

General Pharmaceutical Council

Fitness to Practise Committee

Principal Hearing

Remote videolink hearing

18-19 September 2024

Registrant name:	Tom Hennebry
Registration number:	5040378
Part of the register:	Pharmacy Technician
Type of Case:	Conviction and Misconduct
Committee Members:	Neville Sorab (Chair) Gazala Khan (Registrant member) Paul Barton (Lay member)
Committee Secretary:	Chelsea Smith
Registrant:	Not present and not represented
General Pharmaceutical Council:	Represented by Gareth Thomas, Case Presenter
Facts proved:	All
Fitness to practise:	Impaired
Outcome:	Suspension (6 months)
Interim measures:	Interim suspension Order

This decision including any finding of facts, impairment and sanction is an appealable decision under *The General Pharmaceutical Council (Fitness to Practise and Disqualification etc. Rules) Order of Council 2010*. Therefore, this decision will not take effect until 18 October 2024 or, if an appeal is

lodged, once that appeal has been concluded. However, the interim suspension set out in the decision takes effect immediately and will lapse when the decision takes effect or once any appeal is concluded.

Particulars of Allegation

You, a registered Pharmacy Technician, whilst employed at St Pancras Hospital, 4 St Pancras Way, London NW1 0PE (“the Trust”)

1. *On dates on or before the 10 May 2023, attended the Trust under the influence of cocaine; [PROVED]*
2. *On dates on or before 10 May 2023, used cocaine on Trust premises; [PROVED]*
3. *On 24 August 2023, were convicted at Highbury Corner Magistrates’ Court of possessing a controlled drug of class A in that on 10 May 2023 you had in your possession a quantity of cocaine; [PROVED]*

By reason of the matters above, your fitness to practise is impaired by reason of (a) your misconduct and / or (b) your conviction.

Documentation

Document 1- Council’s hearing bundle

Document 2- Council’s skeleton argument

Document 3- Council’s proceeding in absence bundle

Document 4- Council’s proof of service bundle

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 23 August 2024 from the Council headed “Notice of Hearing” addressed to the Registrant.
7. The Committee noted that the Notice of Hearing was not sent in accordance with the 28-day timeframe set out in Rule 16:

“(1) Where the Committee is to hold a hearing, other than an interim order hearing, the secretary must serve a Notice of Hearing on the parties no less than 28 days before the date fixed for the hearing.

(2) The Notice of Hearing must—

(a) state the date, time and venue of the hearing;

(b) in the case—

(i) of a principal hearing, contain the finalised particulars of the allegation”

8. However, the Committee considered that good service had been effected for the following reasons:
- a. There was constructive notice given. Rule 16 sets out that the Notice of Hearing must state the date, time, venue, and in the case of a principal hearing, contain the finalised particulars of allegation. Mr Thomas set out for the Committee that the Registrant knew of the particulars of allegation from 5 July 2024. On 12 August 2024, the Registrant's then representative set out in an email to the Council: *"Having spoken to the registrant, there will be full admissions to the allegations as they are currently drafted"*, demonstrating that the Registrant was aware of the particulars of allegation against him. On 15 August 2024, in an email responding to the Committee Secretary's proposed Principal Hearing dates of 18-20 September 2024, the Registrant responded *"The dates are also completely fine for me,"* indicating his awareness of the dates of the Principal Hearing.
 - b. The Registrant accepted that the hearing would take place within 28 days of service of the Notice of Hearing. In an email on 23 August 2024 from the Committee Secretary, the Registrant was informed that the Notice of Hearing was being served out of time, and that *"It was agreed verbally yesterday, 22 August by both parties that late notice would be accepted. Please can a written response of reply to this email be supplied, if you are still in agreement that Rule 16(1) can be waived in this matter."* In an email to the Registrant dated 13 September 2024, Mr Thomas set out: *"We also understood from [your former representative] that you were prepared to 'waive' the usual 28-day notice period for the Principal Hearing in order to secure these dates. My current plan is to put this information before the Committee hearing your case, but please let me know if your position has changed or you have any objection."* The Registrant responded to this email on 13 September 2024 with the following: *"I did email [the Committee Secretary] earlier in the week stating that I planned to leave the profession and i would not have any representation and accept that the process would still go ahead. I had expected that this information would be disseminated. Please accept my sincere apologies for my oversight and assumption."* The Committee take this 13 September 2024 email from the Registrant to Mr Thomas as acceptance that the hearing would take place within 28 days of service of the Notice of Hearing.

- c. There is no prejudice to the Registrant in finding that good service was met due to:
 - i. Although the Notice of Hearing was served three days out of time, the Registrant *“accept[ed] that the process would still go ahead”*.
 - ii. The Registrant was aware of the allegations against him and has considered them.
 - iii. No witnesses are to be called.
9. The Committee was satisfied that there had been good service of the Notice in accordance with Rules 3 and 16.

Application to proceed in the absence of the Registrant

10. The Registrant was not in attendance at this hearing, nor was someone attending on their behalf. The Committee heard submissions from Mr Thomas, on behalf of the Council to proceed in the absence of the Registrant under Rule 25.
11. The Committee noted the email dated 17 September 2024 from the Registrant to the Committee Secretary which stated *“I will not be able to attend as I'm in an intensive management course over the next month.”*
12. The Committee decided to proceed in the absence of the Registrant for the following reasons:
- a. The Committee has found good service of the Notice. The Registrant is aware of today's proceedings. The Committee have therefore considered that the Registrant has chosen to voluntarily absent themselves from this hearing.
 - b. Correspondence from the Registrant on 17 September 2024 indicated that he would not be in attendance at this hearing and he did not ask for an adjournment.
 - c. There was no information to suggest an adjournment would result in the Registrant's attendance in future.
 - d. There is a public interest in the expeditious disposal of cases.

Preliminary Matter – Consideration of allegations that relate to more than one category of impairment

13. Rule 28 sets out:

“(1) As regards any fitness to practise allegation before the Committee, if—

(a) the particulars of the allegation in the Notice of Hearing relate to more than one category of impairment of fitness to practise; and

(b) those particulars include a conviction or caution,

the chair must ensure (by adapting the procedure for the hearing, where necessary) that at the principal hearing, the Committee makes its findings of fact in relation to the allegations that do not relate to the conviction or caution before it hears and makes its findings of fact in relation to the conviction or caution.

(2) In the circumstances set out in paragraph (1), the chair must also ensure (by adapting the procedure for the hearing, where necessary), that the Committee only makes its decision as regards impairment of fitness to practise once it has made its finding of fact in relation to all the allegations set out in the Notice of Hearing.”

14. In order to assist with compliance with Rule 28, the Council’s skeleton argument is coloured to indicate which facts relate to the conviction and which facts relate to the misconduct. The Council has indicated to the Committee which parts of its bundle relate to the conviction and which parts relate to the misconduct. Mr Thomas presented the Council’s case on the facts separately, first on misconduct (allegations 1 and 2), then on the conviction (allegation 3).

Registrant’s response to Particulars of allegation

15. The Registrant was not present to admit or deny the allegations. Consequently, the Committee went on to receive evidence and submissions regarding all allegations.

Background

16. The Registrant had been working as a Medicine Optimisation Pharmacist Technician at the Trust since November 2019.
17. On 10 May 2023, the Registrant was at work on Trust premises at St Pancras Hospital. He was picked out by a “sniffer” dog handler team and asked to consent to a search. He agreed and emptied his bag and pockets, producing *“a red tube-like object used for sniffing was put on the table alongside some general office items including 3 vaping devices and other miscellaneous items.”* A further search of the Registrant’s back pocket discovered two wraps of a substance. Initially, the Registrant *“stated he found them on the ground of the streets on his way to work”* but confirmed that they were wraps of cocaine and were for personal use, which he estimated at 300mg each. The police were called, and the Registrant was arrested.
18. The Registrant was asked by the police if he had used cocaine that morning and he confirmed that he had used a line of cocaine and said that was why he was late to come into work that morning.
19. Consumption of alcohol or use of any substance during working hours, which may impede an employee working capably, was prohibited under the Trust’s Alcohol and Substance Misuse Policy.
20. Following the incident on 10 May 2023, the Council received a concern from the Chief Pharmacist and Controlled Drugs Accountable Officer at the Trust reporting that the Registrant had been arrested after being found in possession of two wraps of cocaine during a workplace search.
21. During the course of a virtual meeting on 25 July 2023, it recorded that the Registrant made admissions to the effect that he had previously used drugs on Trust premises.
22. [PRIVATE]
23. On 24 August 2023, the Registrant pleaded guilty in the Magistrates’ Court to possession of a controlled drug of Class A – cocaine. Following his conviction, the Registrant reported himself to the Council of the conviction, providing a Notice of Criminal Charge (confirming a

conviction in the Highbury Corner Magistrates' Court for the offence of possession of Class A drug) & Notice of Financial Penalty (for £200 plus costs and the victim surcharge).

Decision on Facts

24. When considering each allegation, the Committee bore in mind that the burden of proof rests on the Council and that allegations are found proved based on the balance of probabilities. This means that allegations will be proved if the committee is satisfied that what is alleged is more likely than not to have happened.
25. In reaching its decisions on facts, the Committee considered the documentation listed at the start of this determination and the submissions made by the Council. The Committee notes that no live evidence was called by the Council.
26. At the outset, the Committee noted the statements of SS, RD and AL provided to the Council by the Trust, and the telephone call notes of SS, RD and AL with the Council, to be hearsay evidence. The Committee notes Rule 24(1) which sets out: *"All questions of admissibility of evidence and law before the Committee are to be decided by the Committee."* The Committee considered this evidence to be admissible on the basis that:
 - a. The evidence is not the sole and decisive evidence for allegations 1 and 2.
 - b. As this evidence was part of the Trust investigation, the Registrant had the opportunity to challenge the evidence during the Trust investigation.
 - c. Given the indications from the Registrant in his self-reporting to the Council and the Registrant's response in the Trust investigation, the evidence does not appear to be challenged.
 - d. The Registrant provided an indication to the Council on 12 August 2024 that he would admit the allegations. Prior to 17 September 2024, the Registrant indicated that he was attending the Principal Hearing. Therefore, the Committee considers there to be a good reason why SS, RD and AL were not called to give live evidence.

Allegation 1 – On dates on or before the 10 May 2023, the Registrant attended the Trust under the influence of cocaine

27. RD and AL were present during search of the Registrant at the Trust Premises on 10 May 2023.
28. In their interview with the Trust, RD said that “[the Registrant] was asked by the police if [he] had used cocaine that morning and [the Registrant] confirmed that he had used a line of cocaine and said that was why he was late to come into work that morning.” Similarly, in a telephone call with the Council, RD said that “The police asked [the Registrant] if he had taken any drugs and [the Registrant] had said yes that morning.”
29. In a telephone call with the Council, AL said that “[the Registrant] went on to say that he took drugs every morning and then came into work.”
30. In his interview with the Trust, the Registrant is reported to have said that the statements taken as part of the investigation “seem to be fairly accurate”. [PRIVATE]
31. The Committee considers that consuming a line of cocaine in the morning prior to coming into work meant that the Registrant was under the influence of cocaine.
32. In his self-referral to the Council, the Registrant stated that whilst at the police station, he provided an oral drug test which resulted in a positive result for illegal drug use.
33. In light of this evidence, the Committee considered that it is more likely than not that on dates on or before the 10 May 2023, the Registrant attended the Trust under the influence of cocaine.

Allegation 2 – On dates on or before the 10 May 2023, the Registrant used cocaine on Trust premises

34. In his interview with the Trust, when asked if he took cocaine on Trust premises, the following exchange took place with the Registrant in which he sets out that he possibly used cocaine on Trust premises:

“[Interviewer]: When you are in the office premises. Do you use? Have you ever used in the in the office premises? Toilets outside the building may be in a corner or something.

Tom: Maybe outside

[Interviewer]: Have you ever used inside CNWL premise? I want the full honesty.

Tom: Possibly, but it would have been after I'd finished my job, finish working.

[Interviewer]: Would that be in gents in the toilet in the work premises? Or changing rooms

Tom: It's probably, and it probably will, but would have been one of the toilets, like the bigger toilets.

[Interviewer]: And then also when you go on your breaks.

Tom: Yeah

[Interviewer]: And lunch breaks you have used in some on some occasions.

Tom: I didn't. I very rarely took my lunch break anyway. But no, I didn't."

35. It is not in dispute that the Registrant brought two wraps of cocaine and *"a red tube-like object used for sniffing"*. The Committee considers that the most likely reason why the Registrant would bring cocaine and associated paraphernalia to the Trust premises was to consume the cocaine there.

36. The Committee further considers the following to be circumstantial evidence that the Registrant is likely to have used cocaine on Trust premises:

a. [PRIVATE]

b. In the Registrant's interview with the trust, it is set out that: *"There has been suspicions before the 10th May about use of drugs within CNWL premises which was reported."*

Although neither of these directly go to the Registrant consuming cocaine on Trust premises, they do provide a situation where it could be possible.

37. In light of this evidence, the Committee considered that it is more likely than not that on dates on or before the 10 May 2023, the Registrant used cocaine on Trust premises.

Allegation 3 – On 24 August 2023, the Registrant was convicted at Highbury Corner Magistrates’ Court of possessing a controlled drug of class A in that on 10 May 2023 he had in his possession a quantity of cocaine

38. Allegation 3 concerns a conviction. The committee had sight of the certificate of conviction and therefore found the facts proved in accordance with Rule 24(4).
39. The Committee notes the name on the Court Extract is “*Tom Hannebry*” rather than “*Tom Hennebry*”, however, the Committee is content that the conviction relates to the Registrant on the basis that it is supported by the Registrant’s self-report to the Council and his arrest for such an offence on 10 May 2023.

Submissions on Grounds and Impairment

40. Having found the Particulars of allegation proved, the Committee went on to consider whether:
 - a. The allegations found proved amounted to misconduct and, if so, whether the Registrant’s fitness to practise is currently impaired; and
 - b. The Registrant’s fitness to practise is currently impaired by reason of his conviction.
41. In relation to the misconduct, Mr Thomas submitted that the Registrant took two wraps of cocaine and drugs paraphernalia onto hospital premises during working hours and pleaded guilty to possession. This was a serious breach of the Trust Alcohol, Drug and Substance Misuse Policy, and criminal law for a healthcare professional otherwise entrusted to keep drugs within a legal supply chain. It showed poor judgement to other hospital colleagues and had the potential to undermine safe and effective patient care. The Registrant was misusing the Class A drug but did not speak up or seek help until the hospital and the police intervened. This breached a number of the Standards for Pharmacy Professionals (2017), including:
 - a. Standard 5 (use their professional judgement);
 - b. Standard 6 (behave in a professional manner);
 - c. Standard 8 (speak up when things go wrong); and

- d. Standard 9 (demonstrate leadership).
42. Although there is no evidence of actual mistakes or poor patient care by the Registrant, Mr Thomas submitted that the Registrant's conduct fell far short of the standards expected of a Pharmacy professional and would be viewed as deplorable by fellow professionals. Accordingly, this meets the threshold for a finding of misconduct.
43. In relation to the Registrant's current impairment, Mr Thomas submitted:
- a. Consuming a class A drug, cocaine, in and around the workplace and taking the drug onto hospital premises presents a risk that the Registrant's performance could be undermined, which could lead to poor clinical decision making or ineffective safekeeping of drugs in a patient environment. His conduct therefore presented an actual or potential risk to patients or to the public.
 - b. Pharmacy professionals are expected to handle drugs safely and within a lawful framework. The Registrant's actions and his conviction undermined that trust. By risking safe and effective care, and by misusing a controlled substance, the Registrant was breaching fundamental principles of the profession.
 - c. (a) and (b) taken together, his actions would bring the profession into disrepute.
 - d. Although the Registrant showed very poor judgement and abused the trust placed in him as a Pharmacy Technician by his employers, his integrity (i.e. his honesty) has not been brought into question in a way that would impair his fitness to practise.
 - e. SS explained that the Registrant was a very good and an experienced pharmacy technician. He was good with the staff and settled really quickly and seemed to have good people skills and befriended a lot of people. SS stated that during Covid 2020 the wards became Covid wards and it was a total change of pace and way of working and the Registrant excelled. However, the Registrant struggled when the ward turned electronic.
 - f. In terms of insight, the Registrant made admissions to the police when they arrived at the hospital and later to the internal investigation. He pleaded guilty in the Magistrates' Court and informed the Council of his conviction. Through his representative, he updated the Council on matters of health. However, there has been no apology, no detailed reflection on his conduct, how his conduct engaged professional standards and affects

public confidence. He has indicated his desire to leave the profession. His remediation might be considered incomplete.

- g. Ultimately, the need to uphold professional standards and public confidence in the profession would be undermined if a finding of impairment was not made.

Decision on Grounds

44. 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).

45. 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.”

46. 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.*”

47. The Committee found that the conviction related to him, and the Committee noted that it cannot go behind a conviction.

48. The Committee considered that the Registrant’s actions reached the threshold of misconduct as he had in his possession and used class A drugs and drugs paraphernalia on hospital premises, which is particularly serious for a pharmacy professional given their daily interactions with drugs. This was a serious breach of the Trust Alcohol, Drug and Substance Misuse Policy. 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)*).

49. 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 and conviction:

a. Standard 5 – Pharmacy professionals must use professional judgement:

- i. practise only when fit to do so.
- ii. use their judgement to make clinical and professional decisions with the person or others.

The Registrant was under the influence of cocaine when at work. This is likely to have impaired his judgement and had the potential to undermine safe and effective patient care. Although the Committee notes that there is no evidence of the Registrant making actual mistakes or providing poor patient care.

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

- i. are trustworthy and act with honesty and integrity.

The Registrant was under the influence of cocaine when at work. He only stopped when he was caught. If he was not caught, it is highly likely that the Registrant would have continued. Although when he was caught, the Committee notes that the Registrant was open and honest with the authorities.

c. Standard 8 – Pharmacy professionals must speak up when they have concerns or when things go wrong:

- i. raise a concern, even when it is not easy to do so.

The Registrant was misusing Class A drugs on Trust premises but did not speak up or seek help until the hospital and the police intervened.

d. Standard 9 – Pharmacy professionals must demonstrate leadership:

- i. take responsibility for their practice.
- ii. lead by example.

The Registrant was misusing Class A drugs on Trust premises. He was not acting responsibly in his practice as his actions had the potential to undermine safe and effective patient care. Pharmacy professionals must not be under the influence of class A drugs when practicing; the Registrant did not lead by example.

50. 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)).
51. Accordingly, the Committee concluded that, in its judgement, the grounds of misconduct and conviction are established.

Decision on Impairment

52. Having found that the particulars of allegation amounted to misconduct and conviction, the committee went on to consider whether the Registrant's fitness to practise is currently impaired.
53. At the outset, the Committee noted that the Registrant had developing insight and undertaken some remediation:
 - a. The Registrant made admissions to the police when they arrived at the hospital and later to the internal investigation. He pleaded guilty in the Magistrates' Court and informed the Council of his conviction.
 - b. When he was caught with cocaine on Trust premises, he sought help from his GP and an addiction charity. However, the Committee has not had sight of his current addiction status.
 - c. The Registrant has not provided a detailed reflection on his conduct, how his conduct engaged professional standards, and how his conduct has affected public confidence.
54. 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

- 55. Given the developing insight and degree of remediation undertaken by the Registrant as set out in paragraph 53 above, the Committee considers that the Registrant's conduct or behaviour presents an actual or potential risk to patients or to the public.
- 56. In particular, the Committee has not had sight of the Registrant's current addiction status. Working in a pharmacy and being addicted to drugs poses a risk that the Registrant could be tempted to consume drugs to which he has access. In turn, this has the potential to undermine safe and effective patient care.

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

- 57. The Committee considered that the Registrant's conviction and misconduct, as admitted, has brought the profession of pharmacy into disrepute on the basis that:
 - a. The Registrant committed a crime involving drugs; and
 - b. The Registrant took class A drugs on hospital premises, which is particularly serious for a pharmacy professional given their daily interactions with drugs.
- 58. Given the developing insight and degree of remediation undertaken by the Registrant as set out in paragraph 53 above, the Committee considers that the Registrant's conduct or behaviour might bring the profession of pharmacy into disrepute in the future for the reasons set out in paragraphs 55 and 56 above.

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

59. Through the misuse of illegal class A controlled drugs, the Committee considered that the Registrant's conduct and behaviour has breached one of the fundamental principles of the profession of pharmacy, namely the requirement to behave in a professional manner.
60. Given the developing insight and degree of remediation undertaken by the Registrant as set out in paragraph 53 above, the Committee considers that the Registrant's conduct or behaviour might breach one of the fundamental principles of the pharmacy profession in the future. In particular, the Committee has not had sight of the Registrant's current addiction status. Pharmacy professionals are expected to handle drugs safely and within a lawful framework. If the Registrant is still addicted – and the Committee has not had sight that he is not – there is a risk to safe and effective patient care. In turn, this could breach a fundamental principle of the profession in the future.

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

61. Prior to the incident on 10 May 2023, the Committee was of the view that the integrity of the Registrant could not be relied upon. The Registrant only admitted to his addiction when he was caught in possession of a class A drug.
62. However, when he was caught on 10 May 2023, the Committee notes that the Registrant was open and honest with the police, his healthcare professionals and the Council. Consequently, the Committee is of the view that the integrity of the Registrant, after 10 May 2023, can be relied upon.

Committee's conclusion on impairment

63. In light of the above, the Committee considered the Registrant's fitness to practise to be currently impaired on the personal element.
64. Further, members of the public would be concerned to learn that a pharmacy technician had misused class A drugs while on hospital premises and had been under the influence of these drugs while working as a pharmacy technician. 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

65. 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.
66. 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 professional standards. The Committee is therefore entitled to give greater weight to the public interest over the Registrant's interests.
67. 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.
68. Mr Thomas submitted:
 - a. The mitigating factors in this matter consist of the following:
 - i. The Registrant has not contested the allegations;
 - ii. The Registrant pleaded guilty at the first opportunity in the Magistrates' Court;
 - iii. [PRIVATE]
 - iv. The Registrant has no previous Fitness to Practise matters with the Council; and
 - v. Evidence from the hospital is that Registrant had been a good Pharmacy Technician in the past (although his performance became variable over time).
 - b. The aggravating factors in this matter consist of the following:

- i. The Registrant's conduct relates to his working time as a Pharmacy Technician;
 - ii. Taking Class A drugs into the hospital workplace is especially brazen and could suggest attitudinal problems at the time;
 - iii. The Registrant had not exercised his professional judgement to seek help for drug use or remove himself from the workplace;
 - iv. The actions of the Registrant appear to have built up for some time; the actions of 10 May 2023 do not appear to be a one-off event; and
 - v. The conviction and misconduct demonstrate a severe breach of pharmacy standards.
- c. The involvement of class A drugs, coupled with incomplete remediation and an uncertainty as to the Registrant's addiction status makes taking no action or imposing a warning inappropriate.
- d. Conditions of practice are unlikely to be appropriate due to:
 - i. The unknown status of the Registrant's addiction status;
 - ii. Conditions being unworkable given the seriousness of the proven allegations or to mitigate any risks posed by the Registrant;
 - iii. Conditions would not mark the seriousness of the conviction and misconduct; and
 - iv. The Registrant's indication that he no longer wishes to practice as a pharmacy technician.
- e. A suspension would be appropriate to mark the seriousness of the misconduct and conviction, and given that the misconduct is, in principle, remediable – e.g. if the Registrant shows that he has taken action to address his drug use and demonstrates real insight into why what he did was wrong and can show that it will not happen again. A suspension of 4-6 months is needed to mark such serious misconduct and provide the Registrant time to reflect on his misconduct and remediate his practice. The Registrant has been on an interim suspension order since 13 October 2023.

f. Removal should only be considered where there is no prospect of remediation.

Although the Registrant did not engage with this Principal Hearing, a removal order at this stage may be premature.

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

a. The Committee agreed with the Council's mitigating factors set out in paragraph 68(a) above.

b. The aggravating factors in this matter consist of the following:

i. The misconduct and conviction relate to a criminal offence taking place at the Registrant's workplace (the Trust);

ii. Taking and consuming class A drugs into the hospital workplace places patients at potential risk of harm due to impaired judgement when under the influence. As a pharmacy professional, the Registrant should have known this; and

iii. The actions of the Registrant appear to have built up for some time; the actions of 10 May 2023 do not appear to be a one-off event.

70. The Committee considers that the Registrant bringing and consuming class A drugs on Trust premises, and attending the Trust under the influence of cocaine, coupled with incomplete remediation and an uncertainty as to the Registrant's addiction status, makes taking no action or imposing a warning inappropriate. 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.

71. The Committee next considered the imposition of conditions of Registration. The Committee did not consider that conditions would be appropriate as no relevant or proportionate conditions could be formulated, or enforced, to mitigate risk from the Registrant's drug addiction. The Committee further considered that conditions 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.

72. 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."

73. The Committee considered that a suspension is appropriate and proportionate as:
- a. Although the Registrant has developing insight, this can be developed into full insight.
 - 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.
74. 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 reflects on his conduct, sets out how his conduct engaged professional standards, and how his conduct has affected public confidence in himself as a pharmacy technician;
 - b. [PRIVATE]
 - c. Proof that he is no longer under the influence of drugs; and
 - d. His attendance at any review.
75. The Committee considers that the recommended actions as set out at paragraph 74 above would go a long way to developing the Registrant's insight and completing his remediation,

which in turn, would reduce any risk of repetition of similar incidents. The Committee considers that a period of six months would give the Registrant sufficient time to complete the recommended actions as set out at paragraph 74 above.

76. The Committee considered removal of the Registrant to be disproportionate in the circumstances. In an email to the Committee Secretary on 10 September 2024, the Registrant set out: *"I will be leaving the profession. I intend to change career and retrain. I apologise for the delay in response, but as I'm sure you can understand, it had not been an easy decision."* In particular, the Committee notes that the Registrant's admission that this has not been an easy decision. Consequently, should the Registrant wish to remain as a pharmacy technician, it is open for him to do so. The Committee has provided recommended actions as set out at paragraph 74 above to assist a return to practice and has not imposed a removal order.
77. The Committee therefore directs that the Registrant is suspended from the Council's Register for a period of six months. The suspension order will be reviewed prior to its expiry.

Interim Order

78. The Committee considered that, pursuant to Article 56(10) of the Pharmacy Order 2010, as it has been determined that the Registrant's fitness to practise is impaired, that the interim order which was in place is revoked.

Decision on Interim Measure

79. Mr Thomas 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 possession and use of class A drugs on hospital premises, 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 ongoing impairment places patients and public at risk of harm and directly impacts 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 was not present to comment on the application.

80. In considering Mr Thomas' 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.
81. The Committee has found that there remains a risk that the Registrant might repeat his conduct, if permitted to return to work unrestricted. It accepted the submissions of Mr Thomas that the Registrant's unrestricted registration would place patients and the public at risk of harm and have an impact on public confidence, and it was satisfied that it was necessary for an interim measure to be put in place to protect the public and safeguard the public interest during the appeal period.
82. 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.
83. 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.
84. This concludes the determination.