

General Pharmaceutical Council

Fitness to Practise Committee

Review Hearing

Remote videolink hearing

24 December 2024

Registrant name:	Kwao Frimpong
Registration number:	2058169
Part of the register:	Pharmacist
Type of Case:	Conviction and Misconduct
Committee Members:	Neville Sorab (Chair) Amira Guirguis (Registrant member) Michael Glickman (Lay member)
Committee Secretary:	Zainab Mohamad
Registrant:	Present and not represented
General Pharmaceutical Council:	Represented by Fiona Martin, Case Presenter
Order being reviewed:	Suspension (12 months)
Fitness to practise:	Impaired
Outcome:	Removal
Interim Measures:	Interim Suspension

This decision including any finding of facts, impairment and sanction is an appealable decision under *The General Pharmaceutical Council (Fitness to Practise and Disqualification etc. Rules) Order of Council 2010*. Therefore, this decision will not take effect until 21 January 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 found proved at the Principal Hearing

You, a registered Pharmacist,

1. On 24 June 2022, at Sheffield Crown Court, were convicted of the following offence:

1.1. Causing Death by Dangerous Driving, contrary to s.1 Road Traffic Act 1988.

2. Between 24 June 2022 and 1 July 2022 failed to declare to the GPhC that you had received the conviction in 1 above within seven days.

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

Documentation

Exhibit 1 – GPhC hearing bundle

Exhibit 2 – GPhC skeleton argument dated 29 November 2024

Introduction

1. This is the written determination of the Fitness to Practise Committee at the General Pharmaceutical Council (“the Council”).
2. The hearing is governed by *The Pharmacy Order 2010* (“the Order”) and *The General Pharmaceutical Council (Fitness to Practise and Disqualification etc. Rules) Order of Council 2010* (“the Rules”).
3. The statutory overarching objectives for these regulatory proceedings are:

- a. To protect, promote and maintain the health, safety and well-being of the public;
 - b. To promote and maintain public confidence in the professions regulated by the Council; and
 - c. To promote and maintain proper professional standards and conduct for members of those professions.
4. The Committee also has regard to the guidance contained in the Council's *Good decision making: Fitness to practise hearings and outcomes guidance* as revised March 2024.
 5. At a Review Hearing the Committee must decide whether the Registrant's fitness to practise remains currently impaired and, if so, what should be the appropriate outcome. If the Committee find that the Registrant's fitness to practise is no longer impaired the current order will lapse on expiry.

Service of Notice of Hearing

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

Preliminary matter – Application for voluntary removal

7. At the start of the hearing, the Registrant told the Committee that on 19 December 2024, he had submitted to the Council an application for voluntary removal from the Register. He said that he did so as he had been deported by the Home Office and he wanted to avoid the obligations to continue his registration and complete Continuing Professional Development ("CPD"), and that the continuation of these proceedings was affecting his health.

8. On behalf of the Council, Ms Martin confirmed that the Council had received the Registrant's application for voluntary removal from the Register, but that it would unlikely be fully assessed by the Registrar before the end of January 2025.
9. The Committee noted the Registrant's application for voluntary removal from the Register and that it was unlikely be fully assessed by the Registrar before the end of January 2025. The Committee informed the Registrant that the process for voluntary removal was a matter for the Registrar and not for a fitness to practise committee. Given the current order expires on 10 January 2025, the Committee considered it necessary to continue with this review, and allow the Registrar to continue with their process of considering the Registrant's voluntary application for removal.

Background and Context

10. On 10 August 2022, the Council received a self-referral form from the Registrant. The Registrant disclosed that he had been involved in a Road Traffic collision resulting in the death of the "*opponent driver*". The Registrant went on to confirm that he was due to be sentenced on 19 August 2022 at Sheffield Crown Court.
11. The Council subsequently commenced an investigation into the concern and obtained witness statements relating to the criminal offence. The Council also obtained a copy of the Certificate of Conviction, transcripts of the prosecution's opening, defence mitigation and the Judge's sentencing remarks.
12. The Police case summary sets out that on Tuesday 9 March 2021 at around 07:50am the Registrant was involved in a "*two-vehicle road traffic collision*". The Registrant who was driving a grey coloured Mercedes Benz motor vehicle collided with a motor vehicle, namely a Mazda travelling in the opposite direction resulting in the death of the driver who is referred to as the Victim. The Police case summary details that the Registrant was conducting an overtaking manoeuvre on several motor vehicles which were travelling in front of him prior to the head on collision with the Victim.
13. The Police case summary describes the Registrant travelling on "*Pleasley Road at the scene is a single carriageway road consisting of three traffic lanes, one lane for vehicles*

travelling towards Whiston and two traffic lanes for vehicles travelling towards Aughton". The carriageway road markings depending on the direction of travel forms a sweeping left hand or right-hand bend with a slight uphill and downhill gradient.

14. The Police case summary sets out the evidence of people who were present at the scene or witnessed the incident. One of the witness's details that the *"Mercedes veered across road at high speed into the path of the Mazda."* Another witness describes *"it felt like the driver was trying to squeeze through a space that wasn't there. When she looked in her rear view mirror it seemed to that the Mercedes had not gone back onto its own side of the road and it was still very much in the middle of the road, saw the Mercedes spin out, basically the car ended up with the bonnet facing the black and white bollards."*
15. The findings from the Forensic Collision Investigation Report suggested that the Registrant was at least in some part driving on the wrong side of the carriageway for its direction of travel and *"would suggest at least some part of the Mercedes vehicle has strayed across from its own traffic lane."*
16. Witness B provided a witness statement to the Police dated 1 April 2021. Witness B describes the Registrant driving in a hurry and overtaking three cars on the outside chevrons resulting in the three cars needing to brake. At a later period of the morning Witness B details observing the same car had been involved in a crash and later learned that it was involved in the fatal road traffic collision.
17. Police Constable 5 ("PC 5") has provided as part of the Police investigation a witness statement dated 9 March 2021. PC 5 details attending the scene of the road traffic collision. PC 5 describes two *"extensively damaged cars"*. PC 5 details the car of the Victim as having *"suffered extensive front impact damage, so much that the front of this vehicle was unrecognisable"*.
18. On 18 March 2021, the Registrant was interviewed under Caution at Shepcote Lane Police Station, the Registrant gave a prepared statement and then proceeded to give a partial no comment interview in response to the questions put to him by the Police.

19. On 24 June 2022, at Sheffield Crown Court the Registrant appeared and entered a guilty plea. The case was adjourned for sentence and a Pre-Sentence Report (“PSR”) was prepared on behalf of the Registrant by the Probation Service.
20. On 9 September 2022, the Registrant appeared at Sheffield Crown Court for sentence. The Court has provided a copy of the sentencing transcript. Her Honour Judge Wright (“HHJ Wright”) sentencing the Registrant sets out that the evidence from other road users described the Registrant as driving at speed in the lead up to the collision. HHJ Wright commented “*You drove at speed, overtook cars, and positioned yourself in the opposite carriageway, causing oncoming vehicles in that lane to have to take evasion action.*” HHJ Wright commented that the Registrant was travelling too fast and lost control of his vehicle. HHJ Wright had regard to the sentencing guidelines and set out the aggravating and mitigating features when sentencing the Registrant.
21. HHJ Wright considered that the Registrant had failed to accept full responsibility for his actions. It was determined that the Registrant’s driving was not a momentary lapse of concentration but a “*deliberate decision to drive at speed and perform a dangerous overtaking manoeuvre on the wrong side of the road, no doubt, I find, because you were concerned that you were late for work.*”
22. The Registrant was sentenced to a 3-year custodial sentence. The Council relied on the Certificate of Conviction to prove the Registrant’s convictions in accordance with Rule 24(4) of the Rules.
23. The Certificate of Conviction also records that the Registrant was disqualified from driving for 2 years together with an extended period of 18 months and until an extended driving test has been passed. The Registrant was also ordered pay a total amount of £190.00 within 6 months.
24. The Registrant is required under the Rules to notify the Council within 7 days of a specified event taking place. A witness statement from a Concerns Assessment Manager at the Council details that a specified event includes a conviction of any criminal offence.

25. On 10 August 2022 the Registrant submitted a self-referral form. The Registrants' self-referral conviction date of 22 April 2022 is incorrect, the Registrant was convicted on the 24 June 2022. Furthermore, the Registrant was under a duty to inform the Registrar by 1 July 2022. The Council were not notified for almost 7 weeks.

Hearing history

- Principal Hearing (8-12 December 2023) – Suspension (12 months)
 - The current suspension is due to expire on 10 January 2025.
26. The Registrant attended his Principal Hearing and was unrepresented. The Registrant admitted both allegations and therefore the Principal Hearing Committee found the facts proved, in accordance with Rule 31(6) of the Rules.
27. The Registrant gave evidence, reading a reflective statement he provided to the Principal Hearing Committee which expressed his regret and remorse for the conduct which led to his conviction and imprisonment. The Registrant stated that he had *“got confused and wrongly interpreted the road markings”* but assured the Principal Hearing Committee that he would never allow himself to be involved in an accident again.
28. When questioned the Registrant stated *“he had now reflected on what he said during his probation interview as recorded in the Pre-sentence Report: he would no longer say that his driving had “contributed” to the accident, he would admit that his driving ‘caused’ the accident. He accepted his responsibility for the accident so that he could become a better version of himself and so that this incident would not happen again whatsoever in his life.”*
29. The Council submitted that there was a need for a finding of impairment in the wider public interest. The Registrant accepted that a finding of impairment would demonstrate that this matter had not been *“swept under the carpet”*.
30. The Principal Hearing Committee acknowledged that the Registrant's conduct had taken place outside the course of his professional practice but that standards 6 and 9

of the Standards for Pharmacy Professionals had been breached. In particular the Principal Hearing Committee noted that *“by his failure to declare (his conviction) within the specified time frame, the Registrant failed to lead by example.”*

31. The Principal Hearing Committee took into account the Registrant’s written reflections, the multiple positive testimonials both in relation to his professional standard of practice (which is not in question in these proceedings) and also to his general good character and personal qualities. It appreciated that this is the Registrant’s first conviction and it also appreciated that he has taken steps to remediate his conduct.
32. Given the seriousness of the Registrant’s conviction, which was of course reflected by his three-year sentence of imprisonment, the Principal Hearing Committee was satisfied that by his conviction, the Registrant has brought the profession of pharmacy into disrepute.
33. The Principal Hearing Committee found the Registrant’s fitness to practise was 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.
34. When the Principal Hearing commenced on 11 December 2023 the Registrant was held in custody in England. By the Monday of the hearing, the Registrant had been deported to Germany. The hearing was adjourned for one day to allow the Registrant to appear at the hearing via video link from Germany. Following the Principal Hearing Committee’s deliberations regarding sanction, the Registrant advised the Principal Hearing Committee that he would not be returning to custody in Germany, and therefore he had finished his custodial sentence 3 months early. However, (if in England) the Registrant would remain on licence until September 2025.
35. In relation to outcome (sanction), the Registrant stated that if he were removed from the Register it would end his career as a pharmacist. This was the only career the Registrant had ever known. The Registrant stated that family members (nieces and nephews) were dependent on his income to fund their education.

36. The Principal Hearing Committee considered submissions on behalf of the Council that removal was the only appropriate sanction to address the Registrant's actions. The Principal Hearing Committee considered the representations on behalf of the Council and the Registrant and identified a number of aggravating and mitigating factors.
37. The Principal Hearing Committee decided that a suspension of 12 months was appropriate and proportionate as the Registrant's practice did not have to be restricted in order to protect public safety, and that the risk of repetition was low. The Principal Hearing Committee also had regard to the testimonials in support of the Registrant which stated that he was a very good practitioner, and the financial repercussions removal would have on the Registrant's family members.
38. The Principal Hearing Committee was of the view that the Registrant's conviction for causing the death of a fellow driver by his dangerous driving was not fundamentally incompatible with being a registered professional. The Principal Hearing Committee was persuaded that, as was expressed by his many referees, the Registrant's conviction was not representative of his character overall. Whilst the Registrant quite properly, in accordance with the general principle in *Regulation of Healthcare Professionals v (1) General Dental Council (2) Alexander Fleischmann [2005] EWHC 87 (admin)*, ought not to be permitted to return to practice whilst still serving his criminal sentence, the Principal Hearing Committee considered that this was a case in which, due to its specific facts, and the relevant mitigating factors, it would be disproportionate to order his removal from the register. The Principal Hearing Committee also considered that a suspension would sufficiently uphold public confidence and maintain professional standards.
39. The Principal Hearing Committee was aware that the Registrant had been deported and was of the view that removal would be "unfairly punitive" given the consequences which might follow for the Registrant abroad if he had a removal on his professional record.
40. The Principal Hearing Committee ordered that a review should take place before the expiry of the suspension. The Principal Hearing Committee noted that "as [the

Registrant] will still be serving his sentence in the UK, it is highly unlikely that he will be permitted to return to practice in the UK at that stage”.

41. The Principal Hearing Committee helpfully suggested the following would assist any future committee conducting the review of the Registrant’s fitness to practise:
 - a. *“up to date information about his professional situation;*
 - b. *information about any work he has undertaken during the period of suspension;*
and
 - c. *any up to date personal and professional testimonials.”*
42. Interim measures were imposed on the basis that it was necessary both in the interests of public protection and otherwise in the public interest. The Principal Hearing Committee imposed the interim measures in identical terms as the substantive order for the same reasons as its substantive decision on sanction.
43. The Registrant is required by virtue of Rule 8 of the General Pharmaceutical Council (Registration Rules) Order of the Council 2010 to keep his contact details up to date on the register. However, the Council was not provided with a postal address for the Registrant in Germany until 22 November 2024 when the Council wrote to the Registrant requesting an address.

Submissions

44. On behalf of the Council, Ms Martin submitted:
 - a. the Registrant’s misconduct and conviction still impairs his current fitness to practise. If the Registrant was still in England he would still be subject to licence conditions following his conviction and period of imprisonment.
 - b. members of the public would be appalled by the Registrant’s conviction and his conduct leading to his conviction. The Registrant’s actions in his decision to drive so egregiously with a complete disregard to the safety of other road users may bring the profession into disrepute by virtue of the imposition of his criminal conviction and subsequent period of custodial sentence imposed.

- c. the Registrant's failure to notify the Registrar regarding receiving a criminal conviction within the required timescale of 7 days from the date of imposition has the potential to undermine confidence in the pharmacy profession.
- d. the Registrant has failed to provide an up-to-date address for the Council to contact him at in Germany. The Registrant is fully aware that he is subject to ongoing fitness to practise proceeding by virtue of the Principal Hearing Committee's determination to suspend him from practice pending a review. He is obliged to remain in contact with his regulator, but has failed to do so.
- e. the risk of repetition is low, and it is unlikely the Registrant would repeat conduct of a similar nature again. However, the Council submit, the collective serious nature of the allegations, a finding of current impairment as a result of the Registrant's misconduct and/or conviction is required in order to uphold the public confidence in the profession. This finding will uphold the professional standards in the profession.
- f. in the absence of any evidence from the Registrant, he has failed to discharge the persuasive burden that he is no longer impaired to practise. His failure to engage with these proceedings and provide the evidence the Principal Hearing Committee suggested would be helpful for this review, indicates that he does not appreciate the seriousness of his actions and how these actions could impact on public confidence in the profession.
- g. in the event the Committee find that the Registrant's fitness to practise remains impaired, the question of sanction must then be considered. The Council submits that the sanction imposed should reflect not only the seriousness of the criminal offences committed by the Registrant but also the particularised misconduct. There are no conditions of practice suitable in this matter. This is not a case involving the Registrant's clinical failing's which need to be remedied or addressed with supervision.

45. The Registrant submitted that:

- a. he is not currently impaired and has never been impaired. He is physically and psychologically fit. He does not drink, smoke or take any substances. He is clear in his mind to continue with work.
- b. he regrets the accident. He considers that he had the right to use the lane in which he was conducting his overtaking manoeuvre, but that that the accident was caused by a miscalculation.
- c. he knows that his actions have caused harm and shame. He understands that his actions have caused damage to the profession.
- d. he has been through a lot, and that a lot of people rely upon him.
- e. He has requested voluntary removal from the Register due to the health issues that he is suffering as a result of the ongoing proceedings.
- f. he has not undertaken any pharmacy work whilst being based in Germany. He has not conducted any training or CPD. He has read some magazines about pharmacy to keep abreast of information whilst he has been in Germany.
- g. he is considering going to Ghana to “*heal*” and regain his confidence.
- h. the last date that he worked as a pharmacist was 7 September 2022.

Determination

Decision

- 46. The Committee considered whether the Registrant’s fitness to practise remains impaired. The Committee has taken into account all of the documentation before it, the submissions on behalf of the Council and the submissions of the Registrant.
- 47. *The Committee recognised and applied the following guidance in Abrahaem v GMC [2008] EWHC 183:*

“...the review has to consider whether all the concerns raised in the original finding of impairment through misconduct have been sufficiently addressed to the Panel's satisfaction. In practical terms there is a persuasive burden on

the practitioner at a review to demonstrate that he or she has fully acknowledged why past professional performance was deficient and through insight, application, education, supervision or other achievement sufficiently addressed the past impairments.”

48. The Committee found the Registrant’s current fitness to practise to still be impaired on the basis that:
- a. His insight appears to have regressed given his submission that he had the right to use the lane in which he was conducting his overtaking manoeuvre, but that the accident was caused by a miscalculation. This regression in insight raises the risk that the Registrant, in the future, may bring the pharmacy profession into disrepute.
 - b. The Registrant has not placed before this Committee any of the information recommended by the Principal Hearing Committee. In particular, the Registrant has not provided any:
 - i. up to date information about his professional situation;
 - ii. information about any work he has undertaken during the period of suspension; and
 - iii. any up to date personal and professional testimonials.
 - c. He has not practised as a pharmacist since 7 September 2022, over two years ago. On 9 September, the Registrant was imprisoned, following which he was deported to Germany on 11 December 2023. The Registrant has said that he has not undertaken any pharmacy work whilst being based in Germany and not conducted any training or CPD. He has read some magazines about pharmacy to keep abreast of information whilst he has been in Germany. The Committee considers that the Registrant has not kept his practice up to date.
49. In addition, informed members of the public would be concerned if the Registrant were to be permitted to return to practice unrestricted when his fitness to practise was still found to be impaired. His return to practice would undermine public confidence in the profession and would not uphold professional standards.

50. The Committee went on to consider an appropriate and proportionate sanction in the circumstances. The Committee considered that the imposition of conditions would not be appropriate and proportionate to mitigate any risks posed to patients for the following reasons:
- a. The Registrant is based in Germany, which would make the imposition of any conditions very difficult to enforce.
 - b. The Registrant has had minimal engagement with the Council since the Principal Hearing and has not undertaken any of the recommended actions set out by the Principal Hearing Committee to assist his return to practice. This indicates that the Registrant is less likely to comply with conditions of practice.
 - c. Given the misconduct and conviction took place outside of the workplace, the Committee considers that there are no conditions of practice which are suitable in this matter.
51. The Committee gave strong consideration to a continued suspension and to removal. In the circumstances, the Committee considered a removal order to be an appropriate and proportionate sanction in the circumstances, given:
- a. The Registrant has had over year to engage with the Council and provide evidence that he is willing to gain insight and remediate his practice. However:
 - i. The Registrant's insight appears to have regressed since the Principal Hearing, given his submission that he had the right to use the lane in which he was conducting his overtaking manoeuvre he was conducting his overtaking manoeuvre, but that that the accident was caused by a miscalculation.
 - ii. The Registrant has not undertaken any of the recommended actions set out by the Principal Hearing Committee to assist his return to practice.
- The Committee accepts, however, that the Registrant has shown some remorse.
- b. The Registrant has requested to be removed from the Register, albeit voluntarily, to avoid the obligations to continue his registration and complete CPD, and has

submitted that the continuation of these proceedings is affecting his health. The Committee considers that removal may be in the best interests of the Registrant. Although the Registrant has indicated that he is considering going to Ghana to “*heal*” and regain his confidence, the Committee considers this to be a consideration, rather than an affirmative action from the Registrant at this stage.

- c. The Registrant has not demonstrated to the Committee any actions over the past year which signal his intention to return to pharmacy, other than reading some pharmacy magazines. The Committee considers that the Registrant had 12 months to demonstrate his willingness and intention to return to pharmacy, but instead has applied for voluntary removal. Any continuation of a suspension order would likely result in further cost and time for the Council, without significant likelihood of the Registrant working towards returning to the profession.

52. Consequently, the Committee orders the removal of the Registrant from the Register.

Interim Measures

53. The current order of suspension is due to expire on 10 January 2025. The Committee has considered of its own motion whether to impose interim measures under Article 60 of the Pharmacy Order 2010.

54. The Registrant has 28 days in which to pursue an appeal against the Committee’s decision. If he were to do so, he would be free to return to unrestricted practice because this Committee’s decision to suspend his name from the Register would not take effect until the appeal proceedings were concluded.

55. This is a case where the Committee has found there are wider public interest issues. It is in the wider public interest for the Registrant’s registration to remain subject to a suspension during the interim period.

56. The Committee has therefore imposed an interim measure of suspension on the Registrant’s registration from today’s date.