

**General Pharmaceutical Council**

**Fitness to Practise Committee**

**Principal Hearing**

Remote videolink hearing

**21-22 November**

<b>Registrant name:</b>	Sheikh Mohammad Nizam Mahmood
<b>Registration number:</b>	5102670
<b>Part of the register:</b>	Pharmacy Technician
<b>Type of Case:</b>	Conviction
<b>Committee Members:</b>	Manuela Grayson (Chair) Amira Guirguis (Registrant member) Sarah Baalham (Lay member)
<b>Committee Secretary:</b>	Zainab Mohamad & Gemma Staplehurst
<b>Registrant:</b>	Present on a video link from HMP Whatton (day 1 only)
<b>General Pharmaceutical Council:</b>	Represented by Fiona Martin, Case Presenter
<b>Facts proved:</b>	Particular 1 in its entirety
<b>Fitness to practise:</b>	Impaired
<b>Outcome:</b>	Removal
<b>Interim measures:</b>	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 20 December 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,*

1. *On 18 August 2023, were convicted at Warwick Crown Court of:*
  - 1.1 *Rape of a girl aged 13 contrary to the Sexual Offences Act 2003; and*
  - 1.2 *Supplying a controlled drug of Class B – cannabis, contrary to section 7 of the Misuse of Drugs Act 1971.*

*Both offences took place on 10 February 2023.*

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

### **Documentation**

Document 1- Council’s hearing bundle, 245 pages

Document 2- Council’s skeleton argument dated 4 November 2024

### **Introduction**

1. This is the written determination of the Fitness to Practise Committee at the General Pharmaceutical Council (‘the Council’).
2. This 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 3 October 2024 from the Council headed 'Notice of Hearing' addressed to the Registrant and sent to his last known address as noted on the Register. The Notice was also sent to the Registrant at HMP Whatton on 4 November 2024 and signed for at the prison on 6 November 2024.
7. The Committee was satisfied that there had been good service of the Notice of Hearing ('Notice') in accordance with Rules 3 and 16 of the Rules.

## **Stage 1: THE FACTS STAGE**

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

8. The Registrant admitted all of particular 1.
9. In the light of the above, and by the application of Rule 31(6) of the Rules, the admitted factual particular was found proved, and the Chair formally announced the finding.
10. The Committee went on to consider whether the Registrant's fitness to practise is currently impaired which is a matter for the Committee's judgement.

### **Background**

11. In February 2023, the Council received a Notification of Common Law Police Disclosure letter from Warwickshire Police's Disclosure Unit. The letter stated that the Registrant had been arrested for the offence of Rape of a female child under 16 following a report by the mother of the 13-year-old complainant. The complainant alleged that the Registrant had been messaging or conversing with her on Snapchat and arranged to meet her one evening. He travelled in his car to a carpark in Warwick and allegedly raped the complainant in the back of his vehicle. The Registrant denied the allegation and was charged and remanded in custody.
12. A criminal trial was listed in the Crown Court and in August 2023 the Council received notice that the Respondent had been found guilty. His case had been adjourned for a sentencing hearing to take place on 2 October 2023. In due course, the Respondent was sentenced in relation to two matters:
  1. *Rape of a girl aged 13/14/15 – nine years' imprisonment*
  2. *Supply of a controlled drug of Class B – cannabis – three months' imprisonment (concurrent)*
13. The supply of cannabis was to the victim of the rape at the time of that offence.

14. In his evidence at trial the Registrant denied rape and pleaded guilty to the supply of a controlled drug, cannabis. The Registrant alleged that any sexual activity was consented to and initiated by the victim.
15. The prosecution placed the offence of Rape into category 2 harm given the psychological harm to the victim, and category A in culpability given the significant degree of planning and the provision of cannabis to facilitate the offence. The starting point would be 10 years with a range of 9 to 13, aggravated by the fact of ejaculation. The main personal mitigation advanced on behalf of the Registrant was the lack of previous convictions and strong work ethic.
16. The Judge agreed that the offence was category 2A on the sentencing guidelines. The Judge found that the Registrant had caused "*severe psychological harm*" to the victim and that as a result of the assault "*she has been unable to go to school for many months, she suffers from a sleep disorder, she has an eating disorder and she self-harms*".
17. The Registrant was also made subject to ancillary orders (notification, restraining order and sexual harm prevention order).

## **STAGE 2: THE IMPAIRMENT STAGE**

18. Having found the particulars of allegation proved, the Committee went on to consider whether the Registrant's fitness to practise is currently impaired by reason of his convictions.

## Submissions

19. Ms Martin, on behalf of the Council, submitted that in accordance with Article 51(1)(e) of the Order “*a conviction in the British Islands for a criminal offence*” is a reason for a finding of impairment.

20. She referred the Committee to Rule 5(2) of the Rules, which states that:

*“In relation to evidence about the conduct or behaviour of the registrant which might cast doubt on whether the requirements as to fitness to practise are met in relation to the registrant, the Committee must have regard to whether or not that conduct or behaviour –*

*(a) presents an actual or potential risk to patients or to the public;*

*(b) has brought, or might bring, the profession of pharmacy into disrepute;*

*(c) has breached one of the fundamental principles of the profession of pharmacy; or*

*(d) shows that the integrity of the Registrant can no longer be relied on.”*

21. Ms Martin submitted that the Registrant’s convictions render him currently unfit to practise by way of Rule 5(2)(a) to (d), as set out at paragraph 18. The Registrant presents an actual risk to members of the public, in particular, young females. This is evidenced by the conviction, restraining order and sexual harm prevention ordered by the Judge who felt it necessary to protect the victim and to protect members of the public, particularly children. She reminded the Committee that the Registrant had denied the allegation throughout and, she submitted, it appears that he continues to do so today. In such circumstances it can’t be said that he is no longer impaired. He had shown no remediation, remorse or insight and therefore the risk of repetition was not reduced.

22. Ms Martin submitted that the Registrant’s fitness to practise was currently impaired both by reason of his conviction and also in the wider public interest. The regulator would be expected to take action to mark the Registrant’s breach of professional standards.

23. The Registrant submitted that he did not think it was appropriate or fair to go through with a finding of impairment. He told the Committee that because he was in custody, he did not have sufficient support to defend himself. He also said that he also maintained his innocence and is currently going through the appeal process. He submitted that he was previously of good character and had a good work ethic previous to the conviction. The Registrant submitted that the Judge in the criminal case had mentioned that in the six years he had worked before his conviction, he had always worked to the standards of the pharmacy profession. He explained that because he was in custody at the moment, he could not get witnesses and background facts about how he had worked and who he had worked for.

#### **The Committee's Decision on Ground and Current Impairment**

24. The Committee took into account the documentation contained within the Council's bundle and also the submissions made by Ms Martin and by the Registrant.
25. The Committee took account of the guidance given to the meaning of 'fitness to practise' in the Council's publication *"Good decision-making: Fitness to practise Hearings and Outcomes Guidance"* (Revised March 2024). Paragraph 2.12 reads:

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

#### Grounds

26. Article 51(1) of the Order set out the possible grounds or "gateways" to a finding of impairment. The relevant gateway in this matter is:
- *"conviction for a criminal offence"* (Article 51(1)(e) in respect of particular 1).

27. The Committee determined that the ground of convictions was established on the basis of the copy Certificate of Conviction from Warwick Crown Court dated 26 October 2023.

### **Decision on Impairment**

28. Having found that the ground of conviction was established, the Committee went on to consider whether the Registrant's fitness to practise is currently impaired.
29. The Committee bore in mind that the Registrant continues to deny the offence of rape for which he was convicted and he has informed the Committee that he is embarking on the process of appealing against that conviction.
30. However, the Committee had regard to Rule 24 of the Rules states:

*(4) Where a person concerned has been convicted of a criminal offence in the British Islands (and has not successfully appealed against the conviction), a copy of the certificate of conviction certified by a competent officer of the court or for a conviction in Scotland, an extract conviction, is admissible as conclusive proof of that conviction and the findings of fact on which it was based.*

*(5) The only evidence which may be adduced by the person concerned in rebuttal of a conviction certified or extracted in accordance with paragraph (4) is evidence for the purpose of proving that the person concerned is not the person referred to in the certificate or extract.*

31. The Committee observed that the Registrant had not sought to establish that that he is not the person referred to in the Certificate of Conviction. It was therefore bound to approach the question of current impairment by considering the information before it



confirming the Registrant's convictions and the findings of fact on which it was based as summarised by the Judge at the criminal trial in his sentencing remarks.

32. The Committee considered whether the Registrant had breached any of the Council's Standards for Pharmacy Professionals (May 2017). It took into account paragraph 6 of the Standards document which states that the Standards:

*"need to be met at all times, not only during working hours. This is because the attitudes and behaviours of professionals outside of work can affect the trust and confidence of patients and the public in pharmacy professionals".*

33. The Committee accepted the submissions of Ms Martin to the effect that the Registrant showed a brazen disregard for the law, took advantage of a young and vulnerable person and supplied her with an illegal substance in furtherance of a crime. These actions are at odds with the expectation that pharmacy professionals must provide person centred care, use professional judgement and act in a professional manner. The Registrant's conduct lacked empathy, compassion or consideration for this young person. He failed to act in an honest way with integrity.

34. It determined that the Registrant by his conviction in particular breached Standard 1: Pharmacy professionals must provide person-centred care...respect and safeguard the person's dignity; and Standard 6: Pharmacy professionals must behave in a professional manner. Behaving professionally is not limited to the working day. The standard states that the privilege of being a pharmacist technician and the importance of maintaining confidence in the profession call for appropriate behaviour at all times. The Registrant was expected to be trustworthy and act with honesty and integrity, and show empathy and compassion.

35. The Committee next turned to consider whether any sub-particulars of Rule 5(2) of the Rules are engaged by the Registrant's conviction and misconduct.

36. Rule 5(2) of the Rules provides:

*“In relation to evidence about the conduct or behaviour of the registrant which might cast doubt on whether the requirements as to fitness to practise are met in relation to the registrant, the Committee must have regard to whether or not that conduct or behaviour –*

- a) presents an actual or potential risk to patients or to the public;*
- b) has brought, or might bring, the profession of pharmacy into disrepute;*
- c) has breached one of the fundamental principles of the profession of pharmacy; or*
- d) shows that the integrity of the registrant can no longer be relied upon.”*

37. Guidance on this issue was set out by Mr Justice Silber in Cohen v General Medical Council [2008] EWHC 581 (Admin) at paragraph 65:

*“It must be highly relevant in determining if a [practitioner’s] fitness to practise is impaired that first ... his conduct that led to the charge is easily remediable, second that it has been remedied and third that it is highly unlikely to be repeated”.*

38. Those principles are echoed (and adapted in different words) in the Council’s Guidance at paragraph 2.15:

*“The committee should also consider whether:*

- the conduct which led to the complaint is able to be addressed*
- the conduct which led to the complaint has been addressed*
- the conduct which led to the complaint is likely to be repeated ...”*

39. Given the seriousness of the Registrant's convictions, which was of course reflected by his sentence of nine years' imprisonment, the Committee is satisfied that all four sub-particulars of Rule 5 are engaged.
40. The Registrant has brought the profession of pharmacy into disrepute (Rule 5(2)(b)); and he has breached one or more of the fundamental principles of the profession of pharmacy, for example, the expectations that he will behave ethically and professionally including during his personal life; treat people with respect and dignity; act in accordance with the law (Rule 5(2)(c)). Furthermore, the Committee had no doubt that the Registrant's integrity can no longer be relied on (Rule 5(2)(d)).
41. The Committee next turned to consider Rule 5(2) (a), that is, whether the Registrant presents an actual or potential risk to patients or the public. The Committee observed that the Registrant denied the offences at his trial, (save for accepting that he gave the victim cannabis) and told the Committee today that he denies the facts which were found proved at his trial. There is evidence contained within the bundle, which the Registrant is aware of as he heard it at his trial, of the distressing consequences for the victim caused by what the Registrant did to her on 10 February 2023, and yet the Registrant has not shown this Committee any sign of understanding of the damage which he caused and which for the victim is now continuing. The Registrant has demonstrated no insight today into the seriousness of his convictions, nor any empathy whatsoever for the 13 year old child who was his victim.
42. In these circumstances the Committee agrees with the submissions of Ms Martin on behalf of the Council to the effect that the risk of repetition is in no way diminished today. The Registrant presents an actual risk to members of the public, in particular, young females. In addition to the lack of any insight or remorse from the Registrant, this is also evidenced by the conviction, restraining order and sexual harm prevention order ordered by the Judge who felt it necessary to protect the victim and to protect members of the public, particularly children. It follows that Rule 5(2)(a) is engaged in this case.

43. Furthermore, applying the principles set out in the case of Cohen, and at paragraph 2.15 of the Council's Guidance, the Committee considers that his conduct which led to the charge is not easily remediable or able to be addressed; it has not been remedied or addressed; and this Committee cannot say with any confidence that it is highly unlikely to be repeated.

44. The Committee therefore finds the Registrant's fitness to practise impaired in relation to the protection of public.

45. Turning to consider the question of impairment in the wider public interest, the Committee bore in mind the well-known case of CHRE v NMC and Grant [EWHC] 927 (Admin), in which Mrs Justice Cox stated that a panel must consider whether

*"the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances"* of a case.

46. The Committee also took into account the principles set out in the case of Fopma v General Medical Council [2018] EWHC 714 (Admin), in which it was said that:

*"...the tribunal must bear in mind that a key aspect of its overarching aim is to uphold the reputation of the profession. A finding of impairment is the gateway to the jurisdiction to impose sanctions. Put the other way round, a failure to find impairment in any given case, whilst warnings as to future conduct can still be issued, is tantamount to an indication on behalf of the profession that conduct of the kind in question need not have regulatory consequences. If that, depending on the nature of the conduct in question, would itself be an unacceptable conclusion, then that can in any given case be a sufficient basis in itself to justify or indeed compel a conclusion of impairment."*

47. The Committee considered the nature of the conduct in question, namely a conviction for a sexual assault as serious as rape of a child and a finding on the facts that Class B drugs were provided to the victim before the assault took place, and was satisfied that a failure to find impairment in this case, being tantamount to an indication on behalf of the profession that conduct of the kind in question need not have regulatory consequences would certainly be an unacceptable conclusion.
48. The Committee is satisfied that members of the public if they were fully appraised of the facts of this case, would be extraordinarily shocked and surprised if a finding of impairment were not made.
49. In the words from the case of Grant set out above, the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.
50. For all the reasons set out above, the Committee finds the Registrant's fitness to practise is currently impaired in the wider public interest, that is, in order to promote and maintain public confidence in the professions regulated by the Council; and to promote and maintain proper professional standards and conduct for members of those professions.

### **Decision on Outcome**

51. Having found impairment, the Committee went on to consider the matter of outcome, formerly referred to as sanction. The Committee's powers are set out in Article 54(2) of the Order. The Committee should consider the available outcomes in ascending order from least restrictive, take no action, to most restrictive, removal from the Register, in order to identify the appropriate and proportionate outcome that meets the circumstances of the case.

52. The purpose of the outcome is not to be punitive, though an outcome may in fact have a punitive effect. The purpose of the outcome 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.

### **Submissions on Outcome**

53. Ms Martin, on behalf of the Council, reminded the Committee of the law and guidance on sanctions. She submitted that the Council was seeking removal from the Register as an appropriate and proportionate outcome or sanction. Addressing the available outcomes in ascending order of severity she submitted that only a removal order would adequately mark or capture the risk which the Registrant presents to patients and to the wider public interest including the reputation of and confidence in the profession.
54. The Registrant was expected to address the Committee at the start of Day 2 of this hearing in relation to outcome, however he did not attend on the morning of Day 2.
55. The Committee therefore proceeded to hear an application from Ms Martin for the hearing to continue today in his absence.

### **Application to Proceed in the Absence of the Registrant**

56. Ms Martin submitted that the Committee should continue with the hearing. She submitted that the Registrant was clearly on notice of these proceedings and aware that the hearing would continue today, as it had adjourned yesterday afternoon to give him some time to consider the finding of impairment and the Council's

submissions and to prepare his own submissions for the Committee to hear this morning. She reminded the Committee that it had a discretion whether to proceed but submitted that the Registrant had waived his right to appear. Though unrepresented he had been told yesterday of the benefit of appearing today and it appeared he had voluntarily absented himself. He had not requested an adjournment and there was nothing to suggest that he would attend at a later date if the hearing were to be adjourned today.

57. The Committee decided to resume the hearing in the absence of the Registrant for the following reasons:

- The Registrant was clearly aware that the hearing was continuing today;
- The Committee had delayed the start of the hearing until close to 10.00am to give the Registrant an opportunity to change his mind and attend;
- The prison officer, Mr Musson, had told the Committee that the Registrant was refusing to attend, and that in Mr Musson's words, he was "disgruntled". Mr Musson reported that the Registrant had said he knew what would happen and he did not wish to attend;
- When informed at approximately 9.20am that the Registrant was refusing to attend, the Committee asked Mr Musson to inform the Registrant that the hearing would be delayed until 9.45 to give the Registrant an opportunity to change his mind. However, Mr Musson returned and confirmed that the Registrant would not attend.
- The Registrant had not requested an adjournment and there was no information to suggest an adjournment would result in the Registrant's attendance in future.
- There is a public interest in the expeditious disposal of cases.

## The Committee's Decision on Outcome

58. The Committee had regard to the Council's 'Good decision making: Fitness to practise Hearings and Outcomes guidance' (March 2024), which sets out that when deciding on outcome, key factors to consider include the public interest and an assessment of mitigating and aggravating factors. The Committee should give appropriate weight to protecting the public, maintaining public confidence in the profession, and maintaining proper standards of behaviour.
59. The Committee took into account the submissions made by Ms Martin.
60. The Committee first considered what, if any, aggravating and mitigating factors there may be.
61. The Committee identified the following aggravating factors:
- The Registrant received a criminal conviction and was sentenced to 9 years imprisonment.
  - The victim was a child.
  - There was a significant degree of planning and preparation in that the Registrant had made a prior arrangement to meet the child; supplied cannabis to the child to facilitate the offence of rape; and also drove for 30 or more minutes to meet her.
62. In relation to mitigating factors, the Committee noted that the Registrant had no previous regulatory findings against him.
63. The Committee also took into account, in determining the appropriate outcome, the lack of any demonstration by the Registrant of insight into the seriousness of the concerns which are before his regulator. He has provided no reflections in relation to the impact of his conduct on the victim, nor in relation to the effect that his convictions will have on confidence in his profession.



64. The Committee had regard to the principles of proportionality and weighed the interests of the public against those of the Registrant. It took into account the principles set out in the case of Bolton v Law Society (1994) 1 WLR 512 CA (Civ Div) in which it was said that:

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

65. The Committee next turned to consider the sanctions available to it in ascending order of severity.

66. Take no Action: The Committee first considered whether it would be appropriate to take no action, however it was of the view that this outcome would not be sufficient to reflect the seriousness of the proven facts. It would not sufficiently protect the public who might otherwise place trust in the Registrant as a professional person. Moreover, it would not protect the wider public interest by sending out a message to the profession and the public that the Registrant’s conduct breached the professional standards expected of a registered professional.

67. Warning: The Committee next considered whether issuing a warning would be appropriate but it decided that, for the same reasons as above, a warning would not sufficiently mark the seriousness of the Registrant’s convictions.

68. Conditions of Practice. The Committee next considered whether to impose conditions of practice. The Council’s Good decision-making: Hearings and Outcomes guidance states that conditions may be appropriate where there is evidence of poor performance or of significant shortcomings in a registrant’s practice. The Committee concluded that conditions would not be appropriate or relevant in this case since the

Particulars of Allegation involve serious criminal convictions in relation to his conduct outside the workplace.

69. In any case, the Committee considered that an order for conditions would not be sufficient to mark the seriousness of the matter so as to maintain public confidence in the profession and the Regulator.

70. Suspension Order. The Committee next considered whether suspension would be a proportionate outcome. The Council's Good Decision-making: Hearings and Outcomes Guidance (2024) 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. [It may also be appropriate] [w]hen it is necessary to highlight to the profession and to the public that the conduct of the professional is unacceptable and unbefitting a member of the pharmacy profession. Also, when public confidence in the profession demands no lesser sanction.”*

71. The Committee took into account the Registrant's criminal sentence, as set out in the Certificate of Conviction. It bore in mind that the Registrant is serving a nine- year custodial sentence, with the expectation that at least six of those years will be served in prison.

72. The Committee considered the Registrant's sentence in the light of the case of The Council for the Regulation of Health Care Professionals v General Dental Council and Alexander Fleischmann [2005] EWHC 87 (Admin). At paragraph 54, Newman J stated:

*“...[A]s a general principle, where a practitioner has been convicted of a serious criminal offence or offences, he should not be permitted to resume his practice until he has satisfactorily completed his sentence. Only circumstances which plainly justify a different course should permit otherwise... The rationale for the principle is not that it can serve to punish the practitioner whilst serving his sentence, but that good standing in a profession must be earned if the reputation of the profession is to be maintained.”*

73. The Committee took into account that the longest period of suspension which it has the power to impose, is one of 12 months. If the Committee were to impose a suspension of 12 months, the Registrant would still have several years of his sentence left to serve in prison, after those 12 months would have elapsed. The Committee was satisfied that the facts of this case fall squarely within the principle set out in the Fleischmann case: the Registrant has been convicted of serious criminal offences. It would be entirely inappropriate for the Registrant to be permitted to return to the Register whilst still in prison.
74. Furthermore, the Committee did not consider that a suspension, even for 12 months, would satisfy the need to adequately mark the seriousness of the Registrant’s convictions, and the egregious breaches of personal and professional standards which they represent. Put simply, a direction to suspend would not be sufficient, in the Committee’s view, to send out a clear message, both to practitioners and to the public, of the gravity of the findings in this case.
75. Removal Order: The Committee next turned to consider whether this was a case in which the most serious sanction, that of removal, was appropriate. The Good decision-making: Hearings and Outcomes guidance (March 2024) states that removal is “reserved for the most serious conduct” and that it should be considered “when the registrant’s behaviour is fundamentally incompatible with being a registered professional”.

76. The Committee took into account the guidance set out in the Council's Good decision-making: Hearings and Outcomes guidance (March 2024), in which, at paragraph 6.3 it states:

*“The GPhC believes that some acts of sexual misconduct will be incompatible with continued registration as a pharmacist or pharmacy technician. Removal from the register is likely to be the most appropriate outcome in these circumstances, unless there is evidence of clear, mitigating factors that cause a committee to decide that such an outcome is not appropriate. The misconduct is particularly serious if:*

- there is a conviction for a serious sexual offence*
- there is an abuse of the special position of trust that a professional has*
- it involves a child [...]*
- the professional has been required to register as a sex offender or has been included on a barred list”.*

77. The Committee was satisfied that the Registrant's convictions for the rape of a 13-year-old child, and supplying her with a Class B drug, cannabis, were fundamentally incompatible with continued registration as a professional. It considered that removal from the Register was the only outcome which would adequately protect the wider public interest by marking the gravity of the Registrant's convictions, thereby maintaining public confidence in the profession, and in the regulator, and upholding proper standards of behaviour.

78. The Committee observed that the Judge at the criminal trial, in addition to a restraining order preventing contact with the victim, imposed a sexual harm prevention order on the Registrant for an indefinite period because he considered it *“necessary to protect from sexual harm through the commission of further schedule offences, members of the public, in*

*particular children*". The Judge also stated that the Registrant, "will or may be barred from regulated activity related to children or vulnerable adults under the Safeguarding of Vulnerable Groups Act, by virtues not only of the conviction for rape, but also by virtue of supplying a child with drugs".

79. The Committee was in no doubt that the public would consider a person subject to such measures imposed by the criminal court to be an entirely unsuitable person to remain on the Register. The public would surely be shocked if this Committee were to impose any lesser outcome than removal.
80. The Committee therefore resolved to give a direction that the Registrant's entry in the Register be removed.
81. The Committee hereby revokes the interim order of suspension which was in place in respect of the Registrant.

### **Decision on Interim Measure**

82. Ms Martin made an application for an interim measure of suspension to be imposed on the Registrant's registration, pursuant to Article 60 of the Pharmacy Order 2010, pending the coming into force of the Committee's substantive order. She submitted that such an order was necessary to protect the public and was otherwise in the public interest.
83. The Committee carefully considered the Council's application. It took account of the fact that its decision to order the removal of the Registrant's name from the register will not take effect until 28 days after the Registrant is formally notified of the outcome, or until any appeal is concluded. The Committee also took into account the Council's Good Decision-making: Hearings and Outcomes Guidance of 2024.

84. The Committee has found that the Registrant's convictions merit an order of removal. It has also found that there is a risk of repetition. It is satisfied that it is therefore necessary for an interim measure of suspension to be in place from today's date, both because it is necessary to protect the public who might otherwise place trust in the Registrant as a professional person, and also otherwise in the public interest, to uphold proper professional standards and maintain confidence in the profession and the Regulator.
  
85. The Committee therefore hereby orders that the entry of the Registrant in the register be suspended forthwith, both on grounds of public protection and in the public interest, pending the coming into force of the substantive order.