

**General Pharmaceutical Council**

**Fitness to Practise Committee**

**Principal Hearing Review**

Remote Videolink Hearing

**16 October 2024**

<b>Registrant name:</b>	Jane Anne Wenyon
<b>Registration number:</b>	2035959
<b>Part of the register:</b>	Pharmacist
<b>Type of Case:</b>	Conviction and Misconduct
<b>Committee Members:</b>	Lubna Shuja (Chair) Hanad Osman (Registrant member) Victoria Smith (Lay member)
<b>Clinical Adviser:</b>	Dr Sabari Muthukrishnan
<b>Secretary:</b>	Chelsea Smith
<b>Registrant:</b>	Present and represented by Khaled Hussain-Dupre, Solicitor
<b>General Pharmaceutical Council:</b>	Represented by Gareth Thomas, Counsel
<b>Order being reviewed:</b>	Conditions of Practise (12 months)
<b>Fitness to practise:</b>	Not Impaired
<b>Outcome:</b>	Order to lapse on expiry

## Documentation

- GPhC Principal Review Hearing bundle (227 pages)
- GPhC Combined Statement of Case and Skeleton Argument dated 4 October 2024
- Witness Statement from the Registrant dated 15 October 2024
- The Registrant’s Bundle of Documents (310 pages)
- Reflections document from the Registrant dated August 2024 (7 pages)

## Witnesses

- The Registrant

## Determination

### Introduction

1. This is the written determination of the Fitness to Practise Committee (‘the Committee’) of the General Pharmaceutical Council (‘the Council’). It is the determination of the Committee of a Principal Hearing Review of a Conditions of Practice Order for 12 months imposed by a Fitness to Practise Committee at a Principal Hearing on 3 October 2023 (‘the Principal Hearing Committee’).
2. The hearing relates to Jane Anne Wenyon (‘the Registrant’) who is registered with the Council as a Pharmacist under registration number 2035959. She is also known under her married name as Jane Anne Pilsbury.
3. The review is governed by Article 54(3) of *The Pharmacy Order 2010* (‘the Order’) and Rule 34 of *The General Pharmaceutical Council (Fitness to Practise and Disqualification etc. Rules) Order of Council 2010* (‘the Rules’).
4. The Committee also has regard to the guidance contained in the *Good decision making: Fitness to practise hearings and outcomes guidance, March 2024* (‘the Guidance’) and the *Good decision-making: Conditions bank and guidance, July 2023*.
5. A Principal Review Hearing has up to two stages:

Stage 1. Impairment – the Committee determines whether the Registrant’s fitness to practise remains currently impaired based on the original allegation.

Stage 2. Sanction – the Committee considers what, if any, sanction should be applied if the Registrant’s fitness to practise remains currently impaired.

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

6. The Committee had seen a Notice of Hearing letter from the Council to the Registrant dated 4 September 2024. No issue with service was taken by either party. The Committee was satisfied there had been effective service in compliance with the Rules.

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

7. The Committee heard an application from Mr Hussain-Dupre, on behalf of the Registrant, under Rule 39(3) to hold parts of the hearing in private. He stated that there may be health issues relating to third parties as well as to the Registrant which should be heard in private. He confirmed any evidence about lifestyle changes would be heard in public. He had no objection to an employee observer of the Council to remain during the private parts of the hearing for training purposes.
8. Mr Thomas, on behalf of the Council, accepted that health issues relating to third parties should be heard in private but submitted that some aspects of the Registrant’s health may need to be heard in public, especially as this was not a health case. Any changes the Registrant had made to her life would need to be aired in public. Mr Thomas also confirmed that the observer, who was a Council employee, worked in the fitness to practise team and understood the confidential nature of a private hearing. Mr Thomas requested the observer be allowed to remain so that he could observe how proceedings were conducted.
9. The Committee had noted from the documents provided that there were references to the Registrant’s health and to the health of third parties which may form a part of the Registrant’s oral evidence or indeed submissions from the parties. The Registrant and those referred to were

entitled to a private life and to keep information about their health and personal matters confidential. Accordingly, the Committee granted the Registrant's application and decided to hold certain parts of the hearing in private, where there were references to the health of the Registrant or any identifiable witnesses in order to protect their privacy.

## Background

10. The Principal Hearing took place on 2-3 October 2023. At that hearing the Registrant admitted the following allegation, which was found proved on her admissions:

*"You, a registered Pharmacist,*

- 1. On 4 August 2020, were convicted at Hastings Magistrates' Court of driving a motor vehicle after consuming so much alcohol that the proportion of it in your breath, namely 59 microgrammes of alcohol in 100 millilitres of breath, exceeded the prescribed limit, contrary to Section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988; and*
- 2. On 3 February 2020, attended work in a pharmacy setting when you were under the influence of alcohol from your drinking.*

*By reason of the matters set out above, your fitness to practise is impaired by reason of your conviction and / or your misconduct."*

11. In summary, shortly after 3:00pm on 3 February 2020, the Registrant was found by the police in the driver's seat of a Citroen Berlingo Van, with the airbag deployed, on the A259, Newhaven. Her vehicle had been involved in a road traffic collision and *"was positioned as though it had crashed into the curb [sic] of the bus stop and mounted the grass area beyond, with its back wheels still on the road"*. The Registrant was breathalysed at the scene where she failed a roadside breath test. She was breathalysed again at the police station where the reading was 59mcg of alcohol in 100ml of breath, the legal limit being 35mcg.

12. The Registrant had provided an account to officers at the scene stating that a bus had pulled out in front of her and another car had also been involved. She had confirmed that the vehicle she was driving was a company van and that she worked for a pharmaceutical company.
13. The police statements indicated that the two officers in attendance at the scene of the accident stated that they could smell what they believed to be alcohol whilst talking to the Registrant. They stated that the Registrant appeared to be slightly confused and her speech was slurred during their conversation with her.
14. The Registrant had subsequently pleaded guilty at Hastings Magistrates Court and was sentenced on 25 November 2020. She was disqualified from driving for 36 months and until an extended test of competence had been passed. She was also fined £1,125 and ordered to pay a Victim Surcharge of £112 and costs of £300. The Registrant reported her conviction to the Council on 1 December 2020.
15. In her evidence to the Principal Hearing Committee, the Registrant confirmed that on 2 February 202, she was the Superintendent and Responsible Pharmacist at her own pharmacy business, which specialised in the provision of medication to care homes and others. It was not a pharmacy business that was open to the public. She stated that she had been delivering medication to patients at the material time. The Registrant had stated that the day before, on 1 February 2020, she had received some bad news about the health of a relative which had caused her to be very upset. She confirmed that later the same afternoon, she had consumed at least six large drinks of her husband's "*home brew*", some of which was wine. She also provided details of a disturbing family conversation that took place that evening, which had caused her further distress and led to her hardly sleeping that night. She nevertheless felt capable of going into work the next day, where she was the Superintendent of her own Pharmacy and had various duties and a meeting with a care home client. She stated she had not considered herself to be inebriated and the positive breathalyser test had been a shock to her. However, she accepted before the Principal Hearing Committee that she must have been inebriated in the morning, despite her subjective and wrongful belief at the time to the contrary. The Registrant's evidence before the Principal Hearing Committee included details of how she had changed her drinking habits since the 2020 conviction.

16. The Principal Hearing Committee's attention was also drawn to a Warning given by the Council's Investigation Committee ("IC") to the Registrant in 2014 for a similar conviction (driving with excess alcohol) in 2012. One of the IC's reasons for giving a Warning was recorded as being: *"The Registrant has not demonstrated sufficient insight into the serious nature of this offence"*. That matter was over 11 years old and therefore spent and protected under the Rehabilitation of Offenders Act 1974.

17. The Clinical Adviser at the Principal Hearing had given the following advice:

*"... there was no suggestion in Dr Barrett's report of alcohol dependency, it was not unreasonable for the Registrant to seek to manage her alcohol consumption through socially controlled drinking rather than cease all use of alcohol. The testing reports were consistent with the proper management of usage."*

18. The Principal Hearing Committee had found that the Registrant had breached Standards 5 and 9 of the Standards for Pharmacy Professionals 2017 ("the Standards"). The Principal Hearing Committee stated:

*"... attending work whilst inebriated showed a clear and obvious lack of judgment.... She also attended a meeting on the 2nd February with key clients of her business which would, in the view of the Committee, constitute a breach of her obligation to work only when fit to do so; clearly with her level of blood alcohol at that stage, she was not in a position to work effectively with key stakeholders of the business."*

19. The Principal Hearing Committee had found that the Registrant's fitness to practise was impaired due to her conviction and misconduct under:

- Rule 5(2)(b) of the Rules in that the Registrant's conduct had brought or might bring the profession of pharmacy into disrepute; and
- Rule 5(2)(c) of the Rules in that the Registrant had breached one of the fundamental principles of the profession of pharmacy.

20. The Principal Hearing Committee had stated:

*“32. The Committee noted however the material advanced by the Registrant as to the steps she has taken to turn her life around, and in particular to change her harmful drinking practices. The Committee accepted that those steps have been genuine, and effective. ....*

*34.....The Registrant had a “wake up call” in 2012 but did not heed it. Indeed, her drinking in the lead up to the events of February 2nd 2020 had become heavy. The lack of professional judgement shown on the day in question in attending work, and then driving and attending a client meeting prior to getting involved in a car accident with school children in close proximity (despite the personal circumstances leading up to the 1st February), and the fact of a criminal conviction were all circumstances that in the view of the Committee required a finding of current impairment.....*

*42. The Committee noted that it is over 3 years since the conviction and misconduct in question during which there is no evidence of any difficulties in relation to the Registrant’s conduct and practice. The Committee also took note of the Registrant’s evidence that she would be willing to comply with any conditions imposed on her practice, including a form of mentorship to ensure that work considerations and stresses did not become overwhelming, to the extent of her making bad judgments.”*

21. The Principal Hearing Committee had imposed a sanction of Conditions of Practice for 12 months as follows:

1. PRIVATE
2. PRIVATE
3. *You must ensure that you do not drive any vehicle unless it is fitted with a mechanism to test the driver’s alcohol levels, thus ensuring that the vehicle will not function in the event that the test is not passed.*
4. *You must identify a mentor that is acceptable to the Council who will meet you and provide a report to the Council every 6 months as to your ongoing ability to manage your business/work in a way that is not detrimental to your decision making.*

## Evidence and Submissions of the Parties

22. The Committee had been provided with a detailed witness statement dated 27 September 2024 from the Council's Monitoring Officer setting out the steps that had been taken to monitor the Registrant's compliance with the Conditions imposed. There had been an initial delay in receiving a substantive response from the Registrant, due to personal issues but the Registrant had engaged regularly from January 2024.
23. PRIVATE
24. The Monitoring Officer confirmed the Registrant had complied with Condition 2 PRIVATE. She had also provided evidence to confirm a mechanism had been fitted to her vehicle to test driver's alcohol levels as set out in Condition 3. In relation to Condition 4, the Registrant had advised the Council of the details of her mentor on 2 February 2024 but there had been some technical issues with obtaining a formal nomination form from the mentor. This was received on 7 May 2024. The mentor then provided reports on 23 May 2024 and 29 August 2024.
25. PRIVATE
26. The Committee had been provided with evidence of the Registrant's purchase and installation of a "Driverlyzer" device for her vehicle on 29 September 2023. The Committee also had reports from the Registrant's mentor dated 23 May 2024 and 29 August 2024.
27. The Registrant had provided a witness statement dated 15 October 2024 and detailed Reflections dated August 2024. PRIVATE and test results for the DVLA dated 5 March 2024 which confirmed that her CDT level was well within the accepted range and her driving licence had been reissued to her. PRIVATE. She had also provided additional reflections, various CPD and training certificates from 2023 and mentor meeting notes.
28. In her evidence to the Committee, the Registrant provided detailed information about how she had completely changed her approach towards dealing with stress and managing personal difficulties alongside the demands of her work. She no longer relied on alcohol and spoke of the activities she now undertook including sports, receiving support from her family and friends, using the 'Pharmacy Support' service, engaging in mindfulness, and discussing decisions/issues with her two mentors regularly. One mentor was a pharmacist and the other was a registered

nurse. The Registrant stated that she intended to continue with this mentoring in the future as she had found it to be of immense value. She stated that she had never had anybody to discuss decisions with in the past, as she was “*at the top of the tree*” and having mentors allowed her to explain herself to someone else, answer their questions, sometimes reframe, rethink and then explain again. She said that having a mentor who was not a pharmacist had been very beneficial as it added a different perspective to her work from someone who was also a healthcare professional. She stated that she now took more time to make decisions and evaluated properly before implementing. She said that, in difficult situations, she would now take 5-10 minutes out to “*reset*” which she had never done before.

29. The Registrant confirmed that her drinking habits had completely changed. She did not buy or keep alcohol at home and had substantially reduced her alcohol intake. She stated that she now drank very rarely and usually only if she went out for a meal in a restaurant, the frequency of which varied. She would often drink non-alcoholic drinks when out with friends.
30. The Registrant apologised profusely for the delay in immediately complying with the Conditions and explained in detail the personal problems she had been dealing with at the time, which had impacted severely on her ability to deal with matters as promptly as she had hoped to. She had prioritised her family at that time but had not intended not to address the Conditions. PRIVATE.
31. The Registrant provided details of her CPD, what she had learnt and how she had plans to train to become a ‘Sobriety Counsellor’ and help others to reduce their alcohol intake. She wanted to pass her knowledge onto others. The Registrant had not driven a vehicle since February 2020, although she had received her provisional licence from the DVLA in March 2024. She felt that it would not be sensible to drive again without refresher lessons but had not yet taken them. This had been partly due to other priorities and partly due to the costs involved of taking the lessons as well as the extended driving test as required. She intended to do this over the coming months.
32. The Registrant stated that she was totally ashamed of the incident on 2 February 2020 and would not have made those decisions now. She assured the Committee that it would not happen again and that whilst she regretted what had happened, she did not regret the process that had followed as it had changed her a great deal and made her a better person. The

Registrant stated that she controlled her alcohol intake very differently now. At the time she had not realised she was developing an insidious habit, but she had now made lifestyle changes which would ensure it was not possible for such an incident to occur again. She stated that she had not reverted to alcohol despite the extremely challenging personal circumstances she had had to deal with over the last 12 months.

33. The Committee heard submissions from Mr Thomas and Mr Hussain-Dupre. Mr Thomas reminded the Committee that this was not a health case and therefore the Registrant was not required to be abstinent from alcohol. He accepted there was a great deal of evidence before the Committee to support the Registrant's evidence that she was managing her work and personal stresses, and showing good judgement in her use of alcohol, which had been the main concern of the Principal Hearing Committee when conditions had been imposed. Mr Thomas stated that he did not actively seek to persuade the Committee that the Registrant's fitness to practise remained currently impaired. He did however wish to stress that, should the Registrant find herself before a fitness to practise committee again for similar matters, she would be at risk.
34. Mr Hussain-Dupre submitted the Registrant had done her best to comply with the conditions PRIVATE. He submitted she had been receiving mentoring from the nurse and had not initially realised the Council would require a pharmacist mentor. He submitted that the Registrant had complied with the spirit of the conditions, PRIVATE.
35. Mr Hussain-Dupre reminded the Committee of the case of *Abrahaem v GMC* [2008] EWHC 183 (Admin). He submitted the Committee had to consider whether the concerns raised in the initial hearing had been addressed and whether or not the Registrant now had sufficient insight and understanding into her actions so as to assure the Committee that her fitness to practise was no longer impaired.
36. Mr Hussain-Dupre submitted the Registrant had actively engaged with this process, she had made genuine attempts to comply with the conditions and she had found ways of dealing with personal challenges and adversity. He submitted this highlighted her resilience and ability to cope with stress. Mr Hussain-Dupre submitted the Registrant's fitness to practise was not currently impaired and no further order was required as the public interest in this case had been met. He submitted that the sanction imposed had been sufficient to mark the seriousness of the

case and there were now no further issues. Mr Hussain-Dupre also confirmed that the Registrant was willing to comply with any further conditions if the Committee was minded to impose them but he requested any such conditions be clear and measurable.

### **Advice from the Clinical Adviser**

37. Dr Muthukrishnan, having considered all the medical evidence and test results, confirmed that there was no evidence of alcohol dependency in this case.

### **Decision**

38. The Committee considered carefully all the documents provided and the submissions of both parties. In conducting this review, this Committee must review the concerns raised in the original finding of impairment. It must determine whether or not the Registrant remains currently impaired, and, if so what, if any, sanction to impose. There is a persuasive burden on the Registrant to demonstrate that she is no longer impaired or, if currently impaired, to show why either a lesser sanction should be ordered, or no action taken.

39. If the Committee finds the Registrant remains currently impaired, under Article 54(3) of the Order, the Committee, on reviewing the Conditions, may remove, extend or vary the conditions, impose a suspension or direct the removal of the Registrant's name from the Register. The Committee may also take no action against the Registrant and thereby allow the current Conditions Order to expire, which would mean that the Registrant would be eligible to resume unrestricted practice on expiry on 31 October 2024.

### **Decision on Impairment**

40. The Committee considered whether the Registrant's fitness to practise continued to be currently impaired due to her conviction and misconduct. In doing so the Committee considered Rule 5(2)(b) and (c) of the Rules, which the Principal Hearing Committee had found had been breached, in that the Registrant had brought, or might bring, the profession of pharmacy into

disrepute and she had breached one of the fundamental principles of the profession of pharmacy.

41. The Committee considered whether the Registrant's conduct had been addressed, whether it was likely to be repeated and whether a finding of impairment was still needed to declare and uphold proper standards of behaviour and/or maintain public confidence in the profession.
42. The Committee considered very carefully all the documents provided, the submissions of both parties and the evidence given by the Registrant. The Committee found the Registrant to be credible. She had been thoughtful, open and candid when giving her evidence, not seeking to avoid questions and giving very full answers throughout. She had explained at length how she had changed her lifestyle, the support mechanisms she now had in place, and how she had significantly reduced her alcohol consumption.
43. The Registrant had provided a great deal of documentary evidence in support including training and CPD certificates which included courses on Traffic Laws and Safety, Ethical Issues, and Drug and Alcohol Awareness. She had provided detailed reflections and had explained in detail, with supporting documentary evidence, why there had been some issues with complying fully with all of the conditions imposed.
44. The previous Principal Hearing Committee's main concerns had been how the Registrant would ensure that work considerations and stresses would not become overwhelming. The Committee was satisfied that the Registrant had taken extensive steps to address managing stress and her alcohol intake particularly in times of immense personal challenges. The Registrant had given examples of personal problems that she had had to deal with over the last 12 months and it was clear from these that she had demonstrated the capacity to manage extreme personal challenges without relying on alcohol. She was clearly more resilient now than she had been in February 2020.
45. The Committee had been provided with various medical reports and recent test results which confirmed there were no signs of excessive alcohol consumption by the Registrant, indeed the Clinical Adviser had confirmed this.

46. The Registrant had shown insight into the consequences of not managing personal stress appropriately and she had expressed remorse in not meeting the standards that had been required of her. No further concerns had been expressed about her conduct since this incident in 2020.
47. Although there had been a few initial issues in engagement from the Registrant, she had candidly explained the reasons why and the Committee accepted her explanations. PRIVATE. It was clear to the Committee that the Registrant had done her best to comply with the spirit of the conditions and had attempted to provide all of the information required by the Principal Hearing Committee.
48. The Committee concluded, taking into account the evidence it had heard and the test set out in the case of *Abrahaem*, that the Registrant had discharged the persuasive burden upon her and had shown sufficient insight into managing stress and challenging personal circumstances without relying on alcohol. She had demonstrated that she understood why her past conduct had been deficient and had provided evidence of educating herself to ensure she had addressed her past impairment. It was clear to the Committee that she had learnt a salutary lesson from these proceedings, and indeed on her own evidence, appeared to have derived benefit from some of the conditions imposed.
49. The Committee noted that the Principal Hearing Committee had been satisfied that the Registrant had sufficiently remediated the conviction and misconduct and was highly unlikely to repeat her behaviour. That Principal Hearing Committee had not found any risk to the public.
50. The Committee concluded that the Registrant was unlikely to bring the profession of pharmacy into disrepute in the future and would meet the standards required of her. It was no longer necessary to find impairment in the public interest. An informed member of the public would not require any further finding of impairment to be made and would likely be satisfied that the Registrant's conduct had been sufficiently marked by the Conditions that had been imposed for 12 months.
51. The Committee concluded that the Registrant's Fitness to Practise was no longer impaired.

Accordingly, the Committee made no further Order. The Conditions will expire on 31 October 2024.

52. That concludes this determination.