alleged incident involving Colleague B at the Cube nightclub which was not reported at the time.
- July 2019 – Another alleged incident involving Colleague B at a CPD session which was not reported.
- 27 November 2019 – An alleged incident involving Colleague F which was reported at the time in a contemporaneous statement dated 2 December 2019.
- 28 November 2019 – Alleged incidents involving Colleague E which were reported at the time in a contemporaneous statement dated 2 December 2019.
- Late 2019 – An alleged incident involving Colleague G which was not reported at the time
- September 2020 – Another alleged incident involving Colleague G which was not reported at the time.
- April 2021 – Another alleged incident involving Colleague B which was not reported at the time.
- 22 September 2021 – Colleague G was contacted by Witness 2 asking if there had been any inappropriate behaviour from pharmacy staff. It appeared Colleague G did not report the Registrant’s alleged conduct with her on this date but did mention his name saying: “*he is inappropriate, sleazy..*”.

- 23 September 2021 - The Registrant was suspended by the hospital and Witness 2 informed staff in an online meeting that *“Doug had left the premises for the foreseeable...”*.
- 24 September 2021 - Colleague B reported the Registrant’s alleged conduct.
- At some point in September 2021 – Colleague G reported the Registrant’s alleged conduct.

56. Witness 2 had explained that concerns about the Registrant were first reported to her on 20 September 2021. After Witness 2 had reported the concerns raised to the HR Department, she checked the Registrant’s personnel file, which was in a locked cabinet, and she had found a white envelope in his file which contained statements dated 2 December 2019 from Colleagues E and F. There were also two undated statements from the Registrant. His first statement stated the allegations against him were false. His second statement stated that, following a discussion with the then Assistant Director of Pharmacy and a period of reflection, the Registrant apologised for his unprofessional behaviour and accepted the events described by Colleagues E and F.

57. Witness 2 stated that she had been disappointed matters had been dealt with in an informal way with no HR involvement at the time. She confirmed that on 23 September 2021 the Registrant was suspended with immediate effect and Witness 2 had informed staff on an online meeting the same day: *“Doug had left the premises for the foreseeable and asked staff not to discuss among themselves ... I encouraged anyone that needed to speak about this, to come to me. I then ended the call. It was a very short meeting.”*

58. In her evidence, Witness 2 recalled Colleague B came to speak to her the following day and was *“incredibly distraught”*. She was *“hysterically crying”* to the point that Witness 2 said she spoke to the HR Department about Colleague B’s well-being.

59. Witness 4 was also asked about his investigation. He recalled Colleague E was *“quite teary, shaken by the investigation”* and Colleague F was *“upset by the nature of the interview”*. He said they were upset about having to talk about their experiences again and re-live what had happened. Witness 4 stated they had been reluctant to talk about it. He stated *“there was no sense that they had put their heads together to come up with this.”*
60. Colleague B stated that she had not reported the alleged incidents in 2018 and 2019 because: *“it’s one of those things - male versus female, technician versus pharmacist, no proof. I wanted to progress and didn’t want to rock the boat with senior staff”*. She was then off work for much of the period from April 2020 to April 2021 for health reasons. On her return to work in April 2021 she said she was told that the Registrant had been removed from Ward 6 although she did not know why. She had stated in her witness statement to the Council: *“There was a rumour about him being inappropriate with a staff member”*. She also said that prior to the investigation she had confided in some of her friends about the Registrant acting inappropriately around her but once the investigation began, she only discussed it with the investigators.
61. Colleague B stated that when she had the online call from Witness 2 on 23 September 2021: *“I knew exactly why the suspension must have happened, so the next day I went to see the Director of Pharmacy to tell her what had happened to me.”*
62. Colleague E stated that her Ward manager had not been available that day. Within a few days after the incident on 28 November 2019, when she had spoken to her Ward manager, he advised her to type up a statement setting out what had happened, which she did when matters were fresh in her mind. She confirmed she had no grudge against the Registrant and no reason to make things up.
63. Colleague G confirmed she had received a call from Witness 2 in September 2021 telling her a pharmacist was being investigated and asking her if there had been any

concerns regarding pharmacists acting inappropriately. Colleague G stated that she “just knew straightaway” Witness 2 meant it was the Registrant.

64. Colleague G stated in her evidence that she had not wanted to be involved, or interviewed and that she had not reported the 2019 and 2020 incidents because she didn’t want to be part of it. She stated that at the time, even though she knew the conduct was inappropriate, she did not want to be interviewed and have her words twisted. She felt she would be “discredited” by others and said she had not been aware of “the bigger picture”. Colleague G initially stated she had not mentioned the incidents to anyone but also conceded she may have discussed what happened to her with another staff member. She stated that there was no ongoing investigation at the time so there was no confidentiality. She did not know how many others were aware of what had happened to her. She said that after being contacted by Witness 2 in September 2021, she realised she had a professional obligation to speak out even though she did not want to be involved or interviewed.
65. The Committee noted that the Registrant had made specific reference to Colleague G discussing her allegations with NH, another staff member. NH had not been called to give evidence. The Committee noted Colleague G stated in her witness statement that in September 2021 a member of staff (whose name was redacted) had mentioned the Registrant went to the same gym as that staff member and he had been suspended from work due to the allegations. The Committee also noted that in NH’s investigation interview on 18 July 2022, NH stated that Colleague G had told her the Registrant was under investigation for sexual harassment. NH also confirmed in that statement that NH “saw Doug in the gym numerous times outside of work...”. The Committee concluded that it could infer from this Colleague G and NH had spoken to each other about the allegations. However, this did not take matters any further forward as these discussions were after the Registrant had been suspended.
66. Colleague F confirmed that she had reported what happened to her in November 2019 to her manager when they were next working together which was on 2 December 2019. She stated she had been asked to write a statement while matters were fresh in her mind which she had done. Her statement had been passed to the Head of Pharmacy at that time who had spoken to Colleague F to ask her how she

wished to proceed. Colleague F said that she felt things could be sorted out, that the Registrant could be closely monitored by his manager and managed within his role. She had not wanted him to lose his job. On reflection Colleague F was unhappy that she had been spoken to informally and that the matter had not been reported to HR. She felt her complaint had been dealt with very poorly.

67. Colleague F confirmed that Colleague E had spoken to her about what had happened to Colleague E, but Colleague F could not remember when this was. She said: *“Colleague E was very distressed about what had happened to her and felt she would get into trouble about it.”* The Committee noted that the alleged incident involving Colleague F had taken place first on 27 November 2019 and the alleged incident involving Colleague E was the following day on 28 November 2019. It therefore followed that Colleague E could only have spoken to Colleague F after the incident involving Colleague F. In any event both of them had reported at the time and there were contemporaneous statements to confirm this.
68. The Committee considered carefully the nature of the allegations that had been made which were of an inappropriate/sexual nature. It also took into account the reluctance of Colleagues B and G to report at the time of their alleged incidents and their reasons for this. Although Colleague B said she had heard *“rumours”* about the Registrant, she still did not report his alleged conduct as she considered his behaviour towards her had improved in 2020. She said she did not want to get involved as they worked together. She reported after the Registrant was suspended and the Committee accepted Witness 2’s evidence that Colleague B was very upset at that time.
69. The Committee also took into account that whilst Colleague E had spoken to Colleague F about what had happened to her, both of those alleged incidents were only a day apart. Colleague E was young and inexperienced and Colleague F, who was older and more experienced had advised Colleague E to report what had happened without giving Colleague E the detail of what Colleague F alleged had happened to her. The Committee concluded that Colleague E was looking for guidance and support from Colleague F who had given her the confidence to make a report.



70. It was the Committee's view that, in allegations of this nature, it is plausible that individual complainants may be reluctant to come forward and gain confidence from either realising someone else had also had a similar experience, or after the person concerned had been suspended. The chronology was particularly relevant in the context of this case.
71. Taking all of the above into account, the Committee concluded there was no evidence that there had been a secret agreement between any of the witnesses to obtain a judicial decision for a wrong/improper purpose. No motive or vendetta by the witnesses had been identified and there was no plausible explanation for them to invent such allegations together. The Committee found that there had been no collusion.

### **Witness Evidence**

72. The Committee considered carefully the oral evidence it had heard and bore in mind that demeanour must also be considered alongside agreed facts, non-contentious evidence and contemporaneous records. It bore in mind any inconsistencies and how they may be relevant in relation to witness credibility.
73. Dealing firstly with Colleague B, the Committee found her to be consistent and credible. She did not seek to embellish facts, some of which related to incidents over 5 years ago. She described the Registrant as a good pharmacist.
74. The Committee found Colleague E to initially come across as timid and reserved when giving her evidence. She seemed nervous and intimidated by having to attend this hearing, which was understandable given her age and experience. She grew in confidence during the course of giving her evidence. She appeared the most relaxed and confident when answering questions from the Committee. She was fair when giving her evidence and made concessions about when she believed the Registrant's alleged conduct had not been inappropriate.
75. Colleague F was a robust witness. She gave clear evidence and appeared to have a good recollection of events.

76. Colleague G came across as credible, she did not seek to embellish events in any way and her evidence was consistent throughout.
77. In relation to the Registrant, the Committee took into account that he was representing himself. He had made some concessions. For many of the allegations he denied the incidents and being in the vicinity of the alleged incidents and/or denied making the comments alleged. As the majority of the allegations were denied by him, much of his evidence focussed on pointing out what he perceived as inconsistencies and weaknesses in the other witnesses' evidence. He tended to deflect questions on cross-examination by moving the focus away onto other areas. At times he came across as combative and argumentative.
78. It was agreed that when colleagues E and F had filed complaints in 2019, matters had been dealt with somewhat informally. It was apparent to the Committee that there was dissatisfaction on the part of both the Registrant and Colleague F in how they were dealt with.
79. The Registrant in his evidence explained that he had been made aware of allegations made by staff on Ward 6 against him in 2019 by the then Assistant Director of Pharmacy. He said that he had been asked to produce a statement immediately, without access to any representation, which he had done in December 2019 denying the allegations against him. He said that the Assistant Director told him he would not be working on Ward 6 again and that matters were concluded. However, he said about two weeks later the Assistant Director came back to him again saying she was no longer happy with his response and it would be in his best interest to make concessions to the allegations to see an end to matters once and for all. She had told him things need sorting out quickly. He had therefore written a second response which he said did not truly reflect the circumstances of the allegations made against him. He also indicated that he had been experiencing personal difficulties at that time. [PRIVATE] He said that he wrote the second response because he wanted to be able to continue working as a coping mechanism. The Registrant said that he heard nothing further until 2021.

80. The Committee was mindful that a formal process had not been followed in 2019 and therefore, in the interests of fairness, disregarded the Registrant’s second statement submitted to the hospital at that time. The Committee also did not take into account the outcome of the internal hospital investigation and came to its own independent conclusions based on the evidence before it.

### **Decision on Facts**

81. In reaching its decisions on facts, the Committee considered the documentation listed at the start of this determination, all the oral evidence and the submissions made by Mr Sadeh on behalf of the Council and by the Registrant.
82. When considering each Particular of the Allegation, the Committee bore in mind that the burden of proof rests on the Council 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.
83. The Committee took into account the passage of time that had passed since the alleged events and that witnesses cannot be expected to precisely remember every date and detail. The Committee is not required to make a determination on every disputed issue so focussed on material matters relevant to the Particulars of Allegation whilst taking into account the content of contemporaneous documents.
84. As Particular 6 had been alleged in relation to each of Particulars 2 to 5, the Committee decided it would consider whether Particulars 6, 6.1 and 6.2 had been proved, after each Particular, if it was found proved.

### **Particular 2:**

#### Particulars 2.1 and 2.2

#### *Regarding Colleague B,*

*2.1 on 14 December 2018, whilst at a Christmas party at Madame Tussauds:*

*2.1.1 touched her bottom when group photographs were being taken;*

*2.1.2 subsequently touched her bottom for the second time when a photograph was taken of you with Colleague B;*

*2.2 during the week commencing 17 December 2018, said to her “I bet you liked it” or words to that effect with reference to 2.1 above;*

85. The Committee considered Particulars 2.1 and 2.2 together. Colleague B was a Pharmacy Technician working in the pharmacy team with the Registrant. It was not disputed that the Registrant and Colleague B had both attended a Christmas party at Madame Tussauds on 14 December 2018. Nor was it disputed that Colleague B had taken a number of photographs that evening, two of which included her and the Registrant.
86. Colleague B gave evidence which the Committee found was straightforward and credible. She did not seek to embellish and her recollection was consistent with what she had said during the hospital investigation. She explained that initially she found the Registrant to be a friendly, nice person while he was undertaking his pre-registration training, although they did not always work together due to the rotational nature of their roles. She stated that after the Registrant qualified as a pharmacist, things changed. She recalled the Christmas Party on 14 December 2018 and confirmed that although she had been drinking, she had not been drunk. She stated that she did not drink too much when she went out due to a health condition [PRIVATE]. She said she was aware of what was going on at the time.
87. Just before midnight, Colleague B stated that she had taken a number of “selfie” photographs. The first photograph was a group photograph taken at 23:53 and showed her with six other people, one of whom was the Registrant standing behind her to her left, slightly leaning into the rest of the group. The second photograph was of Colleague B and the Registrant only. It had been taken at 23:54 and showed the Registrant standing next to Colleague B on her left.
88. Colleague B stated that when she was taking the first photograph, she felt *“a hand placement on one of my butt cheeks”*. She stated that the group photo was taken on the dance floor but it was not crowded. There was only one other male in the

photograph who was standing at the centre back of the group, also to the left of Colleague B. She said he was a close friend of hers and pointed out that his right hand was clearly visible holding a mobile phone. Colleague B stated the remaining females in the photograph all had their hands in front of them and were not in a position to have touched her bottom. She said the only person who could have touched her bottom was the Registrant. She said that the Registrant had not been asked to be part of the photo, he had just come over and joined in.

89. Colleague B stated that when she took the second “selfie” photograph which was of only her and the Registrant, she felt a “*touch of my bum*” again. She said that this was also taken on the dance floor and could not recall if she had instigated the photo or the Registrant had suggested taking it. She stated it had been one of many “selfie” photographs she had taken with various individual colleagues. She said at the time she had just gone “*with the flow... it all happened at once*”. She stated she was sure it was the Registrant as there was nobody behind them.
90. Colleague B said she did not raise any issue at the time. She said it was an awkward situation, people often got drunk, leading to accidents and getting “*handsy*”. Colleague B stated that the first touch may have been a mistake, but two instances were not. She was not sure how long the Registrant’s hand had been on her bottom on each occasion and thought it was “*not more than a minute, a few seconds, 15-20 seconds maybe*”. She recalled “*it was a light touch .... not just brushed my bottom... longer than a bypass*”. She stated that it had happened “*in a short space of time and I gave him the benefit of doubt*”.
91. Colleague B confirmed she had gone to another venue after the Christmas party, Flares/Popworld, with her colleagues and the Registrant had not been part of their group. She said she could not remember if he was there when she arrived but thought she may have been introduced to his fiancée, although she could not recollect a conversation with her.
92. Colleague B was asked why she had uploaded the photographs of the evening onto social media describing the evening as “*Fantastic Christmas night out on Friday!*” if

what she had alleged had taken place. She stated that she had not uploaded the photograph of only the two of them but did upload the group photograph because *“it was a nice picture of me and my friends.... two days later when I posted, I thought it might still be a coincidence or accident. I wasn’t going to let one touch ruin the night.”*

93. Colleague B stated that about a week later, she had been checking a patient’s locker on Ward 10. The patient was in the bed and she was kneeling down next to the bed going through the patient’s medication and charts. She stated the Registrant came over to her, chatted normally and then asked her about the Christmas party and whether he had put his hand on her bottom. She told him that he had. She said: *“it was like he didn’t know, had heard about it, was asking, figuring out what had happened and was going to apologise but he didn’t. He said ‘I bet you liked it’ in a hushed tone as the patient was there. It was a comment you don’t expect anyone to say.”* Colleague B said she didn’t want to discuss it any further and carried on with the locker check. She said that that was when she realised that maybe it had not been an accident at the Christmas party. Colleague B stated that a senior member of staff came onto the Ward and the Registrant left without saying anything else. She stated that she did not report the matter to that senior staff member as she found him *“incredibly intimidating... I was terrified of him. I wouldn’t have gone to him about anything at all. He used to be the Registrant’s manager.”*
94. The Registrant denied he had touched Colleague B on her bottom at the Christmas party or any other occasion. He stated he had been *“merry”* but not drunk that evening and knew what he was doing. He stated that on a scale of 1 to 10, he was probably a 5. He stated that he did not start drinking at the start of the party. Later in the evening, after eating, he said he had had five bottles of Budweiser with his work colleagues with whom he had spent most of the evening. He stated that in the first group photograph, he had been leaning in to be part of the photograph and as such his arm *“would go up”* so that his hand would be away from B’s bottom. In the second photograph, he said that Colleague B’s left shoulder had been behind his right shoulder so he could not have looped his arm around to do what was alleged.

He stated that he had introduced his wife to Colleague B at the venue they had gone to afterwards and there was some discussion between them. He stated there was no mention by Colleague B of any inappropriate behaviour to his wife.

95. The Registrant pointed out to the Committee that Colleague B had uploaded 21 photographs of the Christmas Party, including the group photograph including him, onto social media referring to the evening as “*fantastic*”. He submitted that not only would Colleague B have reported the incidents if they had happened, but she would not have uploaded the picture to social media or described the night as “*fantastic*”.
96. The Registrant also stated that during her evidence, Colleague B had attempted to engage him in a joke and she had laughed as she provided additional photographs to the Committee in relation to Particular 2.1, apologising to the Registrant for producing photos in which he had his mouth wide open. The Registrant submitted this showed that Colleague B’s behaviour supported his version of events.
97. In relation to Particular 2.2, the Registrant denied being on Ward 10 as “*this was not my rotation.... I was not working on Ward 10 so I couldn’t have made those comments*”. He confirmed on cross-examination that he had an employee pass which gave him access to all the wards but said he had no reason or purpose to be on that Ward at that time, and nor would he have known Colleague B was on that Ward at that time.
98. The Committee carefully considered the photographs provided and the responses Colleague B and the Registrant had given in their investigation interviews in 2021. Colleague B had provided copies of two “selfie” photographs which she had taken before the group photograph. In those, the Registrant could be seen jumping into the back of group photograph with his arms outstretched, laughing and pulling faces as if to ‘photobomb’ the picture. This indicated he had not been invited into the photographs and his demeanour showed he was enjoying himself and was in high spirits. The Committee could see from the first photograph that there was nobody else in the background close enough to have touched Colleague B’s bottom. The second photograph was of only Colleague B and the Registrant, with nobody else in

the background. The Registrant's right arm and hand could not be seen in either photograph and notwithstanding his assertions, it was plausible his hand could have been positioned on Colleague B's bottom.

99. During her internal investigation interview in 2021, Colleague B had said *"...we were all drunk, it was a Christmas party, so I just left it, at the time I was still trying to get a full-time post and did not want to rock the boat and just brushed it off, he was really drunk."* She was asked about this comment on cross-examination and stated that when she had said *"we were all drunk"*, she meant the royal 'we' as a group. She could not remember the last time she had got drunk due to her medical condition.
100. Although in her evidence to the Committee, Colleague B said the Registrant did not apologise to her the following week when he asked her if he had touched her bottom, in her investigation interview and in her witness statement Colleague B had said the Registrant had apologised to her before making the alleged comment *"I bet you liked it."*
101. The Registrant in his investigation interview, when asked if he had touched Colleague B's bottom at the Christmas party, had said: *"I cannot recall, no.... I have no recollection at all of ever touching her bottom I wouldn't do this, and I would not apologise if I had no recollection."*
102. The Committee concluded that it was more likely than not that the Registrant had been drunk so close to midnight at the Christmas party. On his own evidence he was 'merry' and on Colleague B's evidence he was 'drunk'. The Committee accepted Colleague B's version of events. It accepted that she had uploaded the group photograph with a number of other pictures of that evening onto social media two days after the Christmas party, because she had still given the Registrant the benefit of the doubt. Her view changed when he made the alleged comment after the apology a week later.
103. In relation to the Registrant's assertion that Colleague B had tried to engage with him with a joke during her evidence, the Committee considered this had not been an attempt by Colleague B to engage with the Registrant, but rather a nervous reaction



during the proceedings to the Committee's request for disclosure of the additional photographs.

104. The Committee concluded that it was more likely than not that the Registrant had touched Colleague B's bottom as alleged on two occasions but did not remember doing so. This was further reinforced as he had asked her if he had touched her bottom a week later which indicated he had some reason to believe he may have but was not sure.
105. The Committee was satisfied that it was more likely than not that he had apologised to Colleague B when told he had touched her bottom but had followed this with words to the effect of "*I bet you liked it*" which were said in hushed tones to avoid the patient or anyone else hearing them. The Committee accepted Colleague B's evidence which gave details of the incidents which were consistent with her investigation interview comments.
106. The Committee found Particulars 2.1 and 2.2 proved. The Committee then considered Particulars 6, 6.1 and 6.2 and whether the conduct in 2.1 and 2.2 was inappropriate and/or sexual in nature and/or sexually motivated.
107. In relation to 2.1, as the Committee had found that the Registrant was more likely than not to have been drunk at the time of the conduct, the Committee concluded his behaviour in touching a colleague's bottom twice while drunk was clearly inappropriate behaviour. It found Particular 6 proved. As the Registrant was drunk at the time and most likely unaware of his actions, the Committee did not find Particulars 6.1 or 6.2 proved.
108. In relation to Particular 6, 6.1 and 6.2 and Particular 2.2, the Committee found that the comment "*I bet you liked it*" was inappropriate and sexual in nature because the area the Registrant had touched was a private part of Colleague B's body and his comment suggested to her that she had got some pleasure out of him touching her. It was more likely than not that the comment was also sexually motivated and a sexual interaction because the Registrant was seeking to start a conversation about Colleague B's bottom and the enjoyment he implied she must have got from his actions. The Committee had taken into account Mr Sadeh's submissions about the

touching being outside Colleague B's clothing. However, the Committee concluded because the touching was of a private part of her body, it was sexual in nature. It was more likely than not that this comment gave him sexual gratification and was a source of pleasure for him. This could be inferred from the hushed way that he made the comment to Colleague B. The Committee found Particulars 6, 6.1 and 6.2 proved.

109. The Committee found Particulars 2.1 and 2.2 proved. The Committee found Particular 6 proved in relation to Particular 2.1. It found Particulars 6, 6.1 and 6.2 proved in relation to Particular 2.2.

Particular 2.3

*Regarding Colleague B,*

*2.3 on an occasion between 3 May 2019, grabbed her bottom whilst at a colleague's leaving event at the Cube nightclub in Poulton;*

110. There was no dispute that both the Registrant and Colleague B had been in the Cube nightclub on 3 May 2019 at a colleague's leaving event.
111. Colleague B gave evidence stating that on that night she had been queuing to get into the Cube nightclub with other work colleagues when the Registrant and his friend appeared and joined them in the queue. She said that whilst she was at the bar in the nightclub ordering a drink, the Registrant appeared next to her and grabbed her bottom. She immediately responded by saying "*No you're not doing that again*" at which point she said that he immediately backed off. She said that "*he pulled back almost like he didn't expect me to say no as I hadn't done before.*" She said that the Registrant's colleague had been standing on the other side and had later told her he was appalled by the Registrant's behaviour. It was alleged that this was the third occasion on which the Registrant had touched Colleague B's bottom.
112. In her investigation interview on 24 November 2021, Colleague B had initially stated this incident took place on 13 August 2019 but after the interview notes were sent to her for approval, she amended the date to 3 May 2019 marking the script "*(found exact date)*". The Committee accepted she had checked her own records after the

interview and realising the first date was not correct, and quite properly amended it. There was nothing untoward about this given she was being asked about events from over two years earlier, and the Committee noted the Registrant had been given the same opportunity and had made amendments in his interview notes too. Colleague B's recollection of the details of the incident in the Cube nightclub in her interview notes was consistent with her evidence to the Committee.

113. The Registrant in his evidence admitted he did not have a great recollection of that night as he had been drinking but he maintained he had not touched Colleague B's bottom. He said that his colleague who was with him that night would have told his wife if he had behaved inappropriately. He said that the bar had been extremely busy and other colleagues were there but nobody had witnessed it because it didn't happen.
114. In his investigation interview the Registrant was asked if he had grabbed Colleague B's bottom in the nightclub. His reply was *"I have no memory of that at all, August was just before I got married. I was very drunk."* He stated he did not remember Colleague B being there. In his witness statement dated 16 April 2024, the Registrant stated: *"I was quite drunk on the night.... This simply never happened. I don't recall any interaction if any with Colleague B that night."*
115. The Committee concluded that it was more likely than not that the Registrant was drunk that evening, indeed he had admitted this. The Committee was satisfied that it was more likely than not that he had grabbed Colleague B's bottom as alleged.
116. The Committee found Particular 2.3 proved. The Committee went on to consider Particulars 6, 6.1 and 6.2 in relation to Particular 2.3.
117. Colleague B's description of the Registrant immediately backing off when told not to grab her bottom again indicated that he did have some level of knowledge that what he was doing was not acceptable. The Committee was satisfied this conduct was inappropriate. Colleague B was a work colleague and had not consented to or

invited the touching. The Committee was satisfied that this was the third occasion that the Registrant had grabbed Colleague B's bottom, which was a private part of her body. As such the Registrant's conduct was sexual in nature and sexually motivated as the grabbing of this area of her body could be inferred to be for his sexual gratification. Particulars 6 and 6.1 in relation to this incident were proved. Particular 6.2 was not proved.

118. The Committee found Particular 2.3 proved and found Particulars 6 and 6.1 in relation to Particular 2.3 proved.

Particular 2.4

*Regarding Colleague B,*

*2.4 in July 2019, whilst attending a Continuous Professional Development session at the hospital:*

*2.4.1 showed a question that you had written on a piece of paper, which asked if she used sex toys;*

*2.4.2 said "you must make time for yourself, you must use them" or words to that effect with reference to 2.4.1*

119. There was no agreement between the Registrant and Colleague B about the circumstances of this alleged event.
120. Colleague B gave a detailed description of how she came to be attending this CPD event about the drug 'Ferrinject', which had taken place during a break on Ward 34/35 where she had been working. She was invited to attend that morning and decided to go as she was gathering evidence for her CPD, which was due to be submitted by the end of July. She said the date of July 2019 had been a rough estimate based on the deadline for when her CPD had to be submitted and it may have been June or July. She was not sure if other similar sessions had been organised in other parts of the hospital on other dates and thought there may have

been duplication. She said that pharmacists tended to do their seminars at lunchtime and this seminar had been for Ward staff.

121. Colleague B gave a detailed description of the room in which the CPD session had taken place, where she was standing and how the Registrant came to be in the session. She said that she had given him some medication order sheets to approve and had told him she was attending a seminar on the Ward. She said that the Registrant was not there at the start of the seminar and came in after it had started. She said he came in, saw her as soon as he entered, went and stood next to her and handed the signed order sheets to her. She said that she did not believe he was there for the talk but had come to give her the order sheets.
122. Colleague B described the Registrant holding a folded A5 order sheet in his hand and initially writing something work related on it. She said he then wrote something else and moved the paper towards her to show her. She saw that he had written in green pen asking if she used sex toys. She stated that green pen is the designated pen colour used by pharmacists in the hospital. Colleague B said she had not been expecting to be asked such a question by a work colleague but did not want to make a scene as the guest speaker was talking. She described writing on the paper “no” with her own pen whilst shaking her head and her hand to indicate that she was not answering this question.
123. Colleague B described the Registrant writing another question on the sheet but she could not recall what this was. She thought she probably did not read it as she didn’t want to know and wanted to listen to the talk. She accepted that in her investigation interview she had confirmed the second question was “*You must make time for yourself, you must use them*” and said that it may have been more fresh in her mind at that time in 2021. Colleague B stated that she did not try to take the piece of paper from him but if she had, she would have taken it to the senior staff. She stated that the Registrant stayed until the end of the talk.

124. The description given by Colleague B was mostly consistent with her investigation interview on 21 November 2021. She had initially referred to the drug discussed at the seminar as 'Ferendex' and then later amended this to 'Ferrinject' when approving her interview notes. She had not mentioned the Registrant giving her back some order sheets in her investigation interview but had referred to him writing on an order sheet during the CPD talk.
125. The Registrant stated that this alleged incident did not take place. He said there was no such drug as 'Ferrinject' and that he had not been working in the area of Ward 34/35 at that time. He said that he did attend a talk sometime between April 2019 and June 2019 when he worked on orthopaedics but that he did not recall Colleague B being there. He had tried to obtain attendance records of this but had been unable to do so. He also said that he did not stand during that talk due to a health condition, [PRIVATE], that he suffered and that he sat with doctor colleagues, from one of whom he had produced copies of text messages which he said supported his version of events. He denied standing next to Colleague B or passing her pieces of paper as alleged. He denied carrying order sheets around with him. He said that drug companies always gave talks at lunchtime and not in the mornings as the Ward rounds would be taking place and it would be very busy. The Registrant questioned how Colleague B could have written "no" on the paper if he had been holding it. He submitted she could have grabbed the note from him. [PRIVATE].
126. In his investigation interview on 16 December 2021, the Registrant had stated: "*I briefly recall there was a guest speaker talk when I worked on orthopaedics wards 34/35..... I remember this was on Ferinject ... There were a number of other colleagues there ..... I do not remember Colleague B being there and I certainly never made those comments.*" At his second investigation interview on 21 February 2022, the Registrant said that he had contacted the organisers of the talk and they had no record of him attending a 'Ferinject' talk during the period April-July. He stated he was working on 'Cardiac' in July. He said that he had attended a 'Ferinject' talk in March to June 2019.

127. On cross-examination, the Registrant said that the Cardiac Ward where he had been working in July 2019 was at the opposite end of the hospital site and 10-15 mins walk away. He did not accept that this CPD talk could have been repeated at the hospital at different times and locations. He said he did not remember signing any order sheets before this talk, which he said he had not attended.
128. The Committee noted that, other than the Registrant's assertions, there were no supporting documents before it about where he had worked and when. In any case the Registrant had accepted he had an employee pass which allowed him access to all the wards. The Committee considered the text messages between the Registrant and his colleague on a date which was not legible which read as follows:

*"Registrant: ...I need to ask you about when we worked on orthopaedics in 2019. I know a long time ago.*

*If you remember at that time the pharmacy team covering the wards at the time were me and [K] for 34 and [N] for 35, alongside this we would have had pharmacy techs and assistants supporting us.*

*Do you remember a Ferinject talk with a drug company in the trauma office just off the ward?*

*I remember going to this with you and [J] and the advanced nurse practitioners..*

*I remember being the only pharmacist present and the only person from pharmacy there at the talk.*

*Do you remember this.....*

*Registrant's Colleague: ....I remember the talk and I remember you and [J] etc being there. Not sure I could say with any certainty who else was/wasn't there..."*

129. The Committee considered these messages did not take matters further save to confirm that at some point in 2019, the Registrant had 'covered' Ward 34 and he had

attended a 'Ferinject' talk in the trauma office. It was not clear whether this conversation related to another talk altogether.

130. Regardless of the spelling of the drug, it was clear that at some point that both the Registrant and Colleague B had attended a CPD talk for a drug that may have been called 'Ferrinject' or 'Ferinject'. The Committee did not consider that an inconsistency in the name meant that the talk did not take place. Both the Registrant and Colleague B had described the room where the talk took place as a small office with a desk in the middle. The Committee did not consider it plausible that in a large hospital the same talk was not repeated in different areas of the hospital at different times.
131. The Committee was persuaded by Colleague B's evidence which was clear and consistent. She recalled a lot of the details leading up to the event such as how she came to be invited, why she had attended and how the Registrant had behaved in heading straight for her when he entered the room. The Committee concluded it was more likely than not that the Registrant had been present during the talk Colleague B attended in July 2019 although it was possible, he may well have attended another similar talk on a different occasion. Colleague B's evidence was that he was not there at the start of the talk she attended and he joined part way through. The purpose for him coming into that room was to give her the signed order sheets. In the circumstances, it was plausible that he had not been paying attention to that talk or intended to be there, so may not recollect it as a formal CPD session as it was not intended to be for the pharmacy team.
132. The Committee concluded it was more likely than not that the Registrant had been present at some point during the CPD session Colleague B had attended in July 2019. Given the clear and consistent descriptions from Colleague B of how and what the Registrant had written on the folded order sheet, the Committee concluded it was more likely than not that he had written the comments set out in Particulars 2.4.1 and 2.4.2. She had recollected the comment at Particular 2.4.2 during her investigation interview on 24 November 2021.



133. The Committee found Particular 2.4 proved. The Committee went on to consider Particulars 6, 6.1 and 6.2 in relation to Particular 2.4.
134. The Committee had no doubt that asking Colleague B a question and making a further comment about the use of sex toys was inappropriate, sexual in nature and sexually motivated. The Committee found Particular 6 proved. The Registrant had been trying to elicit a discussion about Colleague B's sex life. He was more likely than not acting in pursuit of a sexual interaction. Given the specific and very personal question, it could reasonably be inferred that there was also an element of sexual gratification. The Committee found Particulars 6.1 and 6.2 proved.
135. The Committee found Particular 2.4 proved and found Particulars 6, 6.1 and 6.2 in relation to Particular 2.4 proved.

Particular 2.5

*Regarding Colleague B,*

*2.5 in April 2021:*

*2.5.1 asked her if her back pain affected her sex life;*

*2.5.2 asked her if she "could not be as vigorous when having sex" or words to that effect.*

136. There were no agreed facts between Colleague B and the Registrant in relation to Particular 2.5. Colleague B alleged this incident had taken place as she was leaving the hospital canteen in April 2021. She said that she had been off work due to her health during the Covid period [PRIVATE] for a number of months on and off from April 2020 to April 2021 during which she was kept away from several wards and had little contact with the Registrant. She stated that on her return the Registrant's attitude seemed to have changed and they were getting on better. She said she felt less nervous around him. She said that she didn't talk about personal matters with him although they had talked about his dog and she had congratulated him on his marriage.

137. During the Covid period Colleague B said that the hospital canteen became a staff canteen only serving free meals all day for staff. She said that as well as eating meals there, staff could go and sit or have meetings. There were phones on the wall so that if a staff member was 'bleeped' they could use the phone. Colleague B stated that due to Covid restrictions, there had been a one-way system in place which meant the route to walk into the canteen, which was up some stairs, was different from the route exiting the canteen. However, she said it was common practice for staff members to walk down the entry stairs if nobody else was coming up the stairs rather than walk the longer way around.
138. Colleague B recalled that on a date in April 2021, she had gone to the canteen to see what food was available. She thought she may have gone to get hash browns which she liked. She said the canteen was popular due to free meals and she left without any food. She stated that as she was leaving the canteen, the Registrant happened to be leaving at the same time.
139. Colleague B provided the Committee with details of her health and the treatment she had been receiving. [PRIVATE]. As such she said that her medical condition was common knowledge across the pharmacy team. She believed that the Registrant was one of the people who knew as she may have discussed it with him, and he may have been around when she had taken time off to attend appointments. [PRIVATE]. Colleague B also stated that she had another medical condition [PRIVATE]. She said this was one of the reasons for her being off work [PRIVATE] during Covid and if anybody asked about it, she would tell them.
140. Colleague B described that as she left the canteen with the Registrant and they were at the very top of the entry stairs heading downstairs, he had asked her if her back pain affected her sex life. She said that he had asked "*as if it was a normal question, like what did you have for breakfast. It was not said in a creepy way.*" She said the comment took her by surprise and she stated she was not discussing this with him and it was none of his business. She said that she continued walking down the stairs

and he walked next to her. He then asked her if she got so breathless, did that mean she could not be as vigorous when having sex. Colleague B said she did not respond to this and carried on down the stairs. She said there was nobody else around at the time. She said *"It was an awkward conversation to have."*

141. Colleague B's investigation interview notes were consistent with her evidence to the Committee, save that she had stated in her interview that their conversation had started with the Registrant asking about her [PRIVATE].
142. The Registrant said that April 2021 was not during the Covid free meals period as that ended in late 2020. This had not been put to Colleague B. The Registrant said that he had never made the alleged comments, he had not been in the canteen and he had not walked down the stairs. He stated that he rarely went to the hospital canteen for food as he brought his own food from home and always ate it at his desk. He had provided the Committee with a copy of the investigation interview notes of his line manager (AD) at the time which he said confirmed this. He said that in April 2021 he was working in the haematology department which had vulnerable patients on the Ward. He was also working with a colleague who was having chemotherapy and another colleague who was pregnant, so he had adhered to all Covid restrictions. He accepted that not everyone had done so. The Registrant stated that he would not have been on those stairs and leaving the canteen using them would have made his journey back to his office longer and increased his contact with other people. The Registrant also said that he had been off work for a week at the end of April.
143. The Registrant stated that Colleague B had openly discussed her medical condition and he would only have known about it if she had told him. She had discussed her medication with him. The Registrant stated that he had also suffered from one of the same medical conditions for most of his life and would not make a joke of it. [PRIVATE] and both their medical conditions were *"an open secret"*.
144. During his investigation interview on 16 December 2021 the Registrant was asked about this incident, and he has responded: *"I don't remember. I know [Colleague B]*

*had [PRIVATE], I do recall occasions when we have spoken in the past about it. I have not related this to her sex life.”* He had denied making the alleged comments and had not known her to be breathless. He submitted this had been a fictitious event and Colleague B was not telling the truth.

145. The Committee having carefully considered all the evidence and documents concluded that it was more likely than not that this incident had taken place. It accepted Colleague B’s version of events. She had described the event in detail and her explanations were clear and consistent. The Committee noted that the Registrant’s line manager, AD, in his investigation interview had said he thought the Registrant brought his lunch with him most days but could not say this was every day as he was not sure. In any case the Committee concluded that the canteen was also used for meetings and general relaxation so it was plausible the Registrant could have been there for some other reason than to eat food. It accepted Colleague B’s description that there was nobody else on the stairs when the Registrant had made the comments.
146. The Committee found Particular 2.5 proved. The Committee went on to consider Particulars 6, 6.1 and 6.2 in relation to Particular 2.5.
147. The Committee concluded both of the comments made were inappropriate and they were both sexual in nature and sexually motivated as they referred to Colleague B’s sex life. The Committee found Particular 6 proved. The Registrant had attempted to start a sexual interaction by discussing Colleague B’s sex life. This was particularly pertinent in the context of there having been previous issues about inappropriate behaviour in the past. The Committee found Particular 6.2 proved. The Committee did not find Particular 6.1 proved.
148. The Committee found Particular 2.5 proved and found Particulars 6 and 6.2 in relation to Particular 2.5 proved.

### **Particular 3**

*3. Regarding Colleague E, on 28 November 2019,*

*3.1 asked her how her love life was;*

*3.2 said you liked the tattoo on her thigh, or words to that effect;*

**[ADMITTED]**

*3.3 said to her “you must have been with people were are shit in bed” or words to that effect;*

*3.4 said her ex-boyfriends must have been shit in bed or words to that effect;*

*3.5 requested to see the tattoo on her leg;*

*3.6 asked her if she wanted a hug, and then gave her a hug by squeezing her when she refused;*

*3.7 said to her “you just need a good shag” or words to that effect;*

*3.8 whispered in her ear “no you need someone to make you come” or words to that effect;*

149. Colleague E was a healthcare assistant and a younger member of staff.
150. There were a number of areas where some of the facts were agreed between the Registrant and Colleague E. It was agreed that the Registrant had overheard Colleague E discussing her personal life with her colleague at the nurses’ station and had joined in the discussion. Colleague E stated that he had asked about her love life and she didn’t think much of it at the time, although she said she didn’t really talk about her love life at work. She described the Registrant as *“always friendly and pleasant”* and when he had asked about her love life, she thought it seemed like an innocent question. The Committee therefore found Particular 3.1 proved.
151. Colleague E gave evidence about her personal life and the health issues she had suffered from at the time. [PRIVATE] and she had been discussing this with her close colleague at the nurses’ station as they had been very busy that day and this was the first time they had been able to catch up.
152. The Registrant had admitted Particular 3.2 which was found proved on his admission. He said that as they had talked about Colleague E’s personal life, it appeared she did not want to talk about this anymore so he had said he liked her

tattoo to change the conversation. Colleague E also accepted this had been after they had talked about her love life and *“it could have been a conversation changer”*.

153. There was however a dispute as to how the Registrant came to know about Colleague E’s tattoo, which was a large tattoo that started just above her right knee and went up to the top of her thigh. Colleague E gave a description of her work uniform which she was wearing that day. It was a standard issue dress which she said was *“quite long, down to my knees”* and she was wearing thick black tights. She said *“I think they were 100 denier tights. My nan gets mine so she gets the thickest ones to keep me warm in winter. They are the only tights I have, all my tights are the same.”* She also gave a description of how rigorously her manager enforced the uniform policy and would send staff to Marks and Spencer if they were not wearing black tights.
154. Colleague E said she could not understand how the Registrant knew about her tattoo or had seen it under her dress. She accepted that it was possible the dress could have revealed a little of her tattoo when she was sat at the nurses’ station but said it was a stiff dress and would not come up that much. She also accepted that she had posted photographs on social media where her tattoo may have been visible and he could have seen it there. She accepted that after the Registrant said he liked her tattoo, she had told him it was of lilies and roses tied in a bow. She said that she then left the nurses’ station *“as there was nothing else to say”* and went to the kitchen. She said the Registrant followed her. She denied lifting her dress a little at the nurses’ station to show him and said this had happened later in the doctors’ office.
155. The Registrant said that he could see the bottom of the tattoo through Colleague E’s tights as she was sitting at the nurses’ station and that she had not been wearing thick 100 denier black tights as she had described, they were *“maybe 20-30 denier”*. He said this was the first time he had seen the tattoo and Colleague E had described what it was to him. He said that, without him asking, Colleague E then lifted her dress a little bit more to show him which had surprised him. He said that she pulled her tights taught to make the tattoo visible. He said he then went to check some

patient charts and, on his way back, he saw Colleague E in the kitchen *“looking down”*.

156. It was agreed between them that another conversation took place just outside the kitchen as the housekeeper was in the kitchen. It was agreed that the Registrant had suggested they talk further in the doctors’ office nearby. Colleague E said she thought he had wanted to discuss work whereas the Registrant said that Colleague was visibly upset so he had asked her if she wanted to talk and she had indicated she did. There was agreement that they went to the doctors’ office, there was nobody else there and they agreed on where they had both sat in the doctors’ office. They both described the Registrant sitting on a chair by the window and Colleague E sitting at a desk about 2 metres away from each other.
157. In the doctors’ office, Colleague E said the Registrant continued the conversation about her personal life and [PRIVATE]. He then said she looked like she needed a hug but she said she was fine. She said at this point the Registrant had made the comment in Particular 3.3 that she *“must have been with people who were shit in bed”*. She said that this made her feel uncomfortable as she would never discuss her sex life with anyone. She said that she tried to laugh it off and then the Registrant asked to see her tattoo. She said she pulled her dress up slightly and showed him the bottom half of the tattoo by stretching her tights. She said he remained seated while this happened.
158. Colleague E said the subject then changed to the Christmas party which they had been discussing earlier. Colleague E said that the Registrant again mentioned her personal life and made the comment that her ex-boyfriend must have been shit in bed. She said she felt very uncomfortable. She said she stood up to leave and the Registrant said she looked like she needed a hug. Colleague E said she told him she was fine. He then came over and gave her a hug. She described the hug as *“trying to comfort someone”* and in her evidence said she still thought that’s what he was trying to do. In her witness statement she described it as: *“It felt like a normal thing that a friend might do..... I felt that if I accept the hug, then I can just get out of*

*there.*” Colleague E said that she was “*not a very huggy person*” and did not ask for a hug. She denied thanking the Registrant after the hug.

159. The Registrant said that when they went into the doctors’ office, Colleague E told him about her health issues, [PRIVATE] and as he had experienced something similar, he had shared that with her. Colleague E denied talking about her health issues and said she was not aware of the Registrant’s similar experience. She did accept that she had been off work for a few weeks so quite a few people were aware of her situation. The Registrant denied making any of the alleged comments in Particulars 3.3 or 3.4. He denied asking Colleague E to show him the tattoo.
160. The Registrant conceded he had offered Colleague E a hug and said that he now understood this had been inappropriate. He said it was meant to be friendly, to comfort her to make her feel better. He had offered the hug and he said that Colleague E had said “*yes*” and then thanked him afterwards. He accepted that as they had walked along the corridor, he had said he would buy Colleague E a drink if he saw her whilst out on the night of the Christmas party, and this was by way of a friendly gesture which he had made to many other colleagues. He stated this was where the conversation ended and he did not make the comments alleged in Particulars 3.7 and 3.8.
161. After the hug it was agreed by both Colleague E and the Registrant that they left the doctors’ office. The Registrant’s version of events was consistent with what he had said in his investigation interview and his first statement made in December 2019.
162. Colleague E stated that as they walked down the corridor the Registrant had made the comments “*you just need a good shag*” to which in a panic she had said: “*no I don’t, I am not that desperate and there are other ways.*” She said as soon as she had said this, she knew she shouldn’t have. She said it was then that the Registrant came closer to her and whispered in her ear “*no you need someone to make you come*”. She said that it was at this point that she felt really uncomfortable and started to walk towards Bed 12 on the Ward. She said that the Registrant had then



followed her to Bed 12 and asked her to go to town on the night of the Christmas party and stated he would buy her a shot.

163. In response to the Committee's questions, Colleague E described how after the last two comments were made by the Registrant in the corridor, she called her close colleague on the Ward to Bed 12 saying: *"come quickly...."* as she pulled the curtain around the bed. She said that her colleague rushed over as she could see Colleague E was distressed and asked her *"what's happened?"* to which Colleague B replied *"I'll tell you later, just look like we're doing something."* Colleague E said that she was: *"crying, felt really uncomfortable and felt like I put myself in that situation. At the time I thought I was responsible. Now I know it was inappropriate but at the time... I thought if I hadn't spoken to him, it wouldn't have happened."*
164. Colleague E was adamant that the Registrant was not telling the truth about asking to see her tattoo in the doctors' office and he had made the comments alleged. She said *"I really wouldn't make it up."* She said that the alleged comments in Particulars 3.7 and 3.8 *"definitely did come out of his mouth"*, they were inappropriate, and she was here because she did not want anyone else to feel uncomfortable.
165. The Committee considered all of the evidence given. In this case Colleague E had made a contemporaneous statement dated 2 December 2019 a few days after the event. Her statement was consistent with what she had told the Committee. The Committee found Colleague E was young and vulnerable due to her personal circumstances at the time of the alleged incidents. She was fair when giving her evidence and said that she did not consider the hug or the conduct in Particulars 3.1 and 3.2 to be inappropriate. She put them down to the Registrant being friendly and showing sympathy/empathy towards her.
166. The Committee accepted Colleague E's version of events and found her to be genuine and a credible witness. At the time she had blamed herself and felt she had contributed to what had happened and she had given him the benefit of the doubt even though she had started to feel uncomfortable. It was only when the

Registrant's comments became more sexually explicit in the corridor that she became extremely upset and realised they were inappropriate.

167. The Committee had already found Particular 3.1 proved and Particular 3.2 proved on the Registrant's admission. In relation to Particulars 6, 6.1 and 6.2, the Committee did not consider these comments to be inappropriate, or sexual in nature or sexually motivated at this stage based on Colleague E's evidence that she was not too concerned about them. The Committee found Particulars 6, 6.1 and 6.2 not proved in relation to Particulars 3.1 and 3.2.
168. In relation to Particulars 3.3 and 3.4, the Committee found that it was more likely than not that the comments about Colleague E's ex-boyfriend and others she may have been with being "*shit in bed*" had been made by the Registrant. They had been talking about her personal life and [PRIVATE] and these comments were in the context of the theme of the conversation. The Committee accepted Colleague E's version of events. When these were made, Colleague E had started to feel uncomfortable. The Committee found Particulars 3.3 and 3.4 proved. It went on to consider Particulars 6, 6.1 and 6.2 in relation to these Particulars. The Committee was satisfied that these comments were inappropriate and they were sexual in nature as it could be implied from them that the Registrant wanted to talk about Colleague E's sexual experiences. He was therefore more likely than not starting a sexual interaction. The Committee found Particulars 6 and 6.2 proved in relation to Particulars 3.3 and 3.4. There could have been an element of the Registrant trying to comfort Colleague E in the discussion but this was done in an inappropriate manner. On this basis, the Committee found Particular 6.1 not proved.
169. In relation to Particular 3.5, the Committee concluded it was more likely that not that the Registrant had asked to see Colleague E's tattoo in the doctors' office. They both described her lifting her dress slightly and stretching her black tights enough to show him the bottom of her tattoo. The Registrant had already accepted he had told Colleague E that he liked her tattoo. He had said that Colleague E was not wearing thick black tights that day so he could see her tattoo as she sat at the desk, but then

he also described her as stretching her tights to show him the tattoo. This indicated that her tights were thick enough to need to be stretched and the tattoo was not easily visible otherwise. The Committee was also persuaded by Colleague E's vivid description of her "nan" buying her 100 denier tights and how the uniform policy was enforced on the Ward. The Committee concluded it was more likely than not that Colleague E had shown her tattoo to the Registrant in response to a request from him to see it. The Committee found Particular 3.5 proved.

170. The Committee considered Particulars 6, 6.1 and 6.2 in relation to Particular 3.5. It concluded that it was inappropriate for the Registrant to ask Colleague E to show her tattoo to him. Asking to see a tattoo which is not easily visible was inappropriate. The Committee found Particular 6 proved in relation to Particular 3.5. It found Particulars 6.1 and 6.2 not proved as there was insufficient evidence that this incident had been anything more than inappropriate.
171. The Committee found Particular 3.6 proved in that the Registrant had asked Colleague E for a hug and had given her a hug after she had indicated twice that she did not want one. The Committee then considered Particulars 6, 6.1 and 6.2 in relation to Particular 3.6. Colleague E's perception was that this was a friendly hug and the Registrant was a concerned colleague. She had reluctantly accepted the hug. The Committee bore in mind that she had been vulnerable at the time and that the Registrant himself had realised it had not been appropriate to hug her. The Committee found that it was inappropriate for the Registrant to ask Colleague E for a hug and then to give her a hug after she had twice said she did not need one. The Committee found Particular 6 proved in relation to Particular 3.6. It found Particulars 6.1 and 6.2 not proved as there was nothing to suggest this had been more than a hug.
172. The Committee accepted Colleague E's version of events in relation to the comments made in Particulars 3.7 and 3.8 and found them proved. It was particularly persuaded by her clear and graphic description of the effect these last two comments had had on her and found that it was more likely than not these

comments had been made by the Registrant. They had caused her great distress at the time and she sought the support of her close colleague to ensure the Registrant would not have the opportunity to say anything else to her.

173. The Committee considered Particulars 6, 6.1 and 6.2 in relation to Particulars 3.7 and 3.8. There was no doubt that suggesting someone needed “*a good shag*” and talking about “*making you come*” were inappropriate, sexual in nature and sexually motivated. The Committee found Particular 6 proved. It could be inferred from these comments that the Registrant was suggesting he would like to pursue a sexual relationship with Colleague E as the comments implied that he would be able to perform the actions mentioned. The explicit nature of the comments were such that it could be inferred they were more likely than not to have given the Registrant sexual gratification. The Committee therefore found Particulars 6, 6.1 and 6.2 proved in relation to Particulars 3.7 and 3.8.
174. The Committee found Particular 3 proved. The Committee found Particular 6 proved in relation to Particulars 3.3, 3.4, 3.5, 3.6, 3.7 and 3.8. The Committee found Particular 6.1 proved in relation to 3.7 and 3.8. The Committee found Particular 6.2 proved in relation to Particulars 3.3, 3.4, 3.7 and 3.8.

#### **Particular 4**

##### *4. Regarding Colleague F,*

*4.1 on 27 November 2019, looked at her in a suggestive manner and said “I just want to tell you, you look nice today” or words to that effect.*

175. The Registrant had accepted that he had complimented Colleague F as set out but denied it had been in a suggestive manner. He said that he had meant it as a compliment and accepted now that making comments at work about someone’s appearance was not appropriate. He said that he had a good working relationship with Colleague F and they exchanged a lot of banter. He said that she had often complimented him and he had considered them to be friendly comments.

176. Colleague G was an older more experienced member of staff who had worked at the hospital for over 22 years. She said she did have a friendly banter with the Registrant and they did joke about situations that happened in the work environment. She denied giving the Registrant compliments although conceded that if she came into a room with a nice smell, she might make a general comment like: *“Someone smells nice.”*
177. Colleague G described the incident on 27 November 2019. She stated they had been discussing a patient’s discharge and completely out of the blue, the Registrant had said *“I just want to tell you, you look nice today.”* She said that she had not looked any different to any other day – her appearance and clothing were the same as they had always been and she had not expected him to speak to her in that way. She said: *“When someone looks at you, their eyes say a lot.... His pupils had dilated. He looked at me differently to how he had before, that’s why I said suggestively”, “...I couldn’t understand the reason he said it, it was not in context with our conversation... I felt it was a lead into something else, not just a compliment....If I hadn’t felt that I wouldn’t have brought it up in the first place. Uncomfortable was how he made me feel, not the words said – based on how a man would speak to a woman....”, “He looked at me differently. He looked in a way I had not seen him look at me before. Something was different.”*
178. Colleague F had reported the incident contemporaneously a few days after the event. Her statement dated 2 December 2019 was brief and factual but she had stated that she: *“immediately became flustered and responded with ‘thankyou’. I then moved around the desk to engage with other colleagues to remove myself from what felt like a very awkward situation.’*
179. The Registrant had admitted complimenting Colleague F and accepted this may have been inappropriate. The Committee accepted Colleague F’s evidence and her description not only of how the comment had made her feel, but of the Registrant’s eyes when he had said it. The Committee found Particular 4 proved.

180. The Committee went on to consider Particulars 6, 6.1 and 6.2 in relation to Particular 4. Colleague F was clear that she did not feel this had simply been a compliment and she felt it was a *“lead into something else”*. The Committee accepted the impact the comment had had on Colleague F and was satisfied that complimenting a work colleague in a suggestive manner was inappropriate. Due to the way Colleague F said the Registrant had looked at her, the Committee concluded that it was more likely than not that his look had been sexual in nature and was in pursuit of a sexual interaction. The Committee found Particulars 6 and 6.2 proved. The Committee found Particular 6.1 not proved.
181. The Committee found Particular 4 proved and found Particulars 6 and 6.2 in relation to Particular 4 proved. The Committee found Particular 6.1 not proved.

#### **Particular 5**

##### *5. Regarding Colleague G,*

*5.1 on, or around the end of 2019, made a comment “you are quite attractive for an older lady” or words to that effect;*

*5.2 in September 2020, said “I bet you are dirty in bed” or words to that effect.*

182. The Committee first considered Particular 5.1. In relation to Colleague G, the Registrant accepted he had complimented her but said he had not been working with her in 2019 so the comments he had made were later. He denied he had made reference to her age and said that his compliments were simply to make her feel better about herself as she would regularly put herself down.
183. Colleague G said she first met the Registrant in late 2019. She described him making her feel uncomfortable because he would sit too close to her and she made reference to him being *“creepy”* several times. She said that he had complimented her multiple times, saying she was *“quite fit for an older person”* and *“attractive for an older lady”*. She said that she responded with things like *“leave me alone”* or *“no, I’m not”*. She said the comments were generally made when there was nobody else

around. She denied putting herself down any more than anyone else and said she did not generally fish for comments at work.

184. The Committee accepted Colleague G's evidence and found Particular 5.1 proved. They found Colleague G's evidence was clear and credible. It was consistent with her investigation interview notes and the Registrant himself accepted he had complimented her. The Committee found that it was more likely than not that he had made reference to her age as this was consistent with Colleague G's interview notes. The Committee then considered Particulars 6, 6.1 and 6.2 in relation to Particular 5.1. It had already found that comments about a work colleague's appearance were inappropriate. It therefore found Particular 6 proved in relation to Particular 5.1. There was no evidence that Colleague G felt there had been any sexual element to the comments. The Committee therefore found Particulars 6.1 and 6.2 not proved.
185. The Committee then considered Particular 5.2. Colleague G had given a detailed description of this incident. She described rushing to get home at the end of her working day, around 5pm, in order to collect her child who was in after school club. She said she saw the Registrant walking along the corridor behind her heading in the same direction. She said she went into the changing room to change out of her uniform and consciously took a little longer to change as she wanted to make sure the Registrant would not be outside when she left. Colleague G stated that she came out of the changing room within about two to three minutes and could see the Registrant was still there "*faffing around on his phone*". She said he was wearing his COVID face mask and she felt he had been waiting for her.
186. Colleague G said she walked a couple of steps towards the exit and felt that the Registrant was immediately behind her. She walked out of the exit and onto the stairwell. As she stepped down a couple of steps she turned and saw the Registrant standing in the exit doorway. She said that he was leaning towards her, pulled down his Covid mask and had "*enunciated*" - "*I bet you are dirty in bed*". She said it wasn't said particularly quietly as they were not standing close, but she presumed he didn't

want to shout. She said that she responded with *that's "disgusting"* and left without waiting for his response as she was in a rush.

187. Colleague G stated that she was shocked by the comment, it was out of the blue, inappropriate and completely out of context as she had never had a suggestive conversation with him either that day or any day. She stated the comment *"had crept me out. I knew it was not acceptable to say that to me, but I decided not to report what had happened. I just wanted to move on."* She said that she didn't mention it to anyone as she didn't think the Registrant was a danger to anyone at the time.
188. Colleague G confirmed that she had spoken to the Registrant about her trip to London but said she had discussed this with many of her colleagues because she had been excited to go after a long period of not travelling during Covid. She said that she was very careful about what she talked to him about and they tended to be safe conversations around the weather and sometimes his dog. She said she did not want to encourage him. She did not remember telling the Registrant she had dreamt about him and could not remember making any comments about him *"punching above his weight"* with reference to his wife. She also denied being frustrated when the Registrant made incident reports on her Ward and said that she would never discourage anyone from doing this.
189. Colleague G stated that the Registrant's comment about her being dirty in bed: *"100 million per cent happened."* She conceded she could not remember the exact date and that she did not report it at the time but she recalled the words said clearly. She denied patient meals would have been served on the Ward around that time and there would have been trolleys in the corridor where the Registrant was alleged to have been standing.
190. Colleague B confirmed she had reported the incidents after she had the call from Witness 2 in 2021 and had realised the bigger picture. She said that she had then realised she had a professional obligation to speak out.



191. The Registrant stated that he was not working on this particular Ward in September 2020. He denied making the comment or waiting for Colleague G to come out of the changing room. He said that there were inconsistencies in Colleague G's version of events as she had initially said he had shouted to her in the stairwell, whereas now she was saying he had "enunciated" quietly. He also asserted that if he had made the comment, it would have been heard by others as there were other offices nearby. He stated that Colleague G was always making sexual innuendos on the Ward and talked about her personal life. He submitted one of his colleagues, NH, had referred to this in her investigation interview. He said that Colleague G had told him she had dreamt about him and had made other inappropriate comments in his presence. He considered they mainly had a good laugh at work but that Colleague G was unhappy when the Registrant made incident reports about her Ward.
192. The Registrant said it was extremely distressing to hear that he had made anyone feel uncomfortable. He maintained this incident had not taken place.
193. Colleague G's version of events was consistent with her investigation interview notes. She had said in her investigation interview that the Registrant had initially "shouted" the comment, but then she immediately clarified this by saying he "said it loudly". In her evidence before the Committee, she had used the word "enunciated" but had also said it was not said particularly quietly. The Committee saw no inconsistency in this.
194. In his investigation interview notes the Registrant had stated he did not recall this incident and he had been leaving the Ward numerous times as Colleague G was leaving but he had never said this comment.
195. The Committee accepted Colleague G's version of events and concluded it was more likely than not that this incident had taken place. Colleague G had described the event in detail and while the Registrant said he had not worked on this Ward in September 2020, he had an employee pass which allowed him access to all the wards. The Committee was persuaded by Colleague G's comment that it happened "100 million per cent". She was quite clear there was no doubt in her mind at all.

She did not embellish the incident when describing it. The Committee had considered the interview notes from NH but could see no reference to Colleague G making sexualised comments. The Committee concluded Particular 5.2 was proved.

196. The Committee then considered Particulars 6, 6.1 and 6.2 in relation to Particular 5.2. It was satisfied that saying “*I bet you’re dirty in bed*” was inappropriate, sexual in nature and sexually motivated. It was making reference to a person’s sexual performance and it could be inferred this was in pursuit of sexual gratification. The Committee found Particulars 6 and 6.1 proved in relation to Particular 5.2.
197. The Committee found Particular 5 proved and found Particular 6 proved in relation to 5.1 and 5.2. The Committee found Particular 6.1 proved in relation to Particular 5.2 proved. The Committee found Particular 6.2 not proved.

#### **Particular 6**

*6. Your actions in relation to 1 to 5 above were in appropriate and/or sexual in nature and/or sexually motivated in that you;*

*6.1 Sought to obtain sexual gratification and / or;*

*6.2 Acted in pursuit of a sexual relationship / sexual interaction.*

198. The Committee had made findings on Particulars 6, 6.1 and 6.2 as set out above. In summary the Committee found Particulars 6, 6.1 and 6.2 proved in relation to each Particular as follows:
- Particular 2.1 – Particular 6 proved.
  - Particular 2.2 – Particulars 6, 6.1 and 6.2 proved.
  - Particular 2.3 – Particular 6 and 6.1 proved.
  - Particular 2.4 – Particulars 6, 6.1 and 6.2 proved.
  - Particular 2.5 – Particulars 6 and 6.2 proved.
  - Particular 3.3 – Particulars 6 and 6.2 proved.
  - Particular 3.4 – Particulars 6 and 6.2 proved

- Particular 3.5 – Particular 6 proved.
- Particular 3.6 – Particular 6 proved.
- Particular 3.7 – Particulars 6, 6.1 and 6.2 proved.
- Particular 3.8 – Particulars 6, 6.1 and 6.2 proved.
- Particular 4 – Particulars 6 and 6.2 proved.
- Particular 5.1 – Particular 6 proved.
- Particular 5.2 – Particulars 6 and 6.1 proved.

199. Particular 6 was not proved in relation to Particulars 3.1 and 3.2.

### **Submissions on Misconduct and Impairment**

200. Having found some of the Particulars of the 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.

201. 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 states:

*“A pharmacy professional is ‘fit to practise’ when they have the skills, knowledge, character, behaviour and health needed to work as a pharmacist...safely and effectively. In practical terms, this means maintaining appropriate standards of competence, demonstrating good character, and also adhering to the principles of good practice set out in our various standards, guidance and advice.”*

202. The Committee took into account the submissions made by both parties, the Registrant’s additional evidence and his Combined Statement of Case and Skeleton Argument dated 17 April 2024.

203. Mr Sadeh submitted the Registrant’s conduct was seriously reprehensible and amounted to misconduct. He referred the Committee to the case of Roylance v General Medical Council (No.2) [2000] 1 A.C. 311 which stated:

35. *“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.....in the particular circumstances.*

204. Mr Sadeh also referred the Committee to a number of other cases including Meadow v General Medical Council [2007] 1 All ER 1, in which Auld LJ stated:

*“200..... As to seriousness, Collins J. in Nandi v General Medical Council [2004] EWHC 2317 (Admin), rightly emphasised at [31] the need to give it proper weight, observing that in other contexts it has been referred to as “conduct which would be regarded as deplorable by fellow practitioners.”*

205. Mr Sadeh submitted the Registrant’s conduct had been wide ranging over a long period of time and there had been a breach of Standards 3, 5, 6 and 9 of the GPhC Standards for Pharmacy Professionals (May 2017) (“the Standards”).

206. In relation to impairment, Mr Sadeh submitted there had been a breach of Rule 5(2)(a), (b) and (c) of the Rules. He accepted there was no evidence of any risk to patient safety but submitted that at the time there had been a potential risk to female colleagues which could have undermined the care provided to patients due to the Registrant’s conduct towards those colleagues, which could have prevented them from focusing fully on their work. He submitted that although the Registrant had undertaken therapy, no documentary evidence had been provided of this. Mr Sadeh submitted that the Registrant had not fully accepted the Committee’s decision and there was insufficient remediation at this stage. Mr Sadeh submitted the Registrant’s fitness to practise remained currently impaired.

207. The Registrant accepted that his actions amounted to misconduct but submitted that his fitness to practise is not currently impaired. He referred the Committee to his Reflections document dated 8 April 2024 in which, he submitted, he had shown a deep understanding of the impact on the witnesses. He informed the Committee

that he had reflected on his own behaviour and considered how he wanted to be as a professional. The Registrant said he had been advised by his legal representative not to apologise until this stage. He said he wished to formally apologise to all the witnesses. He said he had not been given an opportunity to do this previously as the hospital did not let him speak to any of them. The Registrant said that he wanted to be a good pharmacy professional, [PRIVATE] and wanted to make his family proud. He said he had spent a long time going over the events, how things had been perceived and realised he had never fully considered the impact on others.

208. The Registrant stated that after he had been suspended by the hospital, he had had [PRIVATE] over a year from November 2021 which had been arranged by the hospital and he gave an overview of what had been covered in those 20 plus sessions. The Registrant said that initially when he was suspended by the hospital, he had had a number of health issues, [PRIVATE]. He stated that the therapy had mainly focused on these issues. No specific sessions had focused on his sexual misconduct/inappropriate behaviour. However, he stated the sessions had helped him to look into the allegations more, consider how he had acted in these situations and what he would subsequently have done differently. He said the therapy had been very valuable as it challenged how he and others felt and whilst the sessions had not been specific to the allegations, the conduct had been covered during them.
209. The Registrant provided details of the courses he had recently attended. He had done a Professional Boundaries Course and an Interpersonal Skills Course on 3 February 2024 and a Sexual Harassment Awareness Course on 8 April 2024. These were all online courses. The Registrant explained that after he was dismissed, he was on a lower salary. Due to his personal circumstances and financial commitments, [PRIVATE], he did not have much money to attend courses. He explained that he had done lots of reading around relevant materials himself and provided the Committee with a list of the reading he had done. He had also used therapy apps on his phone. He explained that after his dismissal from the hospital he had also had several discussions with other pharmacy professionals and [PRIVATE] about how they had found working with him and how they had dealt with conversations in the workplace.

The Registrant stated this had led him to think carefully about blurring the lines at work. He stressed that he would now not discuss any personal matters with anyone at work unless they were related to work, and he would keep all conversations work related only.

210. In relation to the Committee's findings, the Registrant stated that he accepted these but he also said that he was entitled to his own opinion and "*I know what my truths are*". He stated he was upset by the findings as he felt he had not committed the behaviour in the allegations. He understood the implications these would have on his registration. He said he had done a lot of remediation. He maintained he had never touched anyone but at the same time understood how this had impacted on the person involved. He had reflected on his behaviour regardless of whether the allegations were found proved or not. The Registrant stated that the comments made had been in a different context to that alleged and he had taken lessons from that. He wanted to create a safe, positive workspace in a safe environment and have clear relationships with colleagues without anyone feeling like they were working in a toxic environment. There would be no socialising outside of work, only discussions about work at work and he had learnt about communicating better with others having reflected on the events that had occurred.
211. On the public's view of his conduct, the Registrant said that the public would be rightly concerned and shocked, but the public was also forgiving and would consider who he is now. He stated a holistic approach was needed and consideration given to whether the public would want him to provide care and be their pharmacist. The Registrant did not consider he was a potential risk. He said that he accepted the allegations had been found proved and they will be on his record. He felt that people would form an impression about him straight away and there was nothing he could do to change that, but he had done a great deal to remedy what he had identified within himself.
212. The Registrant gave some examples of how he had applied his learning recently – he was keeping a daily journal, he tried to put himself in others shoes, he considered

how his conversations affected others, he was able to look after his health better and had found mindfulness to be very useful. The specific examples he gave related to how he had dealt with challenging family situations, although he also mentioned how he had dealt with a work situation that could have escalated into an argument but he was able to diffuse it. [PRIVATE]. He stated he had never been good at communication or expressing himself and that he struggled with eye contact. He said that he now looked at the tone of how people would say things and pay more attention to their body language and eyes.

213. The Registrant said that he had not considered updating his Reflections after receiving the Committee's decision on facts. He had however, thought about how his conduct had impacted on individuals. He realised that perhaps he should have updated his Reflections with this. He confirmed he would update his Reflections as that would help with his own professional development.
214. The Registrant assured the Committee that he never wanted anybody to be put in a similar situation again. The allegations had had a profound effect on him and he had taken on board the impact on others. He stressed his regulator would never hear any professional complaints about him again. This had been "*a massive learning experience*" and the impact would never leave him. He had learnt profound lessons that would shape the rest of his career.
215. When asked about what impact he thought his conduct had had on his colleagues, the Registrant stated they must have felt scared, vulnerable, in disbelief and confused about why it had happened to them. He acknowledged his conduct had decreased morale in the workplace and colleagues had not wanted to work with him, or talk to others about what had happened as they felt a sense of shame. He accepted his conduct had had a massive impact on his colleagues and on their work life. The Registrant stated that he was no longer the person he was at the time he was suspended by the hospital. He wanted to do everything he could to restore the Committee, the profession and the public's trust and confidence in him.

## Decision on Misconduct

216. The Committee considered whether the Registrant had breached any of the Council's Standards for Pharmacy Professionals (May 2017). The Registrant had accepted he had breached Standards 3, 5, 6 and 9. The Committee determined that there had been a breach of the following Standards:

- a. Standard 3 - Pharmacy professionals must communicate effectively.

This standard made reference to working in partnership with others to ensure the delivery of person-centred care. Whilst there was no evidence of any impact on patients, the Committee concluded that the Registrant's comments to his colleagues, which were inappropriate and at times sexual in nature, did not promote a positive and productive working relationship.

- b. Standard 5 - Pharmacy professionals must use their professional judgment.

The Committee had found that the Registrant had inappropriately touched colleagues on four occasions and he had made inappropriate comments to a number of colleagues over a long period of time. As such, he had failed to use his professional judgment. The Committee had heard from a number of witnesses that they felt uncomfortable around him and had tried to avoid him. There was no evidence of any risk to patients but his conduct did have an impact on effective teamworking.

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

The Registrant had failed to maintain appropriate professional boundaries with his colleagues by making inappropriate, often sexual comments to those he was working with and by inappropriate touching. This conduct had taken place both at the workplace and also in a social setting. It was highly unprofessional behaviour.

- d. Standard 9 – Pharmacy professionals must demonstrate leadership.

The Registrant had not demonstrated leadership as he had not led by example. He had been more senior than two of the complainants when he had behaved inappropriately. One of them was a healthcare assistant and the other a



pharmacy technician. Colleague B, who was the pharmacy technician, had stated the Registrant had changed after he qualified as a pharmacist. Her evidence was that she had not reported his conduct as she felt she would not be believed as a pharmacy technician and his junior. She was also concerned about jeopardising her job. Due to the Registrant's conduct with other colleagues in 2019, he had been removed from working on Ward 6. The Registrant's behaviour was not setting a good example to those he worked with or showing leadership.

217. 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).
218. The Committee had found that the Registrant had inappropriately touched a colleague's bottom three times, on one occasion it had found the touching to be sexual in nature. He had made numerous comments to colleagues which were inappropriate and sexual in nature or sexually motivated and he had inappropriately hugged a junior colleague. This conduct had taken place over a period of 28 months from December 2018 to April 2021 in different parts of the hospital as well as at two social events, one of which was a work party. The Registrant's behaviour involved four separate female colleagues and in many cases the Committee had found the behaviour was sexual in nature/sexually motivated and in others it was for the Registrant's own sexual gratification.
219. The Committee was mindful that the misconduct had taken place over a lengthy period of time. The Registrant had been aware of the complaints of two female colleagues by November 2019 when he was moved away from one of the Wards, yet he repeated his behaviour by making further inappropriate and sexual comments to two other female colleagues in September 2020 and in April 2021.
220. The Committee had no doubt that pattern of behaviour was conduct that fell far short of what was proper in the circumstances. It was conduct that would be regarded as deplorable by fellow practitioners and members of the public would be shocked and appalled by it. The Committee was satisfied that the ground of misconduct was established.

## Decision on Impairment

221. Having found that the Particulars of the Allegation amounted to misconduct, the Committee went on to consider whether the Registrant's fitness to practise is currently impaired. In doing so the Committee considered Rule 5(2) of the Rules and whether the Particulars found proved showed that the actions of the Registrant:

*(a) present 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*

*(d) means that the integrity of the Registrant can no longer be relied upon.*

222. The Committee was satisfied that Rules 5(2)(a), (b) and (c) were engaged in this case. Dealing firstly with Rule 5(2)(a), there was no evidence of any risk to patients. No concerns had been expressed about the Registrant's professional practise, indeed two witnesses had spoken about the Registrant being a good pharmacist. However, the Registrant's conduct had presented an actual risk to female colleagues both in the workplace and at two social events. It had impacted on effective team working. The Committee had heard evidence from witnesses that they avoided him which had the potential to impact on their work environment and patient care.

223. In relation to Rule 5(2)(b), the Registrant's conduct had brought the profession of pharmacy into disrepute. The Committee had heard evidence of the distress his behaviour had caused to a number of his colleagues, some of who actively avoided contact with him. There was no doubt that the public would be shocked and appalled to learn of the Registrant's conduct which involved inappropriate and sexual behaviour and comments towards colleagues. This undermined public confidence in the pharmacy profession.

224. Finally, in relation to Rule 5(2)(c), the Registrant had breached the fundamental principles of the profession of pharmacy. He had failed to protect, promote and

maintain the health, safety and wellbeing of the public, namely his female colleagues at work by making inappropriate sexual comments to them and by inappropriately touching two of them. He had failed to maintain public confidence in the profession and uphold expected standards of behaviour. The Committee heard evidence of the upset caused to colleagues by his behaviour and he had failed to promote and maintain proper professional standards and conduct for members of the profession by breaching Standards 3, 5, 6 and 9.

225. The Committee then considered whether:

- the conduct which led to the complaints is able to be addressed
- the conduct which led to the complaints has been addressed
- the conduct which led to the complaints is likely to be repeated
- a finding of impairment is needed to declare and uphold proper standards of behaviour and/or maintain public confidence in the profession.

226. The Committee was satisfied that the conduct found proved could be addressed, and the Registrant had taken some steps to address it. He had now apologised to all of the witnesses involved. He had attended a number of courses recently - Professional Boundaries, Interpersonal Skills and Sexual Harassment Awareness. He had undertaken therapy, but this was done during his period of suspension from his employers so before these allegations had been formulated. That therapy was for other health issues and not specific to the conduct found proved, although the Registrant said that his behaviour had been discussed during those sessions. The Registrant spoke about what he had learnt from the courses he had attended, how he treated people differently and how he was using the techniques he had learnt in his therapy sessions, such as taking a step back in difficult situations, observing body language and being mindful of the type of conversations he engaged in at work.

227. The Registrant had provided long and detailed Reflections which had been written before the Committee had made its findings. Accordingly, whilst those reflections focused on the allegations made against him, they were made in the context of the

Registrant denying the allegations and therefore did not address the specific findings of fact made by the Committee. This was an indication of the limited application of his learning. Throughout his evidence on misconduct and impairment, the Registrant focused mainly of the effect of these proceedings on him. He only addressed the actual impact on the complainants after he was asked about it.

228. The Committee was also concerned that the Registrant had shown limited acceptance of its findings. Whilst he said that he accepted the findings, he also maintained he could have his own opinion about the conduct. He maintained his denial about touching a colleague's bottom. Although he had now formally apologised to all of the witnesses, his lack of full acceptance of the findings indicates the Registrant's insight remains limited.
229. The Committee concluded, taking all of the above into account that there had been some remediation. The Registrant had taken steps towards addressing the complaints but that remediation was not yet sufficient. Given the pattern of behaviour which the Registrant had previously shown, the Committee concluded there remained a risk of repetition and there a potential risk to female colleagues.
230. The Committee was also satisfied that it was in the public interest to make a finding of impairment. This would uphold professional standards and maintain public confidence in the profession. The Registrant's misconduct was serious. It had impacted on four female work colleagues and had been repeated after complaints in November 2019 by two female colleagues. The misconduct had taken place over a period of 28 months. This required a finding of impairment to mark the seriousness of what had occurred and thereby maintain public confidence in the profession. A finding of impairment also promotes professional standards by making clear to other professionals what is expected of them and deterring them from failing to meet those standards.
231. The Committee was satisfied that the Registrant's fitness to practise remains currently impaired. It went on to consider the issue of sanction.

## Sanction

232. The Committee's powers in relation to sanction are set out in Article 54(2) of the Order. The Committee should consider the available sanctions in ascending order from the least restrictive which is to take no action, to the most restrictive which would be a removal from the Register, in order to identify the appropriate and proportionate sanction that meets the circumstances of the case.
233. 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 in the profession, and to promote and maintain proper professional standards and conduct. The Committee is therefore entitled to give greater weight to the public interest over the Registrant's interests.
234. The Committee again had regard to the Council's *'Good decision making: Fitness to practise hearings and sanctions guidance'* to inform its decision and the *'Good decision-making: Conditions bank and guidance'* (July 2023).
235. The Committee took into account the submissions made by both parties and the documents provided.
236. Mr Sadeh submitted the appropriate sanction in this case was removal from the Register. However, he accepted the Committee may decide this was disproportionate, in which case he submitted a suspension for 12 months would be the only justifiable sanction. Mr Sadeh accepted that the Committee should take into account the case of Kamberova v Nursing and Midwifery Council [2016] EWHC 2955 (Admin) and consider whether an interim period of suspension was a relevant factor when determining sanction. However, he also reminded the Committee of the case of General Medical Council v Abdulkhaled Ahmed [2022] EWHC 403 (Admin) in which it was stated that undue weight should not be given to an interim suspension order.

237. The Registrant submitted a removal from the Register would be disproportionate in this case. He submitted if the Committee decided to impose a suspension it should be for as short a period as possible. He submitted he had been fully transparent and open, [PRIVATE]. He accepted the Committee's findings that his understanding and insight did not go far enough, and he hoped he could be given an opportunity to show that more could be done to address this. He reminded the Committee that he had provided a number of character references which demonstrated people found him good to work with.
238. The Registrant stated that he accepted the Committee's decisions, and he did not go against what had been found. He had denied the allegations as he was entitled to, and his concern was that an admission now that he had committed the acts would not be honest to himself and his integrity. He took on board the areas that he needed to improve on and had shown some insight and remediation. He submitted that he could potentially show that he could uphold the standards of pharmacy in the future.
239. The Registrant submitted the Committee should take into account the case of Kamberova v Nursing and Midwifery Council and consider any interim period of suspension. He had been subject to an interim suspension order since 6 January 2023 which he had fully complied with.
240. The Committee first considered what, if any, aggravating and mitigating factors there may be.
241. The Committee identified the following aggravating factors:
- a. The misconduct had been repeated over a long period of 28 months and had involved four female colleagues, one of whom the Committee had found was vulnerable due to her personal circumstances.
  - b. The misconduct had taken place both in the workplace and outside the workplace at two social events.
  - c. The Registrant had abused his position of trust. Colleague B had spoken of there being no issues with the Registrant while he was a trainee pharmacist

but that on qualification as a pharmacist, his behaviour changed. This indicated that his attitude changed as he became a more senior member of staff. The Committee had found that the inappropriate and sexual comments made to female colleagues were whispered, most likely to avoid others hearing them. The Committee had also found that the Registrant had made the comments in areas where the female colleagues were alone, such as in the stairwell, in the doctors' office and in a hospital corridor. The comments written on paper were done in a room with other colleagues present while a speaker was giving a talk where there was limited opportunity for him to be challenged.

- d. The Registrant had repeated his misconduct in September 2020 and April 2021, even though two colleagues had reported his behaviour in November 2019 and he had been removed from working on Ward 6 as a result.
- e. His misconduct had had a significant impact on four female colleagues who had been nervous around him and had taken active steps to avoid him. They had been very distressed by his behaviour.
- f. The Registrant has shown insufficient insight into his misconduct and into the Committee's determination on facts found proved.

242. The Committee identified the following mitigating factors:

- a. There had been some remediation. The Registrant had undertaken relevant courses and reading to understand and address his misconduct. There had been some reflections and learning from him, and he had thought about some of the impact of his behaviour. He had also accepted that he needed to do further work on his insight and remediation.
- b. The Registrant had formally apologised to all of the complainants for his behaviour.
- c. Although the Registrant's conduct had impacted on teamworking within the hospital, there was no evidence of any harm to patients.

- d. Good character references had been provided from other work colleagues at the hospital who had had no issues with the Registrant.
- e. There had been no complaints about the Registrant's professional work as a pharmacist.
- f. The Registrant had co-operated with his regulator and engaged fully with these proceedings
- g. He had a previously unblemished record.

243. The Committee then considered each of the sanctions in ascending order. The Registrant's misconduct was serious. It involved inappropriate touching of female colleagues on four occasions, one of which had been found to be sexually motivated. He had made numerous sexual comments to female colleagues over a period of 28 months, some of which had been for his own sexual gratification. The Committee concluded that taking no action or issuing a warning to the Registrant would be insufficient to mark the seriousness of the misconduct.

244. The Committee then considered whether to impose conditions on the Registrant's practise. As there had been no complaints about the Registrant's work or competency, the Committee concluded conditions were not an appropriate sanction in this case. Given the nature of the misconduct which was inappropriate and sexual in nature, the Committee could not formulate workable and practicable conditions that would address its concerns and the risk to the public. The misconduct had taken place both at work and in social settings. It related to the Registrant's attitude and behaviour towards female colleagues. The Committee decided conditions were not appropriate or sufficient to address or mark the seriousness of the misconduct in this case. They would not uphold public confidence in the profession or in the regulator.

245. The Committee next considered whether suspension would be a proportionate sanction. The Committee noted the Council's guidance which indicates that suspension may be appropriate where:



*“The Committee considers that a warning or conditions are not sufficient to deal with any risk to patient safety or to protect the public, or would undermine public confidence.*

*When it is necessary to highlight to the profession and to the public that the conduct of the professional is unacceptable and unbefitting a member of the pharmacy profession. Also, when public confidence in the profession demands no lesser outcome.”*

246. The Guidance also indicates that sexual misconduct, whatever the circumstances, undermines public trust and confidence in the profession and has a significant impact on the reputation of pharmacy professionals. The Committee had determined this was a serious misconduct case and members of the public would be shocked and appalled by the Registrant’s behaviour. He had abused his position of trust, and he had repeated his behaviour over a long period of time demonstrating a pattern of unacceptable conduct towards female work colleagues both at work and in two social settings. He has shown limited insight and his remediation is still developing. As such the Committee has identified that there remains a risk of repetition. However, there had been no concerns about his professional practice as a pharmacist. Taking all these factors into account, the Committee concludes that a Suspension Order is the appropriate and proportionate sanction.
247. In relation to the period of suspension, as the Registrant’s misconduct was sexual and had been repeated over a long period of time, it was particularly serious. There is limited remediation and insight. The Committee concludes that a period of 12 months suspension is appropriate and proportionate. This is required to maintain public trust and confidence in the profession, uphold proper standards of conduct for pharmacy professionals and protect the health, safety and wellbeing of the public, namely female colleagues.
248. The Committee took into account the case of Kamberova v Nursing and Midwifery Council which stated:

*“4. .... For the detailed reasons which appear below, in my judgment a [Conduct and Competence Committee] should take into account the time*

*spent by a registrant suspended under an [interim suspension order] as a relevant factor when considering what is the appropriate and proportionate sanction.....*

*..... If proceedings are long delayed and a person is subject to suspension in the interim period, that period of suspension may affect the proportionality of the length of the subsequent period of suspension. Whether it has that effect is for the Committee to determine. If the appropriate sanction is one of striking off, then the fact that there has been an ISO may be of no relevant effect. However, if the appropriate sanction is a short period of suspension, the fact that there has been an interim period of suspension may be relevant. This is particularly the case given the number of cases before this court in which ISOs of considerable length have, because of delays in arranging hearings, had to be extended”*

249. The Committee also took into account the case of General Medical Council v Abdulkhaled Ahmed in which Mr Justice Murray had stated:

*“96..... Undue weight should not be given to the fact that a doctor has been subject to an interim suspension order when imposing suspension as a sanction, but Kamberova v NMC makes clear that it is a factor that should, in fairness, nonetheless be taken into account, at least where the sanction is a short period of suspension. It is therefore a matter of judgment for the MPT as part of its multi-factorial decision on sanction.”*

250. The Committee has imposed the maximum period of suspension in this case. It is not a short period of suspension. The Committee noted the Registrant had already been subject to an interim order of suspension for 18 months and he had explained the impact this had had on him. However, sexual misconduct, whatever the circumstances, is serious. It undermines public trust and confidence in the profession and significantly impacts on the reputation of pharmacy professionals. In light of this, the Committee concludes that the maximum period of suspension of 12 months is necessary to maintain that public confidence and uphold standards expected of

pharmacy professionals. It does not therefore reduce the Suspension Order imposed.

251. The Committee considered removal from the Register would be a disproportionate sanction in this case as there had been no concerns about the Registrant's practise as a pharmacist. The Committee is satisfied that the Registrant appears to have learnt a salutary lesson from these proceedings and his conduct could potentially be remediated. It concludes that he should be given an opportunity to address the further remaining shortcomings the Committee has identified. In this particular case, the public confidence in the profession and the maintenance of proper professional standards and conduct for pharmacy professionals does not require removal at this stage.
252. The Committee therefore directs that the Registrar Suspend the Registrant's registration from the Register for a period of 12 months.

### **Review Hearing**

253. This decision will be reviewed by a Fitness to Practise Committee before the sanction expires. A future Committee may be assisted by updated reflections from the Registrant on how he has applied his learning, including any additional courses/learning undertaken, to further develop his insight and remediation.

### **Application to Revoke Interim Order**

254. Mr Sadeh made an application to revoke the existing Interim Suspension Order under Article 56(10) of the Order. He stated that as the Committee had made a final determination to impose a Suspension Order, the Interim Suspension Order comes to an end. He asked the Committee to formally revoke it.
255. The Registrant had no objection to this.
256. The Committee granted the application as it had now dealt with the allegations the interim order related to, so an interim suspension order was no longer required.

### **Application for Interim Measures**

257. Mr Sadeh also made an application for Interim Measures under Article 60 of the Order. He reminded the Committee that the Suspension Order it had imposed would not take effect until 28 days after the date of the Committee's decision, which was the appeal period during which the Registrant could appeal the Committee's decision. Without interim measures, the Registrant would be able to practise unrestricted during that 28 day period and also during any appeal period, which could take many months.
258. The Registrant confirmed he had no objection to the application for interim measures. He understood why they were required to cover any appeal period.
259. The Committee again took into account its '*Good Decision making: Fitness to practise hearings and outcomes guidance*'. The Committee accepted Mr Sadeh's submissions. The Committee has found in this case that there has been serious sexual misconduct, that the Registrant's insight and remediation has been insufficient and that public confidence in the profession requires there to be a suspension of the Registrant's ability to practise. It has identified a potential risk of repetition of the misconduct. It has made a Suspension Order for a period of 12 months which is in place to maintain public trust and confidence in the profession, uphold proper standards of conduct for pharmacy professionals and protect the health, safety and wellbeing of the public. It therefore follows that Interim Measures should be in place to ensure any appeal period is similarly protected.
260. Whilst there had been no evidence of patient harm in this case, the Committee concludes that Interim Measures of a Suspension Order are required in the public interest and to protect the public. The Committee grants the application.
261. That concludes this determination.