

General Pharmaceutical Council

Fitness to Practise Committee

Principal Hearing

Remote videolink hearing

6-8 August 2024

Registrant name:	Habib Noman Iqbal
Registration number:	2212445
Part of the register:	Pharmacist
Type of Case:	Misconduct
Committee Members:	Anne Johnstone (Chair) Oliver Jones (Registrant member) Sarah Baalham (Lay member)
Committee Secretary:	Zainab Mohamad and Sameen Ahmed
Legal Adviser:	Neville Sorab
Registrant:	Present and not represented
General Pharmaceutical Council:	Represented by Ryan Ross, Case Presenter
Facts proved:	2, 4, 5 and 6
Facts proved by admission:	1 and 3
Facts not proved:	None
Fitness to practise:	Impaired
Outcome:	Suspension for 3 months with review and 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 6 September 2024 or, if an appeal is lodged, once that appeal has been concluded. However, the interim suspension set out in the decision takes effect immediately and will lapse when the decision takes effect or once any appeal is concluded.

Particulars of Allegation (as amended)

On or around 11 to 17 December 2021, whilst you Habib Iqbal, were Superintendent Pharmacist of Central Pharmacy, 142 Northdown Road, Margate, CT9 2QN, it is alleged that:

1. Confidential waste, controlled drugs, one or more syringes and/or other medication was:

a) Placed within black bags;

b) Not stored within lockable cabinets; and

c) Disposed of at an unsecure location.

2. You did not take suitable steps to ensure that confidential waste, controlled drugs, syringes and/or other medication was stored and/or disposed of correctly.

3. As a result of the matters at 1a, 1b and/or 1c above, patient confidentiality was breached, in that the confidential waste included names and/or addresses of patients.

4. Upon being informed of the matters at 1a, 1b and/or 1c above, you did not take timely steps to address the concerns.

5. On or around March 2022 submitted a report to NHS data security in which you stated that you had become aware of the incident in particular 1 above in February 2022.

6. Your actions in particular 5 were dishonest in that you were made aware of the incident in December 2021 and deliberately sought to mislead any reader of the report as to the date you became aware of the incident.

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

Documentation

Document 1- GPhC hearing bundle

Document 2- GPhC skeleton argument

Determination

Introduction

1. This is the written determination of the Fitness to Practise Committee at the General Pharmaceutical Council (the “Council”).
2. The hearing is governed by *The Pharmacy Order 2010* (“the Order”) and *The General Pharmaceutical Council (Fitness to Practise and Disqualification etc. Rules) Order of Council 2010* (“the Rules”).
3. The statutory overarching objectives for these regulatory proceedings are:
 - a. To protect, promote and maintain the health, safety and well-being of the public;
 - b. To promote and maintain public confidence in the professions regulated by the Council; and
 - c. To promote and maintain proper professional standards and conduct for members of those professions.
4. The Committee also has regard to the guidance contained in the Council’s *Good decision making: Fitness to practise hearings and sanction guidance* as revised March 2024.
5. A Principal Hearing has up to three stages:
 - Stage 1. Findings of Fact – the Committee determines any disputed facts.
 - Stage 2. Findings of ground(s) of impairment and impairment – the Committee determines whether, on the facts as proved, a statutory ground for impairment is established and, if so, whether the Registrant’s fitness to practise is currently impaired.
 - Stage 3. Sanction – the Committee considers what, if any, sanction should be applied if the Registrant’s fitness to practise is found to be impaired.

Service of Notice of Hearing

6. The Committee has seen a letter dated 5 July 2024 from the Council headed “Notice of Hearing” addressed to the Registrant. The Committee was satisfied that there had been good service of the Notice in accordance with Rules 3 and 16.

Application to amend the particulars of allegation

7. The Committee heard an application under Rule 41 from the Council to amend the Particulars of Allegation as follows (additions in underline and removals in strikethrough):

On or around 11 to 17 December 2021, whilst you Habib Iqbal, were Superintendent Pharmacist of Central Pharmacy, 142 Northdown Road, Margate, CT9 2QN, it is alleged that:

1. Confidential waste, controlled drugs, one or more ~~used~~ syringes and/or other medication was:

- a) Placed within black bags;*
- b) Not stored within lockable cabinets; and*
- c) Disposed of at an unsecure location.*

2. You did not take suitable steps to ensure that confidential waste, controlled drugs, ~~used~~ syringes and/or other medication was stored and/or disposed of correctly.

3. As a result of the matters at 1a, 1b and/or 1c above, patient confidentiality was breached, in that the confidential waste included names and/or addresses of patients.

4. Upon being informed of the matters at 1a, 1b and/or 1c above, you did not take timely steps to address the concerns.

5. On or around March 2022 submitted a report to NHS data security in which you stated that you had become aware of the incident in particular 1 above in February 2022.

6. Your actions in particular 5 were dishonest in that you were made aware of the incident in December 2021 and deliberately sought to mislead any reader of the report as to the date you became aware of the incident.

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

8. The Council submitted that the amendments are made to further accurately reflect the evidence, as there is no evidence that the syringe was used. The proposed amendments are not based on new evidence and make the allegations less onerous, and for those reasons, there will be no prejudice caused to the Registrant if the application is granted.
9. The Registrant did not oppose the application.
10. The Committee accepted that, subject to the requirements not to prejudice the fairness of these proceedings, the allegations should reflect the gravity of the

Registrant's alleged conduct or behaviour (*PSA v HCPC and Doree [2017] EWCA Civ 319*). However, to introduce late an entirely new case requiring extensive investigation would potentially be unfair (*Bittar v FCA [2017] UKUT 82 (TCC)*). The Committee was of the view that the amendments to the allegations reflect the evidence. The amendments are not based on new evidence and make the allegations less onerous and, consequently, the amendments would not prejudice the fairness of these proceedings.

Background

11. At all material times, the Registrant was the Superintendent Pharmacist of Central Pharmacy, 142 Northdown Road, Margate, CT9 2QN.
12. On 15 December 2021, Ms 1 was working through an agency as a Street Scene Enforcement Officer for Thanet District Council. She was alerted to fly-tipping at a recycling centre at Palm Bay Avenue, Margate. Upon investigation, she discovered six black bin bags, containing the name of the Registrant/Central Pharmacy. The bags contained: prescriptions (which included patient information) (the confidential information in the allegations); unopened medication (Amitriptyline) (the other medication in the allegations); almost empty bottles of Methadone (the controlled medication in the allegations); and a syringe.
13. Ms 1 took the bags back to Central Pharmacy so that they might be properly disposed of. She did this with a colleague, John Bloomfield. They attended around 1pm on 15 December 2022 and spoke to a locum pharmacist, Mr 1, and a female member of staff. The locum identified the Registrant as the one in charge. Ms 1 later issued Central Pharmacy with a Fixed Penalty Notice, which was paid in full.
14. The Controlled Drugs Professional Manager, Ms 2, produced emails from Central Pharmacy in which it accepted it had not properly rinsed out the Methadone bottles before disposing of them. Statements from Dispensers Mr 2 and Ms 3 set out that they assumed that the builders had disposed of the black bags by mistake.
15. In his representations to the Council dated 15 February 2022, the Registrant provided further detail about the building work that was going on at Central Pharmacy. He also stated that the December period was very busy, and that the decision to store the confidential waste in black bin bags was made by an unknown member of staff.
16. At the material time, Mr 1 was a locum pharmacist at Central Pharmacy. He provides evidence that, in December 2021, Central Pharmacy was being renovated and, as a result, the required process to dispose of confidential waste had not been followed. The confidential waste was being stored in black bin bags at the back of the pharmacy with the builders' waste. It is believed that the builders disposed of the bin bags, believing it to be regular waste.
17. Mr 1 also stated that he called the Registrant later that day, 15 December 2021, to inform him of what happened. According to Mr 1, the Registrant was very concerned

and said the situation needed to be sorted out. The Registrant made a reference to NHS Data Security on 3 March 2022 in which he stated that he became aware of the incident on 4 February 2022.

Evidence

18. The evidence of Ms 1 and Ms 4 was agreed by the parties, so these two witnesses were not called.
19. Mr 1 was called to give live evidence. On behalf of the Council, Mr Ross informed the Committee that in May 2024 Mr 1 was removed from the Council's Register for supplying a fellow pharmacist, on multiple occasions between January 2017 and March 2020, with Phenergan and/or Codeine Linctus without clinical need in circumstances in which he knew or believed they would, or would likely to be, abused or misused. Mr Ross further explained that, as he is no longer a pharmacist and was reluctant to provide evidence, Mr 1 was summoned to give evidence at this Principal Hearing.
20. Mr 1 provided the following evidence:
 - a. He was employed by Central Pharmacy as a Locum Pharmacist. He worked as a locum Pharmacist covering Tuesday to Thursday during November and December 2021. He went to university with the Registrant and had no problems working with him.
 - b. At Central Pharmacy, the required process for dealing with confidential waste is that everything has to either be shredded, or put in the confidential waste bin. In the dispensary, there is a locked cabinet with a bin inside, into which confidential waste is placed. The cabinet is locked, and when the bin is full, there is another basket in the dispensary that is used to collect the confidential waste. Central Pharmacy then have a contractor that comes in and disposes of the confidential waste.
 - c. He would not be able to say for certain whether there was more confidential waste than usual at the time of the incident in December 2021. However, given it was the Christmas period, Central Pharmacy was a lot busier than usual. It is therefore logical to assume that the business of the pharmacy equated to more confidential waste.
 - d. On 15 December 2021, two staff members, whose names Mr 1 cannot recall, from Thanet District Council attended Central Pharmacy to inform it that confidential waste belonging to Central Pharmacy had been found in bin bags. Mr 1 was the Responsible Pharmacist on duty, so he had the initial contact with them. Given the passage of time, Mr 1 cannot recall details of the conversation, however he does remember that they brought the bin bags back to the Pharmacy to be disposed of properly. At the time of the incident, a room at the back of the Pharmacy was being renovated. Mr 1 believes it was being painted and the floor was being replaced.

Prior to this visit from the Council, Mr 1 was unaware that the required process to dispose of confidential waste had not been followed, and that confidential waste was being stored in black bin bags at the back of the Pharmacy with the builders' waste, who had then accidentally disposed of the confidential waste, believing it to be regular waste.

- e. After the Council returned the bin bags, Mr 1 had a look through them and found inside medication labels containing patient names and addresses. After the Thanet District Council staff left Central Pharmacy, on that day, Mr 1 called the Registrant to inform him of the situation. Mr 1 felt it was his duty, as the responsible pharmacist at the time, to call the Registrant. The Registrant was very concerned, and said that the situation needed to be sorted out. The Registrant was concerned as there was a confidentiality breach and something went wrong. Mr 1 cannot recall any instructions provided by the Registrant.
- f. As Mr 1 was a locum pharmacist, he was not based at Central Pharmacy. He only worked at this branch for a couple of weeks in November and December 2021, and then again in May 2022. As he does not work there on a regular basis, he is unaware of what happened following the visit from the Council, if any training has occurred since the incident or why a report to the Information Commissioners Office was not promptly made.

21. Before the Committee, the Registrant provided the following evidence:

- a. The Registrant apologised for being in this situation.
- b. He is the member of staff responsible for GDPR compliance and the Data Protection Officer for Central Pharmacy.
- c. At the time of the allegations, Central Pharmacy was very busy due to COVID vaccinations being administered, it being a late-night pharmacy, and it being the Christmas period. This resulted in an excess amount of waste being produced by Central Pharmacy. Further, there was building work taking place.
- d. The builders did not realise that the excess waste at the back of the pharmacy belonged to the pharmacy, but accidentally incorporated this with the builder's rubbish.
- e. Although the Registrant was not in Central Pharmacy on 15 December 2021, he does not remember seeing black bags filled with confidential waste. He does recall seeing general waste bags. He recalls seeing waste properly segregated.
- f. The Registrant accepts that confidential information, medication and syringes could have been mixed up in waste bags, but that should not have happened.
- g. Central Pharmacy has Standard Operating Procedures ("SOPs") on how to dispose of medical waste, confidential waste and sharp objects. At the time of the allegations, these SOPs should have been followed, but they were not and the builders accidentally took rubbish which belonged to Central Pharmacy.

- h. Central Pharmacy has locked cabinets which contain bins in which to dispose of confidential waste. A company then came to collect and shred the confidential data.
- i. The Registrant received a call from Mr 1 in the evening following the visit of Thanet District Council staff at Central Pharmacy informing him of what happened. The Registrant spoke to the staff the following day to try and work out what happened.
- j. The NHS Data Protection and Security Toolkit asks the question “*When did you become aware of the incident*” to which the Registrant responded “*Friday, 4 February 2022 09:00.*” The Registrant explained that this was an oversight on his part as he put down the date at which he received a letter from the Council rather than the date he found out from Mr 1 what happened; he misinterpreted what was being asked of him.
- k. Since the date of the allegations, the Registrant carried out the following steps:
 - i. The capacity of the confidential waste bins has increased to avoid a repetition of what is alleged.
 - ii. There has been a review of the SOPs.
 - iii. He sat down with the Dispensers to find out what happened and explained that this should never happen again.
 - iv. Empty bottles of medication are now rinsed immediately as opposed to being left to be rinsed and disposed of at a later point in time.
 - v. Ensured that there are enough medical bins to dispose of medical waste.
 - vi. Conducted an internal investigation culminating in a report (“Report”). Due to the confidential nature of the report, it is currently at Central Pharmacy in a lockable cabinet to which only the Registrant has access.
- l. No one was formally disciplined for the data breaches and the incorrect disposal of medicine and medical waste as the Registrant is not sure who was responsible.

Request to admit further evidence

- 22. At 12:30pm on 6 August 2024, following evidence given by the Registrant that the internal investigation report is currently at Central Pharmacy in a lockable cabinet to which only he has access, the Committee asked whether the Report could be retrieved and put before the Committee. The Committee invited submissions on its request.
- 23. On behalf of the Council, Mr Ross did not oppose the request and considered the admission of the Report to be relevant and fair given that its production would support the Registrant’s testimony.

24. The Registrant did not oppose the request, but said that it was a 2-hour drive to obtain the report as he was at home and the Report was at Central Pharmacy.
25. The Committee noted rule 18(5) which set out: *“Any document which has not been served on the secretary by the end of [No later than 9 days before the Monday of the week in which the hearing is to take place] is, except in exceptional circumstances, not to be admitted into evidence at the hearing.”* Should the Committee consider that the *“exceptional circumstances”* have been met, then the evidence needs to be relevant and fair (Rule 24(2)).
26. The Committee noted that these were *“exceptional circumstances”* given that the Registrant had only mentioned the Report immediately prior to the Committee’s request, so it was unaware of the Report prior to this. Further, the Committee considers the admission of the Report to be relevant as its production would support the Registrant’s testimony, and fair as its production would support the Registrant’s case.
27. The Registrant did not produce the Report as he could not find it.

Decision on Facts

28. The Registrant admitted allegations 1 and 3. Consequently, the admitted allegations were found proved.
29. The Registrant denied allegations 2, 4, 5 and 6. The burden falls upon the Council to prove the facts. The Committee must consider whether the facts have been established in accordance with the civil standard of proof, namely more likely than not (balance of probabilities).

Allegation 2 – You did not take suitable steps to ensure that confidential waste, controlled drugs, syringes and/or other medication was stored and/or disposed of correctly

30. In relation to Allegation 2, the Committee noted the following evidence:
 - a. The log shows that the Registrant was on duty at Central Pharmacy as the Responsible Pharmacist on 13 and 14 December 2021 between 9am and 9pm. Ms Ms 1’s evidence, which has not been disputed, is that six dumped black bin bags emanating from Central Pharmacy were found fly-tipped at approximately 9.55am on 15 December 2021. The Registrant’s evidence is that, due to the building works, the builders accidentally took pharmacy waste – which the Committee understands to incorporate the six black bags – and disposed of them. The Committee considers that there would likely be a build-up of rubbish from the previous days prior to disposal. This would include pharmacy rubbish on the days that the Registrant was present at Central Pharmacy as the Responsible Pharmacist, namely 13 and 14 December 2021.

- b. During 13 and 14 December 2021, as the Responsible Pharmacist present at Central Pharmacy, the Registrant could have taken suitable steps to ensure that confidential waste, controlled drugs, syringes and/or other medication was stored and/or disposed of correctly. Instead, confidential waste, controlled drugs, syringes and/or other medication were found in the same unlabelled black bag(s); this created a risk of improper disposal of these items. This risk crystallised.
 - c. The Registrant provided evidence that SOPs were in place to ensure that confidential waste, controlled drugs, syringes and/or other medication was stored and/or disposed of correctly. Despite the Committee not having sight of these, the Committee considers that even if SOPs were in place, they were not followed as confidential waste, controlled drugs, syringes and/or other medication were found in the same unlabelled black bag(s) and fly-tipped.
 - d. The Registrant provided evidence that the builders did not realise that the excess waste at the back of Central Pharmacy belonged to Central Pharmacy, but accidentally incorporated this with their rubbish. The Registrant submitted that this was an unfortunate set of circumstances. The Committee considers that given the Registrant was aware of the building works taking place, he should have made provisions to ensure that the pharmacy continued to function properly, including necessary provisions to ensure that confidential waste, controlled drugs, syringes and/or other medication was stored and/or disposed of correctly.
31. In light of this evidence, the Committee considered that it is more likely than not that the Registrant did not take suitable steps to ensure that confidential waste, controlled drugs, syringes and/or other medication was stored and/or disposed of correctly. Consequently, Allegation 2 is found proved.

Allegation 4 – Upon being informed of the matters at 1a, 1b and/or 1c above, you did not take timely steps to address the concerns

32. In relation to Allegation 4, the Committee noted the following evidence:
- a. Mr 1 provided evidence that after the Thanet District Council staff left Central Pharmacy, on that day, he called the Registrant to inform him of the situation. The Registrant provided evidence that he received a call from Mr 1 in the evening following the visit of Thanet District Council staff at Central Pharmacy informing him of what happened. Consequently, the Committee considers that the Registrant knew of the matters at Allegation 1 on 15 December 2021.
 - b. The Registrant provided evidence that he spoke to the staff the following day, which would be 16 December 2021, to try and work out what happened. However, there is no evidence before the Committee that the Registrant spoke to the Central Pharmacy staff on 16 December 2021 about the incidents referred to in Allegation 1. However, there is evidence, in the form of statements, before the Committee from two separate members of the dispensing staff at Central Pharmacy which set out:

- i. *"I was told about the incident by [the Registrant] that there may have been a breach of patient confidential information. This was told to me around the start of February, and I was told our waste was found in a Recycling Centre."*
- ii. *"I found out about the confidentiality breach by [the Registrant] around the first or second week of February, he was telling all the staff one by one what had happened and how it could have happened. He asked us to re-count our version of events."*

These statements from staff members at Central Pharmacy were not disputed by the Registrant. Consequently, the Committee considers it more likely that the Registrant spoke to pharmacy staff in early February, rather than on 16 December 2021.

- c. The Registrant submitted that in their statements, the members of staff were referring to the dates that Central Pharmacy received a letter from the Council, that being 4 February 2022. However, the Committee considers that this is unlikely to be the case as:
 - i. neither staff member refers to being told earlier than early February 2022; and
 - ii. one of the staff members sets out that the Registrant *"he was telling all the staff one by one what had happened and how it could have happened."* If the Registrant discussed the incident with staff members in December 2021, it is unlikely that he would be asking them again in February 2022 what happened.
- d. The Registrant provided evidence that since 15 December 2021, he has taken the following steps to address the concerns raised at Allegation 1:
 - i. The capacity of the confidential waste bins has increased to avoid a repetition of what is alleged.
 - ii. There has been a review of the SOPs.
 - iii. He sat down with the Dispensers to find out what happened and explained that this should never happen again.
 - iv. Empty bottles of medication are now rinsed immediately as opposed to being left to be rinsed and disposed of at a later point in time.
 - v. Ensured that there are enough medical bins to dispose of medical waste.
 - vi. Conducted an internal investigation culminating in the Report.

Other than the Registrant's testimony, there is no evidence to support the steps that the Registrant claims to have taken. For the reasons provided in paragraphs 32(b) and 32(c), the Committee considers more likely that the Registrant spoke to

staff members of Central Pharmacy in February 2022, rather than on 16 December 2201. Further, when given the opportunity to produce the Report, the Registrant failed to produce the Report before the Committee.

33. In light of this evidence, the Committee considered that it is more likely than not that upon being informed of the matters at Allegation 1, the Registrant did not take timely steps to address the concerns. Consequently, Allegation 4 is found proved.

Allegation 5 – On or around March 2022 submitted a report to NHS data security in which you stated that you had become aware of the incident in particular 1 above in February 2022

34. The Committee had before it the NHS Data Protection and Security Toolkit report dated 3 March 2022, and reported by the Registrant. The Committee understood this report was submitted to NHS data security. The NHS Data Protection and Security Toolkit asks the question “*When did you become aware of the incident*” to which the Registrant responded “*Friday, 4 February 2022 09:00.*” This was accepted by the Registrant in his evidence.

35. In light of this evidence, the Committee considered that it is more likely than not that on or around March 2022, the Registrant submitted a report to NHS data security in which he stated that he had become aware of the incident in Allegation 1 in February 2022. Consequently, Allegation 5 is found proved.

Allegation 6 – Your actions in particular 5 were dishonest in that you were made aware of the incident in December 2021 and deliberately sought to mislead any reader of the report as to the date you became aware of the incident

36. As set out in paragraph 32(a) above, the Committee considers that the Registrant knew of the matters at Allegation 1 on 15 December 2021.

37. As set out in paragraphs 34 and 35 above, the Committee considered that it is more likely than not that on or around March 2022, the Registrant submitted a report to NHS data security in which he stated that he had become aware of the incident in Allegation 1 in February 2022.

38. As set out in paragraphs 32 and 33 above, the Committee considered that it is more likely than not that upon being informed of the matters at Allegation 1, the Registrant did not take timely steps to address the concerns. The Committee considers that the Registrant only took the matters at Allegation 1 seriously once he received a letter from the Council on 4 February 2022, as there is no evidence before it that the Registrant took any prior action. Prior to that, the Committee considers that the Registrant hoped no further problems or ramifications emanating from the facts in Allegation 1 would materialise.

39. In his evidence, the Registrant explained that the NHS Data Protection and Security Toolkit asks the question “*When did you become aware of the incident*” to which he responded “*Friday, 4 February 2022 09:00.*” The Registrant explained that this was an

oversight on his part as he put down the date at which he received a letter from the Council rather than the date he found out from Mr 1 what happened; he misinterpreted what was being asked of him. The Committee considers the Registrant had incentive for the reader of the report to believe that he only knew of the incidents set out in Allegation 1 in February 2022, as it would indicate that he took timely action. The Committee considers that the Registrant's actions, in responding with a date of 4 February 2022 as the date he became aware of the incident, were dishonest.

40. In light of this evidence, the Committee considered that it is more likely than not that the Registrant's actions were dishonest in that he deliberately sought to mislead any reader of the NHS Data Protection and Security Toolkit report as to the date he became aware of the incident. Consequently, Allegation 6 is found proved.

Submissions on Grounds and Impairment

41. Having found the particulars of allegation 1-6 proved, the Committee went on to consider whether they amounted to misconduct and, if so, whether the Registrant's fitness to practise is currently impaired.
42. In relation to the misconduct, on behalf of the Council, Mr Ross submitted that the conduct, as set out in the facts, took place during the course of the Registrant's professional practice. The Registrant's conduct, as set out within the particulars of allegation, constituted a serious falling short of the standards expected of a registered pharmacy professional. It is submitted that the Registrant's particularised conduct breached the Standards for pharmacy professionals dated May 2017, in particular:
 - a. Standard 6 – Pharmacy professionals must behave in a professional manner, in particular, that pharmacists are trustworthy and act with honesty and integrity;
 - b. Standard 7 – Pharmacy professionals must respect and maintain a person's confidentiality and privacy;
 - c. Standard 8 – Pharmacy professionals must speak up when they have concerns or when things go wrong; and
 - d. Standard 9 – Pharmacy professionals must demonstrate leadership.
43. In relation to impairment, on behalf of the Council, Mr Ross submitted:
 - a. The mitigating factors in this matter are:
 - i. The Registrant has been apologetic;
 - ii. The Registrant has engaged with the Council through these proceedings;
 - iii. The Registrant's act of dishonesty was a one-off and was at the lower end of the dishonesty spectrum; and
 - iv. The Registrant made early acceptances of his wrongdoing.

- b. The aggravating factors in this matter are:
 - i. The Registrant has not provided any evidence of self-reflection;
 - ii. It is unclear what steps the Registrant has taken to address his misconduct;
 - iii. It is unclear what steps the Registrant has taken to strengthen his practice;
and
 - iv. The Registrant is an experienced pharmacist and held a leadership position at Central Pharmacy.
 - c. The Registrant's misconduct does present an actual or potential risk to patients or to the public. The Registrant's lack of self-reflection means that the Committee is unaware whether he has the resources to respond appropriately to a similar situation in the future. There is a risk of repetition. The Registrant's lack of insight and lack of Continuing Professional Development ("CPD") evidenced also increases the risk of repetition, which, in turn, poses a risk to the public.
 - d. By releasing confidential information, the Registrant has breached the trust of his patients which has brought the profession of pharmacy into disrepute and has breached one of the fundamental principles of the profession of pharmacy. Given the Registrant's lack of insight, there is a risk that the Registrant may bring the profession of pharmacy into disrepute in the future.
 - e. As a result of his dishonesty, the integrity of the Registrant can no longer be relied upon.
44. In relation to the misconduct and impairment, the Registrant submitted:
- a. Since the incident on 15 December 2021, Central Pharmacy has had a Council inspection, which has been passed. In doing so, Central Pharmacy has met the requisite standards for pharmacies and the Council has confirmed that all procedures are in place. Therefore, any risk of repetition has been reduced.
 - b. He apologises for what happened on 15 December 2021.
 - c. He constantly reiterates to staff members at Central Pharmacy what the SOPs are.
 - d. There is less strain on Central Pharmacy now that the building work has been completed, which has also allowed for more space, and that COVID vaccinations are now only given yearly.

Decision on Grounds

45. The Committee took account of the guidance given to the meaning of "*fitness to practise*" in the Council's publication "*Good decision-making*" (Revised March 2024).

46. The Committee accepted and applied the following definition of “*misconduct*”:
- “...some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a practitioner in the particular circumstances. The misconduct is qualified in two respects. First, it is qualified by the word ‘professional’ which links the misconduct to the profession. Secondly, the misconduct is qualified by the word ‘serious’. It is not any professional misconduct which will qualify. The professional misconduct must be serious.”*
47. The Committee also took into account the observation of J Collins in *Nandi v GMC [2004] EWHC 2317 (Admin)* that: *“The adjective ‘serious’ must be given its proper weight and in other contexts there has been reference to conduct which would be regarded as deplorable by fellow practitioners.”*
48. The Committee considered that Registrant’s actions reached the threshold of misconduct due to the following actions of the Registrant:
- a. The names and addresses of numerous patients were left in fly-tipped rubbish bags in a publicly accessible space. This resulted in a patient confidentiality breach;
 - b. Controlled drugs, other medication and syringe(s) were fly-tipped in a publicly accessible space, risking public safety; and
 - c. Acting dishonestly by seeking to mislead any reader of the NHS Data Protection and Security Toolkit report as to the date he became aware of the incident.
49. Further, such actions damage public confidence in the profession, as it would convey a degree of opprobrium to the ordinary intelligent citizen (*Shaw v General Osteopathic Council [2015] EWHC 2721 (Admin)*).
50. The Committee considered whether the Registrant had breached any of the Council’s Standards for Pharmacy Professionals (May 2017). The Committee determined that there had been a breach of the following Standards as a result of the misconduct:
- a. Standard 6 – Pharmacy professionals must behave in a professional manner;
 - b. Standard 7 – Pharmacy professionals must respect and maintain a person’s confidentiality and privacy;
 - c. Standard 8 – Pharmacy professionals must speak up when they have concerns or when things go wrong; and
 - d. Standard 9 – Pharmacy professionals must demonstrate leadership.
51. The Registrant breached Standard 6 for the reasons set out in paragraphs 48(a)-(c). The Registrant breached Standard 7 for the reason set out in paragraphs 48(a). The Registrant breached Standard 8 for the reason set out in paragraphs 48(c). The Registrant breached Standard 9 for the reasons set out in paragraphs 48(a)-(c).

52. 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 establish that the Registrant's fitness to practise is impaired (Rule 24(11)).
53. Accordingly, the Committee concluded that, in its judgement, the grounds of misconduct are established.

Decision on Impairment

54. Having found that the particulars of allegation amounted to misconduct, the Committee went on to consider whether the Registrant's fitness to practise is currently impaired.
55. At the outset, the Committee considered the Registrant's insight, remorse, and remediation.
56. The Committee considers that the Registrant has partial insight due to the following:
 - a. The Committee accepts that the Registrant is aware of the seriousness of the allegations and appreciates the effect of the misconduct on Central Pharmacy.
 - b. The Registrant does not possess full insight because he continues to blame staff members from Central Pharmacy not following SOPs for the incident on 15 December 2021. The Registrant has not accepted full responsibility for what happened.
 - c. The Registrant has not demonstrated insight towards patients whose personal details may have been compromised by the breach of patient confidentiality.
 - d. The Registrant has not demonstrated insight towards members of the public due to the safety lapse of controlled drugs, syringe(s) and other medication being fly-tipped in a publicly accessible space.
57. The Committee considers that the Registrant has shown partial remorse given his apologies to the Committee. However, the Committee considers that the apology does not seem to cover his patients whose confidentiality may have been breached, or the public who were put at risk from controlled drugs, syringe(s) and other medication being fly-tipped in a publicly accessible space.
58. The Committee considers that the Registrant has completed partial remediation, given that:
 - a. The Registrant has made changes to improve Central Pharmacy. Central Pharmacy has passed a Council inspection in 2023.
 - b. The Registrant's remediation appears to have been focused on Central Pharmacy alone and there is no evidence before the Committee that the Registrant has

conducted any remediation on himself. It is not known what training or CPD he has conducted to reduce any risks should a similar incident arise in the future.

59. The Committee considered whether the particulars found proved show that actions of the Registrant:
- a. present an actual or potential risk to patients or to the public;
 - b. have brought, or might bring, the profession of pharmacy into disrepute.
 - c. have breached one of the fundamental principles of the profession of pharmacy;
or
 - d. mean that the integrity of the Registrant can no longer be relied upon.

Whether the Registrant's conduct or behaviour present an actual or potential risk to patients or to the public

60. The Committee considers that these proceedings have been a salutary experience for the Registrant, which reduces the risk of repetition. Nevertheless, given the partial insight, partial remorse expressed, and partial remediation completed by the Registrant, the Committee considers that the Registrant's conduct or behaviour presents an actual or potential risk to patients or to the public.
61. In particular, the Committee was concerned that there was no evidence put before it setting out remediation to Central Pharmacy or to the Registrant should a similar busy period occur again (building works, Christmas time, mass vaccination of the population). Such evidence would have assisted the Committee's assessment of risk that the Registrant currently poses to patients and the public.

Whether the Registrant's conduct or behaviour has brought, or might bring, the profession of pharmacy into disrepute

62. The Committee considered that the Registrant's misconduct has brought the profession of pharmacy into disrepute on the basis that:
- a. The names and addresses of numerous patients were left in fly-tipped rubbish bags in a publicly accessible space. This resulted in a patient confidentiality breach;
 - b. Controlled drugs, other medication and syringe(s) were fly-tipped in a publicly accessible space, risking public safety; and
 - c. He acted dishonestly by deliberately seeking to mislead any reader of the NHS Data Protection and Security Toolkit report as to the date he became aware of the incident.
63. Given the partial insight, partial remorse expressed, and partial remediation completed by the Registrant, and risk of repetition, as set out in paragraphs 60 and 61 above, the Committee considers that the Registrant's conduct or behaviour might bring the profession of pharmacy into disrepute in the future.

Whether the Registrant's conduct or behaviour have breached one of the fundamental principles of the profession of pharmacy

64. For the reasons set out in paragraph 62 above, the Committee considered that the Registrant's conduct and behaviour has breached fundamental principles of the profession of pharmacy, namely the requirements not to breach patient confidentiality, not to risk the protection of the public, and to act honestly.
65. Given the partial insight, partial remorse expressed, and partial remediation completed by the Registrant, and risk of repetition, as set out in paragraphs 60 and 61 above, the Committee considers that the Registrant's conduct or behaviour might breach one or more of the fundamental principles of the pharmacy profession in the future.

Whether the Registrant's conduct or behaviour show that the integrity of the Registrant can no longer be relied upon

66. The Committee considers that the Registrant's conduct or behaviour shows that the integrity of the Registrant can no longer be relied upon. He acted dishonestly by deliberately seeking to mislead any reader of the NHS Data Protection and Security Toolkit report as to the date he became aware of the incident.
67. Given the partial insight, partial remorse expressed, and partial remediation completed by the Registrant, and risk of repetition, as set out in paragraphs 60 and 61 above, the Committee considers that the Registrant's conduct or behaviour shows that the integrity of the Registrant can no longer be relied upon.

Committee's conclusion on impairment

68. In light of the above, the Committee considered the Registrant's fitness to practise is impaired on the personal element.
69. Further, members of the public would be concerned to learn that a pharmacist had breached patient confidentiality, compromised public safety by permitted controlled drugs, syringe(s) and other medication being fly-tipped in a publicly accessible space, and acted dishonestly. Consequently, the Committee considered the Registrant's fitness to practise is impaired on the wider public interest element, namely maintaining public confidence in the pharmacy profession and upholding professional standards.

Sanction

70. Having found impairment, the Committee has gone on to consider the matter of sanction. The Committee's powers are set out in Article 54(2) of the Pharmacy Order 2010. The Committee should consider the available sanctions in ascending order from

least restrictive, take no action, to most restrictive, removal from the register, in order to identify the appropriate and proportionate sanction that meets the circumstances of the case.

71. The purpose of the sanction is not to be punitive, though a sanction may in fact have a punitive effect. The purpose of the sanction is to meet the overarching objectives of regulation, namely the protection of the public, the maintenance of public confidence and to promote professional standards. The Committee is therefore entitled to give greater weight to the public interest over the Registrant's interests.
72. The Committee had regard to the Council's "*Good decision making: Fitness to practise hearings and outcomes guidance*", published in March 2024 ("*Guidance*"), to inform its decision.
73. The Council submitted:
 - a. The mitigating factors in this matter consist of the following:
 - i. The Registrant has been apologetic;
 - ii. The Registrant has engaged with the Council through these proceedings;
 - iii. The Registrant made early acceptances of his wrongdoing;
 - iv. There are no signs of continuing risk to patients;
 - v. The data breaches appear accidental as opposed to deliberate or wilful; and
 - vi. This was a single instance of data breach and of dishonesty, which was a one-off and was at the lower end of the dishonesty spectrum.
 - b. The aggravating factors in this matter consist of the following:
 - i. The Registrant has not provided any evidence of self-reflection;
 - ii. It is unclear what steps the Registrant has taken to address his misconduct;
 - iii. It is unclear what steps the Registrant has taken to strengthen his practice;
 - iv. There were multiple breaches of patient confidentiality;
 - v. The Registrant was in a heightened position of trust as Superintendent;
 - vi. The conduct goes to the heart of the Registrant's character; and
 - vii. The Registrant was dishonest to his regulator and failed to uphold his Duty of Candour.
 - c. The recommended sanction is suspension for a period of three to five months, as it is appropriate and proportionate in the circumstances. Such time would permit the Registrant to develop further insight, remediation and remorse so as to minimise risk of repetition.

- d. The seriousness of the findings makes taking no action or imposing a warning inappropriate.
- e. Conditions of practice are unlikely to be appropriate due to them being unworkable (given the Registrant's seniority at Central Pharmacy) and the seriousness of the proven allegations.
- f. Removal would be unnecessary and draconian. Further it would deprive the public of a pharmacist whose misconduct is remediable.
- g. Members of the public would be concerned to learn that a pharmacist had permitted confidential waste, controlled drugs, one or more syringes and/or other medication to be disposed of at an unsecure location which also breached patient confidentiality.

74. The Registrant submitted:

- a. Due to the findings made by the Committee, a sanction is appropriate. A warning would be a sufficient sanction.
- b. It is coming up to 3 years since the incident on 15 December 2021 took place. In that time period, there has been no repeat incident. Further, during this time, Central Pharmacy has become busier and provides more services.
- c. The Registrant's remorse is towards everyone, including patients. Patients are his first priority and the reason that he is in the pharmacy profession.
- d. Central Pharmacy is doing the best it can for the local community.
- e. The Registrant currently works at Central Pharmacy as the Responsible Pharmacist between Tuesday and Friday (inclusive). There is a locum pharmacist who works at the weekends. On Monday, the Registrant undertakes administrative work. The administrative work includes holding regular reviews with Central Pharmacy staff members on the SOPs and enforcement of the SOPs. This is to ensure that staff members are aware of the SOPs and the implications of not following the SOPs.
- f. The Registrant is the superintendent and the owner of Central Pharmacy. He owns it in partnership with another pharmacist. Central Pharmacy is the only pharmacy owned by the Registrant.

75. The Committee considered the following to be mitigating and aggravating factors:

- a. The mitigating factors in this matter consist of the following:
 - i. The Registrant has been apologetic, albeit only recently toward his patients;
 - ii. The Registrant has engaged with the Council through these proceedings;
 - iii. The Registrant made early acceptances of his wrongdoing;
 - iv. The data breaches appear accidental as opposed to deliberate or wilful; and

- v. This was a single instance of data breach and of dishonesty, which was a one-off and was at the lower end of the dishonesty spectrum.
- b. The aggravating factors in this matter consist of the following:
- i. The Registrant has not provided any evidence of self-reflection;
 - ii. It is unclear what steps the Registrant has taken to address his shortcomings;
 - iii. There were multiple breaches of patient confidentiality;
 - iv. The Registrant was in a heightened position of trust as Superintendent;
 - v. The conduct goes to the heart of the Registrant's character; and
 - vi. the Registrant was dishonest to his regulator and failed to uphold his Duty of Candour.
76. The Committee considers that the Registrant's actions, as found proved, amount to breaching patient confidentiality, compromising public safety by permitting controlled drugs, syringe(s) and other medication to be fly-tipped in a publicly accessible space, and acting dishonestly. In light of this, the Committee finds that taking no action or issuing a warning would not adequately protect the public. Further, these sanctions would not adequately meet the wider public interest of maintaining public confidence in the profession and declaring and upholding proper standards of conduct and behaviour.
77. The Committee next considered the imposition of conditions of Registration. A Conditions of Practice Order would allow the Registrant to practise albeit with restrictions. However, the Committee did not consider that conditions would be appropriate as no relevant or proportionate conditions could be formulated given the Registrant's position as owner and superintendent of Central Pharmacy, his partial insight, his partial remorse and the partial remediation completed. Further, the Committee did not consider that conditions are the appropriate vehicle to protect the public where a Registrant has acted dishonestly, albeit at the lower end of the dishonesty spectrum (given it was a one-off act of dishonesty, without financial gain, and without directly impacting patients or the public).
78. 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 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.”

79. The Committee considered that a suspension is appropriate and proportionate as:
- a. Although the Registrant has partial insight and partial remorse, this can be developed and the Registrant is in the process of developing it. It appears to the Committee that through the Principal Hearing process, the Registrant should have gained further guidance on how to further develop his insight and remorse.
 - b. Although the Registrant has only completed some remediation, the Committee considers the Registrant’s found misconduct to be remediable over time.
 - c. A suspension would instil public confidence in the profession as it would adequately protect the public, sufficiently uphold public confidence, and maintain professional standards.
80. The Committee considered that any future Committee would be assisted by the following actions from the Registrant:
- a. A submission of a reflective piece in which the Registrant demonstrates acceptance of his practice shortcomings and an understanding of his own responsibilities;
 - b. That he completes and provides evidence of training undertaken in the following areas:
 - i. Compliance and enforcement of SOPs;
 - ii. Safe disposal of:
 1. confidential material;
 2. medicines; and
 3. medical waste;
 - iii. A pharmacist’s duty of candour;
 - c. A submission, supported by evidence, setting out detailed measures which have been put in place to ensure compliance with SOPs and what enforcement action will take place should there be non-compliance with SOPs;
 - d. Evidence of inspections which have taken place at Central Pharmacy; and
 - e. Evidence of audits that have been carried out at Central Pharmacy to ensure compliance with SOPs.
81. The Committee considers that the recommended actions as set out at paragraph 80 above would go a long way to developing the Registrant’s insight and remorse, and completing his remediation, which in turn, would reduce any risk of repetition of similar incidents. The Committee considers that a period of three months would give

the Registrant sufficient time to complete the recommended actions as set out at paragraph 80 above.

82. The Committee considered removal of the Registrant to be unnecessary and disproportionate. Central Pharmacy has been running without any known problems for a period of nearly three years. Removal would deprive the public of a pharmacist whose misconduct is remediable.
83. The Committee therefore directs that the Registrant is suspended from the Council's Register for a period of three months. The suspension order will be reviewed prior to its expiry.

Decision on Interim Measure

84. Mr Ross made an application for an interim measure of suspension to be imposed on the Registrant's registration, to take effect from today's date, pursuant to Article 60 of the Pharmacy Order 2010, pending the coming into force of the Committee's substantive order. He submitted that in a case of breached patient confidentiality, a risk to public safety and dishonesty, such as this case it is sensible for the Committee to consider imposing an interim measure to cover the appeal period because the Registrant's conduct directly impacted upon the confidence of the public. He submitted that an interim measure would be consistent with the substantive order imposed by the Committee. The Registrant did not comment on the application.
85. In considering Mr Ross' application, the Committee took account of the fact that its decision to suspend the Registrant will not take effect until 28 days after the Registrant is formally notified of the outcome, or until any appeal is concluded.
86. The Committee has found that there remains a risk that the Registrant might repeat his conduct, if permitted to return to work unrestricted. It accepts the submissions of Mr Ross that his unrestricted registration would have an impact on public confidence, and it was satisfied that it was necessary for an interim measure to be put in place to safeguard the public interest during the appeal period.
87. The Committee is satisfied that it is therefore appropriate for an interim measure to be in place prior to the taking effect of the substantive order.
88. The Committee hereby orders that the entry of the Registrant in the register be suspended forthwith, pending the coming into force of the substantive order.
89. This concludes the determination.