

**General Pharmaceutical Council**

**Fitness to Practise Committee**

**Principal Hearing**

Remote video link hearing

**17 - 19 December 2024**

<b>Registrant name:</b>	Holly De Souza
<b>Registration number:</b>	5105260
<b>Part of the register:</b>	Pharmacy Technician
<b>Type of Case:</b>	Misconduct
<b>Committee Members:</b>	Hannah Bows (Chair) Amira Guirguis (Registrant member) Moriam Bartlett (Lay member)
<b>Legal Adviser:</b>	Graeme A. Dalglish
<b>Committee Secretary:</b>	Chelsea Smith
<b>Registrant:</b>	Present and represented by Martin Hadley
<b>General Pharmaceutical Council:</b>	Represented by Chris Hamlet, Case Presenter
<b>Facts proved by admission:</b>	All particulars
<b>Fitness to practise:</b>	Impaired
<b>Outcome:</b>	Conditions, 12 months with review

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 17 January 2025 or, if an appeal is lodged, once that appeal has been concluded.

## **Particulars of Allegation (as amended at the Hearing)**

*You, a registered Pharmacy Technician, Registration Number 5105260 whilst employed at Wicker Pharmacy, 55-67 Wicker, Sheffield, S3 HST:*

*1. On 4 March 2022, you asked Colleague A for her log-in details for the Wicker Pharmacy 'Outcome-for-Health' Patient System ("the System").*

*2. In respect of 1 above, you provided reasons for needing access to Colleague A's log-in details which you knew to be false and/or misleading namely that:*

*2.1 you had cousins needing a booster vaccination and you wanted to check queue times at the Pharmacy; and*

*2.2 you had forgotten your own log-in details for the System*

*3. On 7 March 2022 used Colleague A's log-in details to access the Wicker Pharmacy System to create Covid-19 vaccination records ("the Records") for your then boyfriend and his brother in circumstances where you knew neither had been vaccinated.*

*4. On 7 March 2022 you explained to the pharmacy Superintendent words to the effect of that you had received an email error notification such that System records required correction.*

*5. On 16 March 2022 you emailed the pharmacy Superintendent to the effect that you were checking your boyfriend and his brother's vaccination records because they were coming to visit your grandmother who was very sick, but mistakenly put them through as vaccinated.*

*6. In respect of 4 and/or 5 above you provided explanations which you knew to be false and/or misleading in that:*

*6.1. you had not received any such error notification;*

*6.2. you had not created the records accidentally;*

*6.3. you had not accessed the records to check them only;*

*6.4. your boyfriend and his brother were not intending to visit your grandmother;*

*6.5. you created the false vaccination records because your boyfriend and his brother did not want to be vaccinated; and*

*6.6. your boyfriend and his brother required proof of vaccination.*

*7. Your actions in 1, 3, 4 and/or 5 above were dishonest and/or lacking in integrity in that you:*

*7.1. secured log-in details in order to create vaccination records for your boyfriend and his brother who were not in fact vaccinated*

*7.2. provided false explanations and/or reasons for your actions when you knew that they were not correct, as set out in 6 above*

*7.3. assisted your boyfriend and his brother in attempts to circumvent the protections in place to prevent the spread of Covid-19.*

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

## **Documentation**

Document 1- Council's hearing bundle including agreed witness statements

Document 2- Council's skeleton argument

Document 3- Registrant's bundle, including statements and reflection from the Registrant

Document 4 - Statement of Case and Skeleton Argument on behalf of the Registrant

## Determination

### 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 outcomes 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 decides whether, on the facts proved, a statutory ground for impairment, here misconduct, 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.

## Application to amend the Allegation

6. The Committee heard an application from the Mr Hamlet for the Council under Rule 41 to amend the particulars by removing the references to “on or around” from the dates set out in particulars 1,3,4 and 5 and to make the following changes:

3. ~~On or around~~ 7 March 2022 used Colleague A’s log-in details to access the Wicker Pharmacy System to create Covid-19 vaccination records (**“the Records”**) for your then boyfriend and ~~for~~ his brother in circumstances where **you knew** neither had been vaccinated

6.3. you **had not** accessed the records to check them only;

6.4. ~~that they were your boyfriend and his brother~~ were not intending to visit your grandmother, ~~and/or that your grandmother was very sick;~~

6.5. you created the false vaccination records because your boyfriend and/or his brother did not want to be vaccinated; and

6.6. **your boyfriend and his brother** required proof of vaccination ~~to travel~~ **abroad.**

7. Your actions in 1, 3, 4 and/or 5 above were dishonest and/or lacking in integrity in that you:

7.1. secured log-in details in order to create vaccination records for **for your boyfriend and his brother patients** who were not in fact vaccinated

7.2. provided false explanations and/or reasons for your actions when you knew that they were not correct **as set out in 6 above**

7.3. assisted your boyfriend and ~~for~~ his brother in attempts to circumvent the protections in place to prevent the spread of Covid-19.

7. Mr Hamlet said that these were all necessary to clarity and did not expand the allegations. Mr Hadley for the Registrant agreed these proposed amendments were not prejudicial and he did not oppose them.

8. The Committee accepted the advice of the Legal Adviser as to fairness and its power to amend under Rule 41. The Committee was of the view that the amendments are helpful as they clarify the allegations and they do not alter the nature or gravity of the allegation. They are not opposed, and no prejudice arises. The Committee decided it was fair and appropriate to allow the proposed amendments.

#### **Application for the hearing to be held partly in private**

9. The Committee heard an application from Mr Hadley to hear part of the hearing in private under Rule 39. He submitted that the Registrant's statement and reflection refer to private matters and he asked that details of that relationship were private issues and in that limited respect the hearing should be in private. Secondly, there is reference to a crime report which he submitted should also be heard in private.
10. Mr Hamlet opposed the application. He submitted that the hearing must be held in public, and he urged the Committee to exercise its discretion with caution. The relationship she refers to is relevant and it is important that it should be in the public domain, and the other party to that relationship is not identified. He submitted that the crime report contained no specific details and did not require to be referred to in private.
11. The Committee accepted the advice of the Legal Adviser who referred to Rule 39 and to the importance of the open justice principle and balancing the Registrant's right to privacy.
12. The crime report produced by the Registrant simply provides a crime number and discloses no private or identifying information. The Committee did not consider it justified departing from the open justice principle and refused the application.
13. The Committee considered that the nature of the relationship the Registrant refers to is an important aspect of the case and it is woven into her account. The Committee noted that no individual is identified. The Committee was mindful that there may be a level of embarrassment to the Registrant but decided that it does not outweigh the

central and important public interest in conducting the hearing in public. The Committee therefore decided to refuse the application.

## **Background**

14. Ms Holly DeSouza (the "Registrant") at the time of the events was a Pharmacy Technician. In March 2022, some weeks after leaving the employment of The Wicker Pharmacy (the "Pharmacy"), she used the log in details of a former colleague, Colleague A, to access the Covid vaccination register at the Pharmacy and she created a false vaccination record for her then boyfriend and his brother.
15. The issue came to light as a result of a member of staff at the Pharmacy, Ms G, conducting a routine check of the system the same day and she identified that two names were not recognised.
16. Upon further investigation, it was established that Colleague A had been texted by the Registrant on 4 March 2022, stating: *"my cousins are coming from Southampton next week and they were on about getting their booster while they're down here, so I just wanna [sic] check the queue..."*
17. It is alleged that the Registrant then went on to ask for Colleague A's login details, claiming she could not remember her own. On 5 March 2022, the Registrant texted her again to say that her cousins *"may not even travel down so I may not even need it now"* .
18. On 7 March 2022, at 0932, the Registrant allegedly asked Colleague A for her security word. At 1609 on 7 March, Colleague A texted the Registrant back, after the issue had come to light, and asked her if she had vaccinated anyone that afternoon. She replied: *"...no sorry, I had two of those pinnacle things in my emails that went to the wrong surgery...and I've changed those.."*
19. The Registrant went on to state: *"I'm not sure why it appears on there just cancel it..."* Mr 1, a colleague at the Pharmacy, describes in his written statement that at 1630, he was contacted by Ms G about the issue. He telephoned the Registrant at around 1700 and she apologised and explained that she *"had received a referral back from a surgery.."* He asked her to forward the email in question but did hear back from her.



20. The Registrant later sent Mr 1 an email on 16 March 2022 in which she explained she had "*misrepresented herself*" during their prior conversation and stated: "*...in reality, the two individual records involved are my boyfriend and his brother. They were coming to visit my nan who is very sick ...but I didn't believe they were vaccinated [so]...I accessed the system with another colleague's login to check this and mistakenly put this through. Once I realised this error, I went back to remembering my own login details to cancel this as it was not my intention whatsoever.*"
21. Mr 1 responded the following day, saying that he did not understand that explanation and highlighted that she had a) breached data protection by accessing the system with a colleagues' details, and b) that she had inputted a series of details which appeared incompatible with an error.
22. Whilst no copy of the record itself is available, Mr 1 produced an email exchange with the Registrant on 17 March 2022 in which he confirms that the information completed by the Registrant included the vaccine, batch number, expiry date, the arm administered, who and when it had been administered and other details. He asserted that she had deliberately created a false record.
23. In response, the Registrant apologised and stated: "*In no way do I want to be dishonest or cover up my actions because I know what I have done is completely unacceptable....the fact he was wanting to visit my sick nan prompted me to check whether he did have the vaccination. When I accessed the system...I thought I could process the form through making it look like the two individuals had...*"

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

24. The Registrant admitted all the particulars, as amended, including dishonesty.
25. In the light of the admissions, and by application of Rule 31(6) of the Rules, the Committee found the admitted factual particulars were all proved.
26. The Committee went on to consider misconduct and whether the Registrant's fitness to practise was currently impaired, matters for the Committee's judgement.

## **Misconduct and Impairment**

27. Having made its decision on the facts, the Committee moved to the second stage of considering whether the facts proved amount to misconduct and, if so, whether the Registrant's fitness to practice is currently impaired. The Committee heard oral evidence from the Registrant.
28. 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 2017). Paragraph 2.11 states:

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

## **The Registrant's Evidence**

29. The Registrant told the Committee about her career. She apologised and said she had not appreciated at the time the impact of her actions, which she described as serious misconduct. She said she loved her role and worked in a supportive environment. She said she wanted to show that she had learned from this and could move forward. She said she had been open about her actions and had spoken about it to others.
30. The Registrant told the Committee about her relationship with her then boyfriend at the time of the allegations. It lasted several years, but the nature of the relationship changed over the course of time. She said [PRIVATE]. He knew what her job involved, and he would ask her about her role during the Covid-19 vaccination programme. She said she had been asked by people to create false vaccination records but had refused. She said significant sums of money were offered to her to change records, but she had refused as it was morally wrong and public health was important.

31. The Registrant said that her boyfriend had started demanding [PRIVATE]. She told the Committee that she had previously [PRIVATE]. She had reported the matter to the police at the time but they had not been able to help her. Her boyfriend knew about this incident and he had started to [PRIVATE]. She said she had been very scared.
32. As a result, she changed the vaccination records when he asked her to do so. She said she had wanted to protect herself and did not know what to do as the police took no further action on the previous occasion. She said that she knew that was not an excuse and what she did was wrong and, at first, she had lied to her colleague when confronted about the discrepancy in the vaccination records. She said it was all her fault and she had not adhered to the professional standards and had put her needs and interests ahead of others. She told the Committee about the importance of trust, professional standards and upholding the reputation of the profession.
33. The Registrant said she was currently employed in her professional role at “Peak Edge Primary Care” and said that her employers knew all about the current case, the allegations and the ongoing investigations. They are content to allow her to practice, but she will not be allowed to continue in this role if she is suspended as a result of this fitness to practise hearing. She told the Committee that she is currently mentored, and she has found that supportive as she can discuss her role and professional standards.
34. The Registrant referred to her reflective piece and told the Committee that she wanted to meet with her former colleague and apologise as he had, in general, been supportive of her. She said she would never let this happen again as she had matured and had reflected on her earlier conduct and felt disgusted with her behaviour. She asked the Committee to consider her references and testimonials and further training undertaken.
35. In cross examination, the Registrant was taken to her initial statement and her response to the concerns and said that she had not told the truth initially but her later statements were true. She could not recall whether honesty and record keeping

were specifically covered in her pharmacy apprenticeship training, but said they were intrinsic to her role.

36. The Registrant said that it was general knowledge that during the covid vaccination programme that some health care professionals were accepting money to alter vaccination records. Her boyfriend had started asking her to create a false vaccination record for him claiming that he needed it to visit family overseas. [PRIVATE], which the Registrant described as "*leverage*" and said that it became persistent, and she was scared.
  
37. The Registrant accepted that she had approached a more junior member of staff to ask for the log in details to make the changes to the records, and at the time she did not consider the impact on that colleague but said she has done so since and she recognises that she had been selfish. She accepted that her dishonesty was calculated, deliberate and sustained but she was scared at the time, and she continued to feel [PRIVATE]. She said she was trying to show she was not the same now and that she will not repeat this misconduct. She said she had ultimately told her parents and had been well supported by them.

### **Closing Submissions**

38. Mr Hamlet for the Council submitted that the issue of misconduct was a matter for the Committee. He referred to the relevant case law and submitted that the conduct found proved was serious and amounted to misconduct. He referred to Standards 6, 8 and 9 and submitted that these had been breached by the Registrant. He submitted that any dishonesty is likely to amount to misconduct and the public would ordinarily expect a finding of misconduct. He invited the Committee to consider the wider features and context of the conduct. He invited it to consider that the colleague the Registrant selected was a junior colleague who she considered was more likely to be compliant.

39. Mr Hamlet reminded the Committee that dishonesty is not easily remedied, and he asked it to consider to what extent the conduct had been addressed and how mitigatory the relationship she had with her former boyfriend really was. He submitted that there had been planning and manipulation of colleagues by the Registrant and that raised significant concerns about her honesty and integrity. She had accepted that she had made a calculated decision to manipulate a more junior colleague, and she accepted that she had created a false narrative over a course of three days.
40. Mr Hamlet submitted that the Registrant had not fully recognised this in her reflections, and that, most significant was that her reaction to the discovery of her dishonesty was to tell more lies. He submitted that gave rise to a risk of repetition if she was again faced with challenging professional circumstances. Mr Hamlet submitted that the Registrant's insight was not fully developed.
41. Mr Hamlet submitted that there had not been sufficient remediation and the Registrant was likely to repeat the dishonesty and she continues to present a risk to the wider public. Further, he submitted that the public interest required a finding of impairment to uphold proper professional standards and public confidence. He referred the Committee to *GMC v Armstrong* [2021] EWHC 1658 (Admin) which stressed the importance of the public interest, particularly in cases of dishonesty. Mr Hamlet submitted that the Registrant's fitness to practice remained currently impaired and she posed a risk to the public and the wider public interest.
42. Mr Hadley for the Registrant submitted that it was important to be mindful that this was a case of potential risk of harm, that there was no evidence of actual harm. Misconduct and impairment were matters for the professional judgement of the Committee. He submitted that the Registrant conceded her conduct amounted to misconduct, but that was a matter for the Committee.
43. On the issue of current impairment, Mr Hadley referred to the case law and he submitted that the test is whether the Registrant has sufficiently remedied her

practice. The test is not that the Registrant has “fully” remediated, as one never gets to that point. He referred to *Cheatle v GMC* 2009 EWHC 645 (Admin) and stressed that each case must be put in context. He submitted that the Registrant was not dishonest across her practice, but in particular circumstances. He said that the *Armstrong* case could be distinguished, where the dishonesty had been over an extended period of time. He submitted that the Registrant’s dishonesty resulted in no financial gain and was an isolated incident and was a lapse by a young person over a short period of time.

44. Mr Hadley submitted that the Registrant has shown sufficient evidence of insight and remediation. She has accepted her fault, she had not blamed others and she had made admissions. On 17 March 2022 she admitted her wrongdoing to Mr 1 and she has from the outset of this case made admissions. He submitted that the Registrant had shown understanding of her conduct and she had recognised the factors that led to her dishonesty. She had acknowledged the potential consequences of her actions, including the impact on and risk of harm to patients, including on her former boyfriend, and the impact on her colleagues.
45. Mr Hadley asked the Committee to consider the Registrant’s reflective account and her analysis of the standards, more professional standards than the Council now suggest she breached. He also referred to the positive references from the Registrant’s current employers, with whom she has been open and honest. He submitted that the dishonesty took place in “bespoke” circumstances and given her evidence and reflection, it was highly unlikely to be repeated. In the intervening period there had been no repetition of the misconduct. There were no indicators that indicated a risk of repetition. Mr Hadley submitted that standards had been breached, but that was not continuing. Similarly, her integrity was in question at the time, but that was not in question as of today.
46. On the public interest, Mr Hadley submitted that there has to be a need to make a finding of impairment to maintain professional standards and public confidence. He suggested that was a high test. The test was what a fully informed member of the

public would make of the case, not simply a “*headline*” view of the case. He submitted that there was no need for a finding of impairment in this case, and in the absence of such a finding the Committee can issue Advice or a Warning. He submitted any Warning needs to be meaningful.

### **Ground of Misconduct**

47. When considering whether the particulars found proved amounted to misconduct the Committee and it took into account the Council’s *Good Decision making guidance* and accepted the legal advice. The Committee took account of the Registrant’s evidence and the submissions from both parties. The Legal Adviser reminded it of the relevant case law on misconduct and impairment, and he advised the Committee that these are both matters for its own professional judgment.
48. The Committee was of the view that the facts found proved are serious. The Registrant has admitted to calculated, sustained and deliberate dishonesty. She lied more than once and she took deliberate steps to falsify records, and she knowingly manipulated a junior colleague to assist her. She then lied about her actions. That lack of integrity and dishonesty strike at the heart of professional standards and breach fundamental tenets of the profession.
49. The Committee concluded that the facts found proved are serious, the conduct falls far short of what would have been proper in the circumstances, and it amounts to misconduct. The Registrant breached standards 6, 8 and 9.

### **Impairment of fitness to practice**

50. The Committee was mindful of the guidance in case law and the importance of considering the Registrant’s insight and remediation and the risk of repetition of the misconduct. In doing so the Committee considered whether the particulars found proved show that the actions and omissions of the Registrant:
  - present an actual or potential risk to patients or to the public;
  - has brought, or might bring, the profession of pharmacy into disrepute;

- has breached one of the fundamental principles of the profession of pharmacy;
- means that the integrity of the registrant can no longer be relied upon.

51. The Committee considered that the misconduct is remediable but recognised that it is not easy to remedy dishonest conduct. The Registrant has made full admissions and she gave evidence. She has provided a reflective piece and an analysis of the professional standards she felt she had breached. She has shown remorse and she has apologised several times.
52. The Committee found that the Registrant has addressed her misconduct to an extent. She appears to understand that what she did was wrong and she does not seek to blame anyone but herself. She has shown some insight into why she did what she did, and she fully accepted that what she was wholly wrong. She has reflected on her conduct, which she described as “*selfish*” and “*disgusting*”. She appears to have matured and she has developed good insight into why her misconduct was totally unacceptable.
53. The Registrant states that she was coerced by her former boyfriend to be dishonest. The Committee considered this significant relationship issue which the Registrant stated drove her to be dishonest. That was clearly a very difficult situation for the Registrant. She appears to have known at the time that what she did was wrong, but she was still driven to do it by [PRIVATE].
54. The Committee remained concerned about the Registrant’s vulnerability and susceptibility to pressures of this kind. In this particular regard, the Committee found the Registrant’s reflection and insight to be lacking. The Committee found that she had insufficient insight into her resilience and her strategies for recognising, avoiding and dealing with external sources of pressure in the future. Such insight as she has demonstrated, did not include the impact of such pressures on her professional practice and her susceptibility to manipulation, control and coercion. The Committee



concluded that this important aspect of understanding and insight has not been sufficiently addressed and has not been remedied by the Registrant.

55. The Committee was not satisfied that the Registrant had sufficiently demonstrated insight into this significant aspect of the case, that is her susceptibility to pressure and coercion, and her ability to recognise and avoid such pressures arising in her relationships in the future.
56. On that basis, the Committee decided, albeit the Registrant recognises the seriousness of her misconduct, that she nonetheless remains at risk of repetition should she experience a similar pressures in the future. The Committee therefore decided that there remains a real risk of repetition of the misconduct which could place colleagues and the public at risk of harm. The Committee found that the Registrant's fitness to practice is currently impaired.
57. As regards the public aspect of impairment, the Committee was mindful of the guidance in the case of *Cohen v GMC* [2008] EWHC 581 which stated it must not lose sight of: *"the critically important public policy issues which are: the need to protect the individual and the collective need to maintain confidence in the profession as well as declaring and upholding proper standards of conduct and behaviour which the public expect...and that the public interest includes amongst other things the protection of service users and the maintenance of public confidence in the profession."*
58. The Committee decided that a well informed and reasonable member of the public would be most concerned about the misconduct and dishonesty in this case. The Committee decided that it was necessary to mark the seriousness of the case, to uphold and declare proper professional standards and to maintain public confidence in the profession and the regulator by making a finding of current impairment.
59. The Committee therefore concluded that the Registrant's fitness to practice is currently impaired.

## **Submissions on Sanction**

60. Mr Hamlet, for the Council referred to the Council's Good Decision Making: fitness to practise to hearings, outcomes guidance (March 2024) on the sanctions available. He submitted that the Committee had decided that the dishonesty was calculated and deliberate and they were aggravating features. He also reminded the Committee that mitigating features may include insight, remorse and an apology but that the Registrant's insight is not fully developed and that there remained a risk of repetition and a risk of harm to the public.
  
61. Mr Hamlet submitted that the proportionate response is to suspend the Registrant for a period of 9 months. He referred to the key factors in paragraph 5.2 of the outcomes guidance including the Registrant's personal circumstances, testimonials and character references. He submitted that the Committee must weigh the Registrant's interests with the need to protect the public. He asked the Committee to consider the context of the conduct and submitted that there was an abuse of trust and professional position in this case. He also referred to the guidance on dishonesty from paragraph 6.8 of the guidance and submitted that the Council did not seek removal of the Registrant in this case.
  
62. Mr Hamlet submitted that taking no action and a Warning would not be appropriate where there is a finding of impairment and dishonesty. He submitted that such sanctions were not available given the risk to the public identified by the Committee. Mr Hamlet submitted that conditions must be workable and proportionate and, in most cases, conditions would not be suitable where there is unresolved dishonesty and would not meet the gravity of the wrongdoing here. He stressed the importance of the public interest, and he submitted that the consequences of suspension on the Registrant should not deter the Committee from imposing that order if it considers that is the proportionate sanction.

63. Mr Hadley, for the Registrant submitted that there are positive elements in the decision made by the Committee. He referred to the mitigating features in this case. The Registrant has worked for 33 months since these allegations without any further concerns arising. The purpose of sanction was not to punish, and the case must be placed fully into context and take account of the Registrant's interests.
64. Mr Hadley submitted that the outcomes guidance was not a "*set of tram lines*." He referred to the guidance on dishonesty and stressed that all of the factors must be taken into account. Dishonesty does not automatically mean removal and that there are degrees of dishonesty. He submitted that the Committee was dealing with a young and inexperienced professional, and it should take into account that the allegations involved a single set of circumstances, and there was no pattern of dishonesty. Significant pressure was applied to the Registrant and there was a failure of authorities in the past to deal with that.
65. Mr Hadley submitted that the Registrant is a person of positive good character and has no fitness to practice history. There was no financial gain, indeed no gain of any type, the Registrant had lost out and gained nothing. He asked the Committee to take account of the remorse shown and the admissions made by the Registrant at an early stage, before she was legally represented. On 17 March 2022, she apologised to her colleague Mr 1 for her wrongdoing. At the hearing the Registrant had been open and honest and she has not sought to hide from her regulator. She has apologised throughout this process and reflected on the standards.
66. Mr Hadley submitted that the Registrant has shown some insight and remediation. Mr Hadley submitted that it was wrong to suggest that remediation could not be taken account of in some cases, as stated at paragraph 5.22 of the outcome's guidance. He asked the Committee to give considerable weight to the testimonials from the pharmacy professionals who work daily with the Registrant.
67. Mr Hadley submitted that the Registrant's references were not "*bland*" but addressed the issues in this case, dealing with candour, integrity and professionalism.

One reference refers to safe and effective care by the Registrant. There were no issues with her practice, and she has been shadowed during her practice to ensure her practice is appropriate. He submitted that the potential loss of the Registrant's job was a factor to take account of, as was her imminent house purchase.

68. Mr Hadley submitted that a Warning was a sanction and it should be carefully considered. Any Warning would need to be meaningful and set out clearly what is required. He submitted that would be a significant finding against the Registrant and would apply for a year. Mr Hadley submitted that conditions could be applied in cases such as this involving behaviour. He submitted that notification conditions could apply and would mean that the Registrant must tell her employer, and that would allow her wellbeing to be monitored.
69. Mr Hadley submitted that suspension could be imposed for up to 12 months but that the Committee must consider the shortest period that was proportionate. He submitted that nine months was too long, as the aim could be achieved by a shorter period. Removal from the register would be entirely disproportionate.

### **Decision on Sanction**

70. The Legal Adviser reminded the Committee of the Council's outcomes guidance and the need to apply the least restrictive sanction and to act proportionately. Any conditions imposed must be workable and realistic and be sufficient to protect the public and the wider public interest.
71. Having found impairment, the Committee considered the issue of sanction. The Committee's powers are set out in Article 54(2) of the Order. It considered the available sanctions in ascending order from least restrictive, take no action, to the most restrictive, removal from the Register. It identified the appropriate and proportionate sanction that meets the circumstances of this case.
72. The Committee had regard to the Council's '*Good decision-making: Fitness to practise hearings and outcomes guidance*' (2024) and the "*Good decision-making: Conditions Bank guidance*" (July 2023). It was mindful that the purpose of a sanction is not to be

punitive, although a sanction may in fact have a punitive effect. The purpose of the sanction is to meet the overarching objectives of regulation, namely the protection of the public, the maintenance of public confidence and to promote professional standards. The Committee is entitled to give greater weight to the public interest than the Registrant's interests.

73. The Committee took into account the submissions from both parties and all the information before it, including the testimonial and references.
74. The Committee first considered the aggravating and mitigating factors. The Committee identified aggravating factors as follows:
  - The dishonesty was deliberate, planned and sustained for a period of time
  - The manipulation of a more junior member of staff
75. The Committee identified the following mitigating features:
  - The reflection and insight demonstrated
  - The apologies, remorse and remediation
  - Early, full admissions
  - Difficult personal circumstances at the time
  - Positive references and testimonials from current employers
76. The Committee found the Registrant's insight, albeit not fully developed, coupled with the positive references from the pharmacy professionals where she currently works, were powerful mitigating features. The references specifically address the issue of the Registrant's integrity and honesty, and they have been made in the knowledge of these proceedings. The Committee took account that the Registrant is currently working in a supportive environment with an employer who has no concerns about her practice and is fully aware of these proceedings.
77. No action & Warning: To take no action or to impose a Warning would significantly fail to reflect the seriousness of the misconduct. The Committee has decided that the dishonesty was sustained and deliberate and that the Registrant is currently

impaired, despite a level of insight. To take no action or to impose a Warning would fail to reflect the seriousness of the misconduct, it would fail to protect the public and it would undermine public confidence in the profession and fail to uphold proper professional standards.

78. Conditions of Registration. The Committee next considered the imposition of conditions of Registration. A conditions of registration order would allow the Registrant to continue to practise. The Committee has found that the Registrant has some insight but that her reflection and insight in relation to managing external pressures is insufficient, and that resulted in the finding of impairment and gave rise to the risk of harm.
79. The Registrant's clinical abilities are not a concern and her current employers have provided her with positive references which express no concern about her practice. She has worked for nearly three years since these events on an unrestricted basis without any evidence of further concerns arising.
80. The Registrant made full admissions and she has demonstrated some insight into her misconduct. She has not sought to minimise or excuse her wrongdoing and in her evidence the Committee found her to be open, honest and reflective. The Committee found that the Registrant is genuinely seeking to strengthen, improve and remediate her practice. In these circumstances, the Committee was confident that she would meaningfully and positively engage with any conditions imposed.
81. In these circumstances, the Committee decided that it was possible to devise workable, realistic and verifiable conditions. These will provide the Registrant with a workable, verifiable and monitored structure within which to further develop her insight, and sufficiently remediate her practice in the management of external pressure which the Committee has found deficient and giving rise to risk.
82. The Committee was satisfied that these conditions were proportionate and appropriate and will operate to sufficiently manage and reduce the risk of repetition whilst protecting the public and the wider public interest. The Committee was satisfied that these conditions will help to bring about the improvement required in respect of the Registrant's insight.

83. The Committee therefore decided that the following conditions should be imposed on the Registrant for a period of 12 months. The Committee considered that a period of 12 months was appropriate. That period will provide a fair and proportionate time for the Registrant to sufficiently further develop where she is lacking insight.

1. *You must name and ask the GPhC to approve a senior registered pharmacy professional to act as your mentor within four weeks of the date this order takes effect. You must be in contact face to face with and discuss with your mentor at least every month the following issues:*

- *Your insight and resilience in recognising and appropriately managing the impact of external pressures on your professional practice and judgement*
- *Your insight into the potential or actual risk and impact of external pressures on your professional practice and judgement*
- *Making decisions in pressurised and/or extraordinary circumstances*
- *Seeking advice and support when you feel you may be impacted by external pressures*
- *The impact of your conduct and actions on the reputation of the profession and public confidence*

2. *You must work with your mentor to draw up a personal development plan, specifically designed to deal with the shortcomings in the following areas of your practice:*

- *Your insight and resilience in recognising and appropriately managing the impact of external pressures on your professional practice and judgement*
- *Your insight into the potential or actual risk and impact of external pressures on your professional practice and judgement*
- *Making decisions in pressurised and/or extraordinary circumstances*
- *Seeking advice and support when you feel you may be impacted by external pressures*

- *The impact of your conduct and actions on the reputation of the profession and public confidence*

*You must send a copy of your personal development plan to the GPhC within eight weeks of the date this order takes effect.*

3. *You must arrange for your Mentor to provide a report to the GPhC on your progress towards achieving the aims set out in your personal development plan before the review of this order which will take place before it expires.*

4. *You must:*

- *give the GPhC the contact details of your current place of employment and anyone who is likely to be the manager or persons supervising you (employer, pharmacy owner, agency, superintendent pharmacist responsible pharmacist)*
- *tell the GPhC before you take on any position for which you must be registered with the GPhC*
- *give the GPhC details of the role and the hours you will work each week, including locum or relief work*
- *tell the GPhC if any of the above details change*
- *tell the GPhC if you are subject to any disciplinary action*

5. *You must notify the following people in writing of these conditions before you commence or recommence any work in relation to any paid or unpaid work for which GPhC registration is required:*

- *All employers or contractors*
- *Agents acting on behalf of employers and locum agencies*
- *Superintendent Pharmacists*
- *Responsible Pharmacists*
- *Line Managers*



- *Workplace supervisors*
- *Accountable Officer for Controlled drugs*
- *Prospective employers (notification should be given at the time of applying)*

*You must provide the GPhC with a copy of the notification(s).*

*6. You must tell the GPhC if you apply for work as a pharmacist or pharmacy technician outside Great Britain.*

84. Suspension Order: The Committee considered whether suspension would be a proportionate sanction. The Committee has concluded that conditions are sufficient and proportionate and will facilitate the improvement required in the Registrant's practice. The Committee was of the view that whilst suspension would protect the public by removing the Registrant from practice for a period, such an order goes further than is necessary to protect the public. There is no public interest in simply removing the Registrant from practice where conditions are sufficient and will serve to remedy the deficiencies identified.
85. Further, the Committee was of the view that suspension would fail to manage and reduce the risk of repetition in any meaningful or long-term way. Simply preventing the Registrant, someone who is otherwise a competent professional, from practice would deprive the public of her professional contribution and is not apt to providing any remediation of her practice. The Committee was of the view that suspension would serve little real purpose in the particular circumstances of this case given the particular issue identified as requiring remediation. The Committee was of the view that a suspension order would be disproportionate and punitive.
86. The Committee therefore directs that the Registrar impose for a period of 12 months the conditions as set out above at paragraph 83.

### **Review Hearing**

87. This decision will be reviewed by the Committee before the sanction expires. A future Committee may be assisted by:

- A reflective piece that considers the elements set out in your professional development plan
- Evidence of any relevant course and training successfully undertaken
- Further references and testimonials